Constitution of North West Leicestershire District Council

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Part 1
Summary and Explanation

The Purpose of the Council's Constitution

North West Leicestershire District Council (usually referred to in this **Constitution** as "the Council") has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these decisions are efficient, transparent and accountable to local people.

There are powers to scrutinise decision-makers and hold them to account and ensure that no one will review or scrutinise a decision in which he/she was directly involved.

The **Constitution** explains how members of the public can get involved and what rights they have and assists businesses and others to understand how the Council works and the rules and procedures that need to be followed.

Some of these processes are required by the law, while others are a matter for the Council to choose. Generally speaking the Council will exercise its powers and duties in accordance with the **Constitution**, unless the law requires the Council to do something else or the relevant provisions are waived.

Hyperlinks to other documents/sites are included where this will be helpful. All hyperlinks are coloured blue like this and are underlined. **Bold Text** refers to items explained in the Glossary and described or located elsewhere in this **Constitution**.

What's in the Constitution?

The **Constitution** has six parts:

1. **Part 1** is this Summary and Explanation

2. **Part 2** contains the Responsibility for Functions and sets out which parts of the Council are responsible for carrying out the various activities of the Council.

3. **Part 3** contains the various Procedure Rules which govern how the Council conducts its business, including how it makes decisions and how meetings are conducted.

4. **Part 4** includes Codes and Protocols that govern how **Councillors** (also known as "members of the Council") and Officers must behave in performing their duties.

5. **Part 5** is the **Councillors' Allowance Scheme**, which sets the level of financial allowances which Councillors receive for performing their duties.

6. **Part 6** is the **Petitions Scheme**, which sets out how we will respond to petitions.

7. **Part 7** is a Glossary which explains some of the terminology used in this **Constitution**. Terms in the Glossary and parts of the

Constitution are shown in **bold**.

There are a number of other codes, **Protocols** and policy documents which govern how the Council operates which do not form part of the **Constitution**. Where this Constitution refers to these documents, they will be made available on the Council's website via a hyperlink.

Councillors and the Council

The Council is made up of 38 **Councillors**. Councillors are elected by and are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Only registered voters of the **District**, or people living, working or owning property here for at least 12 months, are eligible to stand to be elected as a Councillor.

The regular election of **Councillors** is usually held on the first Thursday in May every four years, for all Councillors at once. The term of office of Councillors starts on the fourth day after being elected and will finish on the fourth day after the next regular election (except for the **Chair** and **Deputy Chair**, the **Leader** and **Deputy Leader**, whose term of office continues until the following **Annual Meeting** even if they are not re-elected). Find out when the next election will take place.

A full list of **Councillors'** names, contact information, term of office and their membership of **Political Groups** is available here on the Council's website along with details of the **Committees** and bodies on which they serve.

Councillors roles and functions include:

- Collectively deciding the Council's **Budget and Policy Framework** and carrying out a number of other strategic functions;
- Initiating and scrutinising policy;
- Representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;
- Contributing to the good governance of the area, demonstrating community leadership and encouraging community participation;
- Dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;
- Balancing different interests identified within the Ward and representing the Ward and the Council as a whole;
- Maintaining the confidentiality of confidential and **Exempt Information** and assisting to ensure transparency of information that is publicly available (otherwise there may be a breach of the **Councillors' Code of Conduct** in **Part 4**);
- Taking personal responsibility for decision-making, having consulted and/or engaged with relevant persons and acting fairly and reasonably;

- Being available to represent the Council on other bodies;
- Participating in training and promoting digitisation and electronic communications where possible; and
- Promoting and maintaining the highest standards of conduct and ethics.

Further information on the roles and responsibilities of **Councillors** can be found here on the Council's website.

Councillors have agreed to follow the **Councillors' Code of Conduct** in **Part 4** to ensure high standards in the way they undertake their duties. The **Audit and Governance Committee** and **Monitoring Officer** advise Councillors on the Code of Conduct; promote high standards of behaviour; and monitor standards of conduct. The Council maintains a **Register of Interests** declared by Councillors which is open to inspection by members of the public and available on the Council's website. Councillors are entitled to receive allowances in accordance with the **Councillors' Allowances Scheme** in **Part 5**.

How the Council makes decisions

All **Councillors** meet together a number of times a year as members of the **Full Council**. You can find details of the calendar of Full Council meetings on the Council's website.
There are three different types of **Full Council** meeting:

- The **Annual Meeting** of the **Full Council**, which will usually be held in May;
- Ordinary meetings; and
- **Extraordinary Meetings**, which will be called as and when required in accordance with the **Council and Committee Procedure Rules** in **Part 3**.

The **Annual Meeting** of the **Full Council** elects the **Chair of the Council** annually and the **Leader** (for a one year term) and agrees the **Representation** on **Council Committees** with the seats on each Committee allocated in accordance with the Council's **Political Balance** rules.

The **Full Council** is responsible for setting the **Budget and Policy Framework**. The Budget and Policy Framework sets out the Council's key policies and agreed **Budget** for each year. All decisions must be taken in accordance with these agreed documents. Only Full Council can change the Budget and Policy Framework. Full Council sets the Council's Budget each year.

The **Full Council** also appoints a number of **Committees** to deal with regulatory functions such as Planning and Licensing. See details of the Council's Committees.

Full Council may also appoint area **Committees** as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of **Best Value** and more efficient, transparent and accountable decision making. The Council will consult with relevant parish and town councils and the **Chair** of relevant parish meetings when considering whether and how to establish area Committees.

Meetings of the **Full Council** and other decision-making bodies are open to the public, except where personal or confidential matters are being discussed (see **Access to Information Procedure Rules** in **Part 3**).

The Diagram of Decision-Making Bodies at **Part 2** shows the overall structure of the Council's decision making arrangements.

The Council has adopted an "**executive**" form of governance. This means that the **Full Council** appoints a **Leader** of the Council. The Leader then appoints a minimum of two and no more than nine other Councillors who, together with the Leader, form the **Cabinet** and are responsible for certain decisions such as policy matters (including recommending the **Budget and Policy Framework**), housing, land and property and economic regeneration.

More detail on decision making can be found in the Introduction to Decision Making at **Part 2 Section A**.

Decision Making and the Cabinet

The **Executive** is the part of the **Council** which is responsible for most day-to-day decisions and for implementing the Council's **Budget and Policy Framework**. The "**Executive**" is the collective term for the **Leader**, individual **Cabinet Members**, the **Cabinet** or a **Committee** of the Cabinet. **Executive Decisions** will ordinarily be taken by the **Cabinet** where these are not delegated to Officers under the **Officer Scheme of Delegation**. More information is provided in **Part 2**.

The **Leader** appoints the **Cabinet**, comprising at least two and up to nine additional **Councillors**, who do not have to be appointed in **Political Balance**. The Council elects the Leader of the Council every year usually starting and ending at the **Annual Meeting** of the **Full Council**. This is subject to a Leader resigning or being disqualified from office as a Councillor, or a vote of **Full Council** to remove the current Leader, which may happen before the end of the one year term.

Executive Decisions will be taken in accordance with the **Cabinet (Executive) Procedure Rules** in **Part 3**. Decisions are subject to **Call-in** (see below under Scrutiny heading) which means that they cannot be acted upon until the period for Call-in has passed or the Call-in has been dealt with under the **Scrutiny Procedure Rules** in **Part 3**.

The **Cabinet** has to make decisions that are in accordance with the Council's overall policies and **Budget**. If it wishes to make a decision that is outside the **Budget and Policy Framework**, this must be referred to **Full Council** to decide (unless urgent).

Where **Cabinet** intends to discuss any matter in private, a notice will usually be published 28 days before the meeting and a further notice will be published when the **Agenda** for the meeting becomes available.

When **"Key Decisions"** are to be discussed or made then special notice procedures must be followed – usually 28 **Clear Calendar Days'** public notice is given (although there are special rules where this is not possible). These are set out in the **Access to Information Procedure Rules** in **Part 3**. Key Decisions may only be taken by the **Leader**, the **Cabinet**, a **Committee** of Cabinet or a **Cabinet**

Member.

Some decisions, as a matter of law, are not **Executive Decisions**. These decisions include Planning, Licensing and Personnel matters. The Council has standing regulatory and other **Committees** to deal with these matters, set out in **Part 2**.

Scrutiny

The **Scrutiny Committees** support and challenge the work of the **Cabinet** and the Council as a whole. They may be supported by **Sub-Committees** or **Task and Finish Groups**. **Cabinet Members** cannot sit on the Scrutiny Committees or any of their Sub-Committees.

The Scrutiny function is divided between the Community Scrutiny Committee and the Corporate Scrutiny Committee. These **Committees** may hold inquiries into matters of local concern in which the public may take part, and may invite external bodies to provide evidence or appear before it. This sometimes leads to reports and recommendations which advise the **Cabinet**, the Council as a whole, and, in some case, outside agencies, on policies, budgets, and service delivery. Individual **Councillors** may ask for items related to Council functions to be placed on the **Agenda** of the relevant **Scrutiny Committee**.

The **Scrutiny Committee**s also monitor the decisions of the **Cabinet** and of **Key Decisions** that have been taken but not yet implemented. Non-Cabinet Councillors can '**Call-in**' these decisions to enable the relevant Scrutiny Committee to consider whether the decision is appropriate. The relevant Scrutiny Committee may recommend that the decision is reconsidered by Cabinet.

The Corporate Scrutiny Committee monitors the Council's **Budget** and **Treasury Management** functions throughout the year. The Corporate Scrutiny Committee will exercise the Council's Budget scrutiny function and will hold the **Cabinet** and others to account in scrutinising the preparation and development of the Council's Budget.

The Community Scrutiny Committee and the Corporate Scrutiny Committee may also be consulted by the **Cabinet** or the Council on forthcoming decisions and the development of policy.

Residents, Members of the Public and the Council

Members of the public, service users and residents have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Citizens' Advice can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in the **Constitution**, except in relation to complaints.

Members of the public have the right to:

- vote at local elections if they are registered on the electoral roll;

- stand for election as a Councillor if they have lived, worked or owned property in the Council's area for at least 12 months;
- present **Petitions** in accordance with the Council's rules;
- contact their local **Councillors** about any matters of concern to them relating to functions of the Council;
- access Councillor details;
- attend advertised surgeries held by Councillors;
- be consulted as individuals on certain changes to service delivery, where invited, although the Council is not always obliged to consult on service changes. The Council may have a duty to consult under specific legislation; or to consult representatives of the public and service users in connection with the Council's overall approach to the way services are delivered under the Council's **Best Value** duty.

Members of the public can access information and decision-making in the following ways:

- Attend meetings of the **Council**, **Cabinet** or Committees except for that part of a meeting where **confidential or Exempt Information** is likely to be disclosed, and the meeting is therefore held in private;
- Find out from the notices of forthcoming **Key Decisions** what Key Decisions will be taken by the **Cabinet** and when;
- See reports and **Background Papers**, and any records of decisions made by the Council and the **Cabinet** (except where those reports and papers contain confidential or **Exempt Information**); and
- Inspect the Council's accounts and make their views known to the External Auditor.

Members of the Public may participate in meetings, under the direction of the **Chair** of the Committee and in accordance with the Procedure Rules set out in **Part 3**, in the following ways:

- Addressing meetings of **Full Council** to ask questions, where prior notice is given;
- Addressing meetings of **Cabinet** to make **Representations** and ask questions, where prior notice is given;
- Making **Representations** to the **Planning Committee** in accordance with the Committee's rules on public speaking in the **Planning Code of Conduct** in **Part 4**;
- Making **Representations** to the **Licensing Committee** as applicants or objectors in respect of individual applications; and speaking at Licensing Committee meetings on certain items in accordance with the Committee's rules on public speaking;
- Contributing to research or reviews undertaken by the **Scrutiny**

Committees;

- Where invited, participating in other public meetings; and
- Reporting on the proceedings at open meetings of the **Council**, **Cabinet** and Committees by filming, photographing, audio-recording, using social media such as tweeting and blogging, or by any other means, providing written commentaries and outside of a meeting oral commentaries.

Anyone may make a complaint to:

- The Council (under the Council's Complaints Policy);
- The Local Government and Social Care Ombudsman after having first used the Council's own complaints procedure and having given the Council a chance to respond to the complaint. The Ombudsman will normally allow the Council eight to 12 weeks for a response, but the Ombudsman may get involved earlier if there are extenuating circumstances; or
- The **Monitoring Officer** about an alleged breach of the **Councillors' Code of Conduct** (in **Part 4**) by a **Councillor**.

The Council welcomes participation by the public, service users and residents. However, individuals must not be violent, abusive or threatening to **Councillors** or **Officers** and must not wilfully harm them or things owned by the Council, Councillors or Officers. Further information about public participation, can be found within this **Constitution**. Details of the Council's meetings, Councillors and services can be found on the Council's website.

The Role of the Chair of the Council

The **Chair of the Council** is a civic and ceremonial role that is non-political. The Chair serves for a one-year term of office. The **Chair** and the **Deputy Chair** will be elected by the **Council** annually. The Chair and in his/her absence, the Deputy Chair will have the following roles and functions:

A Ceremonial Role, which will include:

- to communicate with the private and voluntary sector organisations across the **District**;
- to act as official host to visitors to the District;
- to represent the District at ceremonial events;
- to attend civic events and local community activities;
- to carry out all duties in a manner that reflects the position and traditions of the office;
- to promote public involvement in the Council's activities;
- to act as the representative of the District on other occasions as determined by the Council; and

- to attend such civic and ceremonial functions as the Council and the Chair determines appropriate.

The **Chair** will preside over **Full Council** meetings:

- to uphold and promote the purposes of the **Constitution**, and subject to the advice and guidance of the **Chief Executive**, **Section 151 Officer** or **Monitoring Officer** during Council meetings to interpret the Constitution where necessary;
- to preside over meetings of the **Full Council** so that business can be carried out efficiently and with regard to the rights of **Councillors** and the interests of the community;
- to ensure that the **Full Council** meeting is a forum for the **Debate** of matters of concern to the local community and the place at which **Councillors** who are not on the **Cabinet** and do not hold Committee Chairs are able to hold the Cabinet and Committee Chairs to account;
- to be the conscience of the Council;
- keep order at **Full Council** meetings and ensure that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;
- exercise a second or **Casting Vote** in the event of a tied vote;
- to authorise **Extraordinary Meetings** of the **Full Council** under the Council's Procedure Rules at **Part 3** of this **Constitution**; and
- to act in a politically neutral and impartial manner when performing all roles as **Chair of the Council**.

Council Officers

The Council and its **Councillors** are supported by the Council's employees, and other appointees who are referred to as "**Officers**". Officers provide advice, implement decisions and manage the day to day delivery of the Council's services.

The most senior Officer is the **Chief Executive**. Other senior managers lead parts of the Council's services. Some Officers have specific duties to ensure that the Council operates within the law and use resources wisely. These are the Council's **Statutory Officers**: a **Head of Paid Service** responsible for the Council's Officers (in North West Leicestershire this is the **Chief Executive**); a **Section 151 Officer**, responsible for the proper administration of the Council's financial affairs (in North West Leicestershire this is the Strategic Director for Resources); and a **Monitoring Officer**, responsible for reporting upon illegality and maladministration (in North West Leicestershire this is the **Head of Legal and Support Services**). The Council's Management Structure is set out in **Part 2**.

Officers must comply with a **Code of Conduct** which is set out in **Part 4** of this **Constitution**. The recruitment, selection and dismissal of Officers will comply with the **Officer Employment Procedure Rules** in **Part 3**. Officers are paid in

accordance with the Council's Pay Policy.

The **Protocol on Councillor / Officer Relations** governs the relationship between **Officers** and Councillors (in **Part 4** of this **Constitution**).

Further details of the powers and responsibilities of Officers are set out in **Part 2**.

Duty to Monitor and Review the Constitution

Full Council adopts the **Constitution**.

The **Leader** may amend and/or update the **Executive** arrangements at any time and shall report such changes to Full Council at the earliest opportunity.

The **Monitoring Officer** will monitor and review the operation of the **Constitution** on a regular basis, in order to ensure that it is up-to-date and that the aims and principles of the Constitution are given full effect. The Monitoring Officer is empowered to make changes to ensure that:

- legislative references are updated;
- it reflects the Council's structures and decision-making requirements;
- consequential amendments are made as a result of Council, Executive and Committee decisions; and
- it is clear and unambiguous and maintains efficiency of operations.

A review of the **Constitution** by the **Monitoring Officer** will take place annually. Any changes to the Constitution will only be approved by the **Full Council** after consideration by the **Audit and Governance Committee**.

Suspension of the Constitution

Any part of the **Constitution** may be waived or suspended by **Full Council** (or the **Cabinet** in relation to **Executive Functions**) to the extent permitted within the Procedure Rules in **Part 3** and the law.

Publication

Copies of the **Constitution** are available to view on the Council's website (which is the definitive version) or from Democratic Services at the Council Offices.

The **Monitoring Officer** will ensure this **Constitution** is available for inspection at the Council Offices. Printed copies can be purchased by the local press and the public on payment of a reasonable fee.

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Responsibility for Functions

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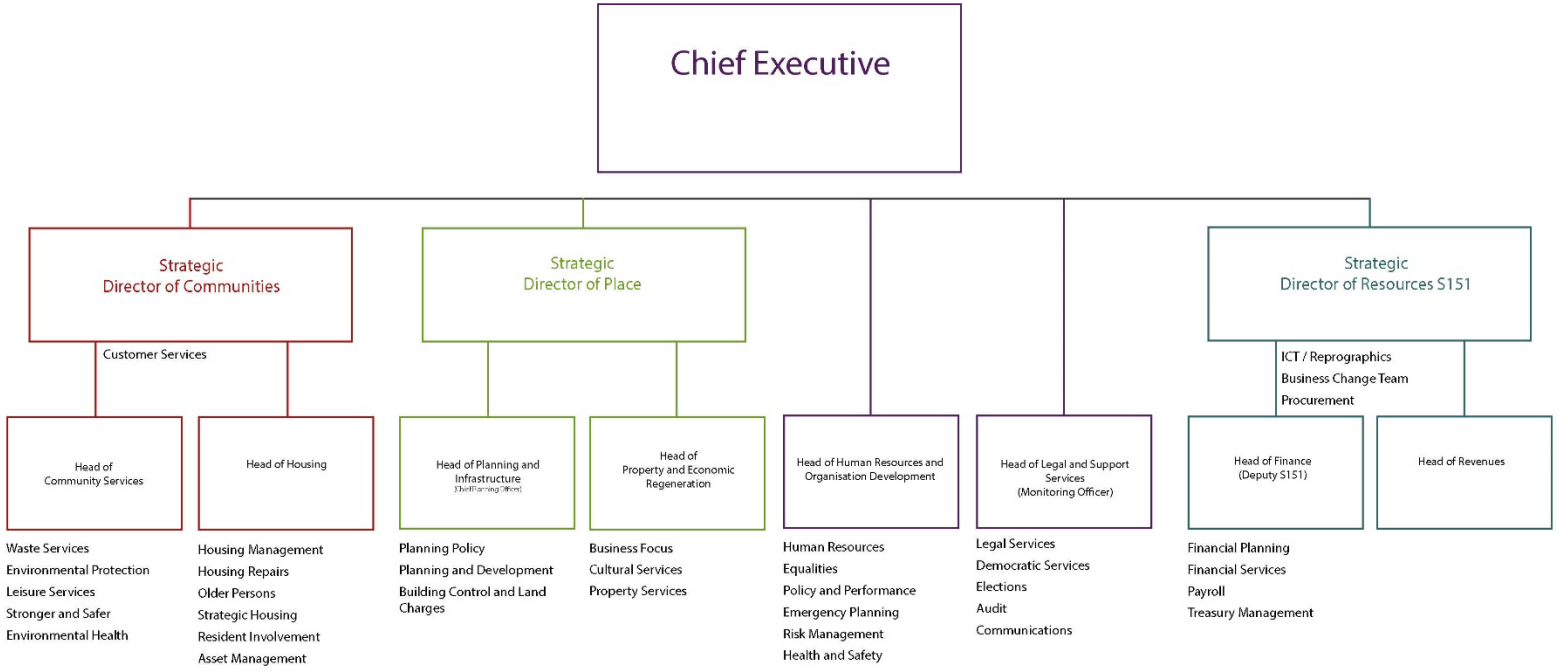
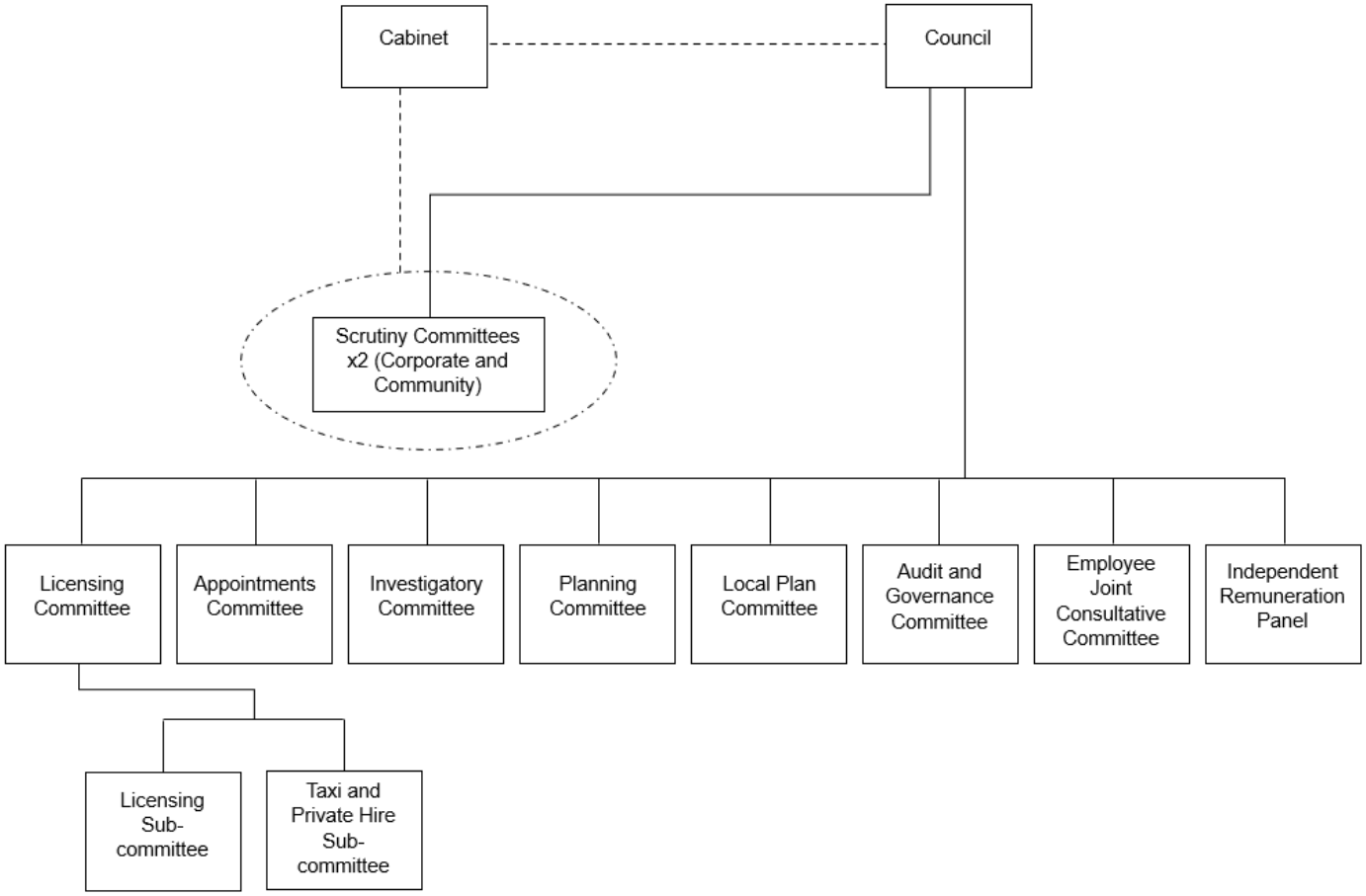
SECTION A – THE COUNCIL'S MANAGEMENT STRUCTURE

North West Leicestershire District Council



SECTION A – THE COUNCIL'S COMMITTEE STRUCTURE



SECTION A - INTRODUCTION TO DECISION MAKING

1 The Council makes many decisions relating to matters within its area. This Part of the **Constitution** sets out how these decisions are made so that members of the public are clear about what decisions are made and which part of the Council or individual has responsibility for particular types of decisions.

2 The Council's functions may be lawfully exercised by:

2.1.1 The **Full Council**;

2.1.2 The **Cabinet**;

2.1.3 **Committees** and **Sub-Committees** of the **Full Council** or the **Cabinet**;

2.1.4 **Joint Committees**; and

2.1.5 Officers.

3 All of the Council's functions are either "executive" or "non-executive". **Executive Functions** are the responsibility of the **Cabinet** or one of its Committees, sub- Committees, **Joint Committees**, or an Officer. **Non-Executive Functions** are the responsibility of the **Full Council** or one of its Committees, **Sub-Committees**, Joint Committees, or an Officer. "Functions" include all of the Council's powers and duties under legislation, that is, all of the activities the Council undertakes.

4 The **Cabinet** is the part of the Council which is responsible for most day-to-day decisions, including **Key Decisions**. The Cabinet is made up of the **Leader** and a number of **Cabinet Members** selected by the Leader and which make up the Cabinet. The Cabinet might also establish Committees and **Sub-Committees**. All Key Decisions will be published in advance in the **Executive Decision Notice** in so far as they can be anticipated.

5 The **Cabinet** will ordinarily carry out all of the Council's **Executive Functions** that are not the responsibility of any other part of the Council, whether by law or under this **Constitution**, unless the **Leader** decides to discharge them personally or allocate them to an individual **Cabinet Member** or a Committee of the Cabinet.

6 Under Section 9D of the Local Government Act 2000 ("the 2000 Act") any function of the **Local Authority** which is not specified in regulations made by the **Secretary of State** is to be an "**Executive Function**", and therefore the responsibility of the **Cabinet**. **Non-Executive Functions** (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to Officers, planning and

licensing. Non-Executive Functions may be delegated to Committees, **Sub-Committees** or **Officers** under Section 101 of the Local Government Act 1972 ("the 1972 Act"). The effect of this legislation is that unless specified as a non-executive function, a function is presumed to be an executive function.

7 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas or functions. This record is set out in this **Part 2** of this **Constitution** along with schemes of further delegation maintained by the Council's **Designated Officers**.

8 Where a function is delegated under this **Constitution**, that does not prevent the person or body that has delegated the function from removing the delegation or exercising the function concurrently, for example in the absence of the person delegated to make a decision.

9 **Principles of decision-making**

9.1 The following principles will apply to all decision-makers. Decision-makers will:

9.1.1 take into account all relevant considerations and ignore those which are irrelevant;

9.1.2 take decisions which are proportionate to the desired outcome;

9.1.3 undertake appropriate consultation where required and based on professional and technical advice from Officers, in particular the **Monitoring Officer** and **S151 Officer**;

9.1.4 undertake a realistic evaluation of alternatives and options, giving reasons for their decision;

9.1.5 consider relevant professional advice;

9.1.6 have regard to statutory duties, such as **Best Value** and to environmental consideration and impacts;

9.1.7 respect human rights and equality of opportunity; and

9.1.8 approach decision-making on a transparent and open basis.

10 **Record of decision-making**

10.1 The Council supports transparency of decision-making in the public interest. When decisions are taken, the report, decision record and/or **Minutes** must be produced which will include the following information:

10.1.1 who took the decision (the person or body);

10.1.2 the details of the decision including the date it was made;

10.1.3 the reasons for the decision;

10.1.4 a summary of any alternative options considered and rejected by the Officer, **Councillor** or decision-making body when the decision was made;

10.1.5 details of any interest relating to the matter declared by any member of the decision-making body or by a Councillor who is consulted by the Officer or **Councillor** who made the decision; and

10.1.6 in respect of any declared interest, a note of any **Dispensation** granted by the **Monitoring Officer** or **Audit and Governance Committee**.

11 Types of decision and the decision-takers

11.1 When the **Full Council** makes decisions, it will comply with the **Council and Committee Procedure Rules** in **Part 3**.

11.2 When the **Cabinet** makes decisions, these will comply with the **Cabinet (Executive) Procedure Rules** in **Part 3**.

11.3 When the **Scrutiny Committees** make decisions, these will comply with the **Scrutiny Procedure Rules** in **Part 3**.

11.4 When Committees and **Sub-Committees** make decisions, these will comply with the **Council and Committee Procedure Rules** in **Part 3**.

11.5 On occasions, the **Council**, the **Cabinet**, a **Councillor** or an Officer will act as a tribunal or in a quasi-judicial manner when they determine the civil rights or obligations of an individual. When this happens, they will follow a proper procedurewhich accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

11.6 Any area of responsibility that is not specifically listed under the matters reserved for Councillors in Sections B-F of this **Part 2** is deemed to be delegated to Officers – **Designated Officers**.

11.7 **Part 2** Section B sets out the “local choice” functions, which are those that the Council can allocate to either the **Full Council** or the **Cabinet** for decision and sets out which body has been allocated them.

11.8 **Part 2** Section C sets out the **Non-Executive Functions** which are reserved to the **Full Council**.

11.9 **Part 2** Section D sets out the **Non-Executive Functions** which are reserved to the Committees established by the **Full Council**.

11.10 **Part 2** Section E sets out the **Executive Functions** that are the responsibility of the **Leader**, individual **Cabinet Members**, the **Cabinet** and any Committees or Sub-Committees it establishes

11.11 **Part 2** Section F sets out the functions which are reserved to **Joint Committees** established by the Council.

11.12 **Part 2** Section G sets out the principles of the **Officer Scheme of Delegation** for all functions and powers not otherwise reserved to Councillors.

General Limitations

12 **Council Functions**

The General limitations on the exercise of **Delegated Powers** by Committees,**Sub-Committees** or Officers acting under delegations from **Full Council** under s101 of the Local Government Act 1972 as amended, apply as follows:

1. **Delegated Powers** must be exercised in conformity with this **Constitution** and with any other directions of the Council; and
2. For the period between the local elections and the **Annual Meeting** of the **Full Council** provided they are still elected **Councillors**, any consultations required under the arrangements in this **Constitution** with **Chair**s, or in their absence **Deputy Chairs**, should be with those persons who were chairs and Deputy Chairs of Committees or **Sub-Committees** at the time of the election.

13 **Executive Functions**

Executive Functions that are delegated must be exercised in accordance with the **Council's Budget and Policy Framework** subject to any discretions permitted by, and within any limitations imposed by, the **Cabinet (Executive) Procedure Rules** in **Part 3**.

14 **Term of Office**

Councillors appointed to Non-Executive Committees, including the **Chair** and **Deputy Chair of the Council**, shall hold office until:

1. the **Annual Meeting** of the Council following their appointment; or
2. they resign from Office; or
3. they are no longer Councillors or are disqualified from being a councillor; or

4. a six months absence from attendance at Council Committees has occurred without reasonable excuse approved in advance; or

5. they are removed from Office by resolution of the Council (note the **Chair** cannot be removed by resolution).

15 Advisory Bodies and Working Parties

15.1 **Full Council**, the **Cabinet** and the **Scrutiny Committees** may from time to time establish working parties or advisory bodies which include in their membership **Councillors**, Officers and/or representatives from partner organisations or the local community.

15.2 To the extent permissible by law, these are not constituted as boards or Committees and are not authorised to make decisions on behalf of the Council.

SECTION B – RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

1 Allocation of Local Choice Functions

1.1 Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the "2000 Regulations") makes provision for certain functions, known as "**Local Choice Functions**" to be either **Executive Functions** or **Non-Executive Functions**. The Council has determined that the responsibilities shall be allocated as follows:

1. Function	2. Decision Making Body	3. Delegation of Function
Functions under local Acts (other than a function specified in Regulation 2 or Schedule 1 of the Regulations)	Cabinet	Heads of Service
The determination of an appeal against any decision made by or on behalf of the authority	Cabinet	Chief Executive Strategic Directors
Any function relating to contaminated land	Cabinet	Strategic Directors
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	Strategic Directors
The service of an abatement notice for a statutory nuisance	Cabinet	Strategic Directors
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Cabinet	

Inspections for statutory nuisance	Cabinet	Strategic Directors
Investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Strategic Directors
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Cabinet	Strategic Directors
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Cabinet	Heads of Service
The appointment of any individual— (a) to any office other than an office in which he is employed by the authority; (b) to any body other than— (i) the authority; (ii) a **Joint Committee** of two or more authorities; or (c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	Council	Chief Executive
The making of agreements with other local authorities and external agencies for the placing of staff and joint working arrangements	Council	Chief Executive

All those functions for which the Council is responsible relating to Community Governance Reviews as set out in Part 4 of Chapter 3 of the Local Government and Public Involvement in Health Act 2007	Council	Chief Executive

SECTION 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 receive reports on the operation of the **Treasury Management** Strategy and Investment Strategy, no less than twice per year;

17. 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**;

18. agreeing and/or amending the **Terms of Reference** for Non-Executive Committees and working groups (save those constituted by the **Scrutiny Committee or the Audit and Governance Committee**) and deciding on their composition;

19. to make, amend, revoke, re-enact or adopt by-laws and promoting or opposing the making of local legislation or personal Bills;

20. confirming the appointment or dismissal of the **Head of Paid Service**;

21. to designate the appropriate Officer posts as the **Monitoring Officer** and the **S151 Officer**;

22. 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;

23. to appoint **Chair**s of **Committees** (though Committees may appoint to fill a casual vacancy);

24. to determine any matter which is properly referred to it for determination by a

Committee or **Sub-Committee** in relation to **Non-Executive Functions**;

25. to determine whether functions which are classified as "Local Choice" functions should be reserved to the Council or exercised by **Cabinet**;

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

27. to approve the Sexual Entertainment Venue Policy;

28. 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;

29. 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:

    29.1. approving and revising any Statement of Gambling Policy;

    29.2. resolving not to issue any casino premises licences in the next three years;

30. 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;

31. determining senior management structure of the organisation;

32. agreeing procedure rules, **Standing Orders** and financial regulations;

33. proposals relating to **District** boundaries, electoral wards and the number of District councillors;

34. for agreeing an annual schedule of meetings for **Full Council** and **Committee**s, save that the Chair of the relevant Committee may in their discretion convene an additional meeting not currently in the agreed schedule of meetings, or may change the time and place of meetings, subject to giving the requisite notice;

35. adopting and amending the **Council's Councillors' Code of Conduct** in **Part 4** and other codes and protocols comprising the ethical framework;

36. accepting the delegation of **Non-Executive Functions** from another **Local Authority**;

37. power to promote or oppose local or personal Bills

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

39. approval of the **Special Expenses Policy**;

40. agree payments in relation to termination of employment of **Statutory Officers** and any severance package exceeding £100,000;

41. to make discretionary Civic Awards; and

42. all other matters which, by law, must be reserved to Council.

Non-Executive Functions may still be exercised by the **Council** even where delegated to a **Committee**, **Sub-Committee**, body or **Officer** elsewhere in this **Constitution**, subject to specific exceptions (for example **Licensing Sub-Committee**).

2 FULL COUNCIL MEETINGS

There are three different types of **Full Council** meeting:

2.1 The **Annual Meeting** of the Council, which will usually be held in May;

2.2 ordinary meetings;

2.3 **Extraordinary Meetings**, which will be called as and when required in accordance with the **Council and Committee Procedure Rules** in **Part 3.**

All **Full Council** meetings will be conducted in accordance with the **Council and Committee Procedure Rules** in **Part 3**.

3 THE BUDGET AND POLICY FRAMEWORK

Budget Framework

The Budget Framework includes the allocation of financial resources to different services and projects, the setting of **Virement** limits (that is the transfer of funds between **Budget** heads) and carry forward limits for Budgets, proposed contingency funds and other provisions and reserves, **Council Tax** setting and other local taxation matters and decisions relating to the Council's **Treasury Management** activities including investments, borrowing limits and the control of capital expenditure. The Budget Framework is set out in the following:

1. Budget and Medium Term Financial Strategy;

2. **Treasury Management** Framework (including relevant policies and strategies); and

3. Capital and Investment Strategies.

Policy Framework

By law, the Council must have a Policy Framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the **Full Council**, usually on the recommendation of the **Cabinet**, supplemented by other plans and strategies that the Council wishes to add.

The Policy Framework comprises:

1. The Council's Delivery Plan;

2. The Sustainable Community Strategy;

3. The Local Development Plan and Development Plan Documents;

4. The Statement of Licensing Policy;

5. The Statement of Gambling Policy;

6. The annual Pay Policy Statement;

7. The plan and strategy which together comprise the Council's Housing Investment Programme; and

8. Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by **Full Council** rather than the **Cabinet**.

Housing Land Transfer

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

SECTION D – NON-EXECUTIVE COMMITTEES

To discharge **Non-Executive Functions** which are not reserved to **Full Council** alone, the Council has established the following ordinary **Committees**:

Section D1 - Licensing Committee

Section D2 - Appointments Committee

Section D3 - Investigatory Committee

Section D4 - Planning Committee

Section D5 - Local Plan Committee

Section D6 - Scrutiny Committees

Section D7 - Audit and Governance Committee

Section D8 - Employee Joint Consultative Committee

Section D9 - Independent Remuneration Panel

The **Terms of Reference** of these Committees and their **Delegated Powers** are set out in the following pages.

SECTION D1 - LICENSING COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Composition

1.1 The full **Licensing Committee** will comprise 15 Councillors in **Political Balance**.

1.2 The **Chair** will be appointed by **Full Council** annually.

1.3 Where **Sub-Committees** are established by the **Licensing Committee** on an ad hoc basis to deal with matters under the Licensing Act 2003 and the Gambling Act 2005 and 'general' licensing matters they will comprise three Councillors from the full Licensing Committee.

Quorum

1.4 The **Licensing Committee Quorum** will be nine **Councillors**. The **Sub-Committee** Quorum will be three Councillors.

Convening Meetings

1.5 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

1.6 Each group may appoint substitutes under the **Councillors' Substitute Scheme Procedure Rules** in **Part 3**.

2 MATTERS RESERVED FOR THE LICENSING COMMITTEE

2.1 Functions under both the Licensing Act 2003 and the Gambling Act 2005:

2.1.1 To consider all outstanding licensing matters;

2.1.2 To recommend to Council to resolve not to issue a casino licence;

2.1.3 To determine all licensing matters referred to it with the exception of:

(a) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005;

(b) the power to resolve not to issue a casino licence

which shall be reserved to Council.

2.2 To decide on any other matter where it is necessary or desirable for Councillors

to make that decision.

2.3 Where **Sub-Committees** are convened they will have the following functions under the Licensing Act 2003:

2.3.1 To determine applications to vary designated premises supervisors following police objections;

2.3.2 To determine applications for transfer of premises licences following police and/or **Secretary of State** objections;

2.3.3 To consider police and/or **Secretary of State** objections made to interim authority notices;

2.3.4 To determine applications for premises licences and club premises certificates where relevant **Representations** have been made;

2.3.5 To determine applications for provision statements where relevant **Representations** have been made;

2.3.6 To determine applications to vary premises licences and club premises certificates where relevant **Representations** have been made;

2.3.7 To determine valid applications for review of premises licences and club premises certificates;

2.3.8 To decide whether to give counter notices following objections from police and/or environmental health to standard temporary event notices;

2.3.9 To determine applications for grants of personal licences following police objections;

2.3.10 To determine applications for renewals of personal licences following police objections;

2.3.11 To decide on revocation of personal licences where convictions come to light after grant;

2.3.12 To decide whether to object when the **Local Authority** is the consultee and not the relevant authority considering the application.

2.4 Where **Sub-Committees** are convened they will have the following functions under the Gambling Act 2005:

2.4.1 To determine applications for premises licences where relevant **Representations** have been made and not withdrawn.

2.4.2 To determine applications for provisional statements where relevant **Representations** have been made and not withdrawn;

2.4.3 To determine valid applications for review of premises licences;

2.4.4 To determine applications for variations of premises licences where relevant **Representations** have been made and not withdrawn;

2.4.5 To determine applications for transfers of premises licences following **Representations** by the Gambling Commission or others;

2.4.6 To determine applications for the re-instatement of premises licences where relevant **Representations** have been made;

2.4.7 To decide whether to give counter notices following objections to temporary use notices;

2.4.8 To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received and not withdrawn;

2.4.9 To determine proposals to cancel club gaming permits and club machine permits where the holder requests a hearing;

2.4.10 To determine applications for the grant of temporary use notices where objections have been made.

2.5 Where a **Hackney Carriage and Private Hire Sub-Committee** is convened it will have the following function:

2.5.1 To consider all outstanding hackney carriage and private hire licensing issues which are referred to it.

SECTION D2 - APPOINTMENTS COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Composition

1.1 The **Appointments Committee** will comprise four Councillors in **Political Balance**, one of whom must be a **Cabinet Member**, plus the relevant **Portfolio Holder**.

1.2 Members and the **Chair** will be appointed by **Full Council** annually.

Quorum

1.3 The **Appointments Committee Quorum** will be 3 **Councillors**.

Convening Meetings

1.4 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.

2 MATTERS RESERVED FOR THE APPOINTMENTS COMMITTEE

With regard to appointments of the Councils' **Statutory Officers, Chief Officers** and **Deputy Chief Officers**:

2.1 To interview shortlisted candidates for **Head of Paid Service**, **Chief Officer, Deputy Chief Officer** and **Head of Service** posts;

2.2 To make recommendations to **Full Council** on the appointment of the **Head of Paid Service**;

2.3 To make decisions about all permanent appointments to **Chief Officer** and **Head of Service** posts.

2.4 Undertake an annual appraisal of the performance of the **Head of Paid Service**.

2.5 To hear appeals from the **Investigatory Committee**.

SECTION D3 - INVESTIGATORY COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Composition

1.1 The **Investigatory Committee** will comprise five Councillors in **Political Balance**.

1.2 Members and the **Chair** will be appointed by **Full Council** annually.

1.3 When advising the Council in relation to the proposed dismissal of the **Head of Paid Service**, **Strategic Directors** and Heads of Service (including **Statutory Officers**) the Committee will co-opt two (voting) **Independent Persons** in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

Quorum

1.4 The **Investigatory Committee Quorum** will be three **Councillors**.

Convening Meetings

1.5 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.

2 MATTERS RESERVED FOR THE INVESTIGATORY COMMITTEE

2.1 To appoint an independent investigator and independent advisors, if required.

2.2 To determine whether or not any of the following should be suspended pending investigation into allegations of misconduct or incapability:

- **Head of Paid Service**
- **S151 Officer**
- **Monitoring Officer**
- **Strategic Director**
- **Head of Service**

2.3 To make a recommendation to Council to dismiss a Statutory Officer.

2.4 When making a recommendation to Council to dismiss a Statutory Officer, to meet and consider the matter with an **Independent Person** and prepare a report for Council.

2.5 To approve any proposed severance payment to the Head of Paid Service that is no more than £100,000.

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 seven **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**.

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 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.

2.3 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.

2.4 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.

2.5 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**.

2.6 The making of orders to revoke or modify planning permissions.

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

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

2.9 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.

3. CALL-IN PROCEDURE

3.1 Call -in for the purpose of Para 2.3 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 3.1.1 and/or 3.1.2 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) 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 2.4, the requirements of 2.4 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.

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 2.4, the requirements of 2.4 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 2.4, the requirements of 2.4 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**.

SECTION D5 - LOCAL PLAN COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Committee Scope

1.1 The **Local Plan Committee** will meet at least once every two months but may meet more frequently where necessary.

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

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

1.4 Rule 10 of the **Council and Committee Procedure Rules** in **Part 3** which allows members of the public to ask questions shall apply to the **Local Plan Committee** provided that references to "Council" or **Cabinet Members** shall be deemed to refer to the Local Plan Committee or its **Councillors**.

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

Composition

1.6 The **Local Plan Committee** will comprise 11 Councillors in **Political Balance**.

1.7 The **Chair** will be appointed by **Full Council** annually.

Quorum

1.8 The **Local Plan Committee Quorum** will be 7 **Councillors**.

Convening Meetings

1.9 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

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

2 MATTERS RESERVED FOR THE LOCAL PLAN COMMITTEE

2.1 In relation to **Development Plan** Documents (DPDs) (the Council's Local Plan is a DPD):

2.1.1 To receive reports and drafts from **Cabinet** on:

(a) proposed DPDs; and

(b) the functioning of and proposed revisions to existing DPDs;

2.1.2 To consider and comment on documents that relate to DPDs including (but not restricted to) policy options and draft policies having regard to evidence prepared to support each DPD;

2.1.3 To provide updates to other Councillors who do not sit on the **Local Plan Committee** and to champion the Committee's work on the Local Plan;

2.1.4 To keep DPDs under review and monitor progress on the preparation of revisions and updates to DPDs (including the Local Plan);

2.1.5 Instructing **Cabinet** to reconsider drafts of DPDs and revisions of them;

2.1.6 Deciding to publish DPDs and revisions of them for public consultation;

2.1.7 Deciding to submit DPDs and revisions of them for examination by a Planning Inspector;

(Adoption of DPDs and revisions of them following examination remains a function of **Full Council**).

2.2 In relation to Supplementary Planning Documents (SPDs):

2.2.1 To receive reports from the **Cabinet** on:

(a) proposed SPDs; and

(b) the functioning of and proposed revisions to existing SPDs;

2.2.2 To consider and comment on documents that relate to SPDs including (but not restricted to) draft SPDs;

2.2.3 To keep SPDs under review and monitor progress on the preparation of revisions and updates to SPDs;

2.2.4 Instructing the executive (i.e. **Portfolio Holder**/Officers) to reconsider drafts of SPDs and revisions of them;

2.2.5 Deciding to publish SPDs and revisions of them for public consultation;

2.2.6 Deciding to adopt SPDs and revisions of them following public consultation.

2.3 In relation to HS2:

2.3.1 To keep the Council's HS2 strategy under review and monitor developments on the ground against the parameters set out in the Council's Strategy;

2.3.2 To decide to adopt an amended HS2 Strategy from time to time.

2.4 In relation to other Council functions:

2.4.1 To determine any matters referred to it by **Full Council**.

2.5 Advisory functions (non-decision-making):

2.5.1 Duty to Co-operate:

(a) To consider and comment on responses to plans being prepared by other local planning authorities or by multiple local authorities working in partnership (such as the Strategic Growth Plan) as part of the "Duty to Cooperate" contained in s33A of the Planning and Compulsory Purchase Act 2004;

(b) To recommend to Council that a particular inter-authority plan or strategy is adopted in compliance with the "Duty to Cooperate".

SECTION D6 - SCRUTINY COMMITTEES

1 COMMITTEE FORM AND STRUCTURE

Committee Scope

1.1 North West Leicestershire District Council adopts the **Cabinet** system to operate its decision making and there are two **Scrutiny Committees** comprising non-Cabinet Members – the Corporate Scrutiny Committee and the Community Scrutiny Committee.

1.2 Where there are references to the "relevant Scrutiny Committee" in this Constitution and there is any doubt as to which Scrutiny Committee it is, the decision of the **Monitoring Officer** shall be final.

1.3 Scrutiny is central to the Council's decision-making process and has two main roles:

1.3.1 The development and review of policies for a wide range of subjects and services; and

1.3.2 The critical examination of the Council's performance and effectiveness of its decisions.

1.4 The **Scrutiny Committees** look into areas of local concern and recommend improvements the Council can make to ensure quality of life is improved for all. The main tasks of the **Committees** are:

1.4.1 Performance Monitoring - The Council has to meet corporate priorities set out in the Council Delivery Plan and report against those indicators. **Scrutiny Committees** can examine any aspect of the Council's performance, including services that it delivers through partnerships with other organisations;

1.4.2 Holding the **Cabinet** to Account - Decisions made by the Cabinet but not yet put into practice can be reviewed by the **Scrutiny Committees** and challenged;

1.4.3 Policy review and development - **Scrutiny Committees** can propose new policies or review existing policies and recommend changes to **Cabinet**; and

1.4.4 External Scrutiny - Any issue directly affecting the residents of North West Leicestershire can be scrutinised by the **Scrutiny Committees**, including services provided by another organisation.

1.5 The **Scrutiny Committees** are not able to take decisions but make recommendations to either **Cabinet** or **Full Council**.

1.6 Below is a non-exhaustive list of the respective areas of responsibility for each **Scrutiny Committee**. Each Committee may receive reports and comment on matters of policy or items of business of a reasonably similar nature to those listed:

Corporate Scrutiny Committee	**Community Scrutiny Committee**
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
Zero Carbon Roadmap	Statutory Crime and Disorder Committee
	Strategic Housing - Housing Strategy
	Housing Management
	Economic Development
	Regeneration
	Waste Services

Composition

1.7 The **Scrutiny Committees** will each comprise 10 Councillors in **Political Balance**.

1.8 Members of the **Scrutiny Committees** must not be **Cabinet Members** or members of the **Audit and Governance Committee**.

1.9 The **Chair** and **Deputy Chair** will be appointed by **Full Council** annually.

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

Quorum

1.11 The **Quorum** for each **Scrutiny Committee** will be six **Councillors**.

Convening Meetings

1.12 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.

2 MATTERS RESERVED TO THE SCRUTINY COMMITTEES

The two **Scrutiny Committees** shall have equal status and equal functions as set out below. The Scrutiny Committees:

2.1 will discharge the Council's functions under section 9F of the Local Government Act 2000;

2.2 will be responsible for the Council's scrutiny function including the preparation, implementation, monitoring and review of an annual **Work Plan** for scrutiny in accordance with the objectives of the Council Delivery Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law;

2.3 may establish such **Task and Finish Groups**, appointing the **Chair** in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis;

2.4 will, as part of the overall role, ensure the **Chief Executive** and **Senior Leadership Team** discharge their responsibilities effectively and efficiently in relation to the scrutiny function;

2.5 will scrutinise decisions of or actions taken by the **Cabinet**, and offer advice or make recommendations on the matter under scrutiny once the Committee has considered the issues;

2.6 may scrutinise matters coming before **Cabinet** for decision and respond appropriately to the Cabinet on the matter once the Committee has considered the issues fully;

2.7 will review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the **Cabinet** and make reports or recommendations to the **Full Council**, or appropriate body of the Council;

2.8 may refer to the Council or appropriate Committee/**Sub-Committee** any matter which, following scrutiny, the Committee determines should be brought to the attention of the **Full Council** or the Committee or **Sub-Committee** and may, if requested, offer any views or advice to the **Cabinet** in relation to any matter referred to the Committee for consideration;

2.9 may undertake reviews with a cross-service approach wherever possible and make reports and recommendations to the **Full Council** (or other appropriate Council body) or the **Cabinet** to assist in the review of policies and strategies;

2.10 may offer advice and make recommendations to the appropriate body of the

Council on the review of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a **Task and Finish Group**;

2.11 in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;

2.12 may review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the **Cabinet** or appropriate body of the Council of its findings;

2.13 may recommend that a decision made but not yet implemented, and taken in respect of a function which is the responsibility of the **Cabinet**, be reconsidered by the Cabinet;

2.14 may scrutinise decisions after implementation to examine their effect and outcomes;

2.15 may make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants;

2.16 may review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice;

2.17 may invite expert witnesses, Councillors, Officers and partners to answer questions;

2.18 will consider and advise the **Cabinet** in respect of "**Call-in**" notices under the Council's relevant procedures;

2.19 will create **Task and Finish Groups** and set their **Terms of Reference**, to fulfil the scrutiny requirements of the Council and the annual **Work Plan**;

2.20 will approve an annual **Work Plan**, to be kept under review and updated as required;

2.21 will produce an annual report to **Full Council** for the scrutiny process;

2.22 will report to **Full Council** as required on the Committee's performance in relation to the **Terms of Reference** and the effectiveness of the Committee in meeting its purpose;

2.23 will discharge the Council's scrutiny functions in relation to the reduction of crime and disorder pursuant to the Crime and Disorder Act 1998 and:

2.23.1 shall have power to scrutinise decisions or actions taken in connection

with the discharge of its crime and disorder functions by any responsible authority and make recommendations or reports to the Council in relation to the discharge of those functions;

2.23.2 may co-opt additional members to serve on the Committee;

2.23.3 may require the attendance before it of any Officer or employee of any responsible authority or co-operating body;

2.23.4 may make a report or recommendation to a responsible authority or co-operating body; and

2.23.5 shall exercise its functions in accordance with any appropriate regulations.

2.24 Notwithstanding the above, the **Scrutiny Committees** shall not review any decisions of development control or other quasi-judicial matters.

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 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 Member 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.

1.9 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.

Quorum

1.10 The **Audit and Governance Committee Quorum** will be six **Councillors**.

Convening Meetings

1.11 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.

2 MATTERS RESERVED FOR THE AUDIT AND GOVERNANCE COMMITTEE

Governance, Risk and Controls

2.1 The Committee has the right to access all the information it considers necessary to undertake the work of the Committee and may receive reports and refer matters to internal and external auditors.

2.2 To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.

2.3 To review and approve the **Annual Governance Statement** and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the **Council's** framework of governance, risk management and control.

2.4 To consider the **Council's** arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements.

2.5 To consider the **Council's** framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

2.6 To monitor the effective development and operation of risk management in the **Council**.

2.7 To monitor progress in addressing risk related issues reported to the **Committee** such as the Corporate Risk Register.

2.8 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

2.9 To review the assessment of fraud risks and potential harm to the **Council** from fraud and corruption.

2.10 To monitor the Anti-Fraud and Corruption Strategy, actions and resources.

2.11 To review the governance and assurance arrangements for significant partnerships or collaborations.

2.12 To review and monitor the **Council's** compliance with public sector financial and audit standards and guidance, in accordance with the **CIPFA** Codes and Accounts and Audit Regulations.

2.13 To review and monitor the Council's **Treasury Management** arrangements in accordance with the **CIPFA** Treasury Management Code of Practice.

3 INTERNAL AUDIT

3.1 To approve the internal audit charter.

3.2 To approve (but not direct) the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

3.3 To approve significant interim changes to the risk-based internal audit plan and resource requirements.

3.4 To make appropriate enquiries of both management and the Head of Internal Audit (currently the Audit Manager) to determine if there are any inappropriate scope or resource limitations.

3.5 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Head of Internal Audit. To approve and periodically review safeguards to limit such impairments.

3.6 To consider reports from the Head of Internal Audit on internal audit's performance during the year.

3.7 To consider internal audit's annual report:

3.7.1 The statement of the level of conformance with the **Global Internal Audit Standards in the UK Public Sector** and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit;

3.7.2 The opinion on the overall adequacy and effectiveness of the **Council's** framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the **Annual Governance Statement**.

3.8 To consider summaries of specific internal audit reports in accordance with agreed **Protocols**.

3.9 To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.

3.10 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.

3.11 To provide free and unfettered access to the **Audit and Governance Committee Chair** for internal audit, including the opportunity for a **Private Meeting** with the Committee.

4 EXTERNAL AUDIT

4.1 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised.

4.2 To consider the external auditor's annual audit letter, relevant reports and the report to those charged with governance.

4.3 To consider specific reports as agreed with the external auditor.

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

4.5 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

5 FINANCIAL REPORTING

5.1 To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the **Full Council.**

5.2 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

5.3 To seek assurances that the **Council** has complied with the **Treasury Management** Strategy and Practices by demonstrating effective control of the associated risks and pursuing optimum performance consistent with those risks.

6 ACCOUNTABILITY ARRANGEMENTS

6.1 To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and

effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.

6.2 To report to **Full Council**, as required, on the Committee's performance in relation to the **Terms of Reference** and the effectiveness of the Committee in meeting its purpose.

6.3 To publish an annual report on the work of the Committee.

7 RELATED FUNCTIONS

7.1 Subject to the requirements set out below, to consider all findings of the Local Government and Social Care Ombudsman, including reports resulting in a finding of maladministration against the **Council**, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.

There are statutory obligations which will, in some circumstances, require reports to be taken to **Cabinet** or **Full Council**.

The Ombudsman operates **Protocols** in relation to the timing of the publication of findings. The Council would have to give consideration to those Protocols when determining how to manage the **Audit and Governance Committee's Agenda**.

7.2 To review any issue referred to it by the **Chief Executive**, **S151 Officer**, **Monitoring Officer** or any **Council** body.

8 STANDARDS FUNCTIONS

8.1 To assist the Council in fulfilling its duty under the Localism Act 2011 to promote and maintain high standards of conduct by **Councillors** and **co-opted Councillors** of **District** and parish councils.

8.2 To advise the Council on the adoption or revision of its **Councillors' Code of Conduct** in **Part 4**.

8.3 To monitor and advise the Council about the operation of its **Councillors' Code of Conduct** in **Part 4** in light of best practice and any changes in the law.

8.4 Advising, training or arranging to train councillors and co-opted members on matters relating to the **Councillors' Code of Conduct** in **Part 4.**

8.5 Dealing with any report from the **Monitoring Officer** on any matter concerning governance.

8.6 To establish **Sub-Committees** for the assessment or determination of matters concerning allegations in relation to Councillor conduct.

8.7 To grant **Dispensations** to **Councillors** who require such Dispensations for more than one meeting or on more than one occasion from requirements relating to interests set out in the **Councillors' Code of Conduct** in **Part 4** as appropriate.

8.8 To advise the Council on, and review as necessary, the arrangements for dealing with complaints or any local **Protocols** regulating the conduct of **Councillors** and to deal with allegations of breach of any such protocol.

8.9 To consider and make recommendations to **Full Council** on any other matter that may be referred to the **Audit and Governance Committee** relating to the conduct and training of Councillors.

8.10 To consider amendments to the **Constitution** and recommend proposals to **Full Council** for approval, except where specifically delegated to the **Monitoring Officer**.

8.11 To undertake an annual review of the **Corporate Governance Policies** and make recommendations to **Cabinet**.

Local Assessment of Complaints About Councillor Conduct

8.12 **Sub-Committees** of the **Audit and Governance Committee** are formed on an ad hoc basis to deal with local assessment of **Councillor** conduct complaints.

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

8.14 The **Sub-Committee** may co-opt at least one parish councillor when decisions are taken concerning a parish matter.

8.15 The **Sub-Committee** may co-opt at least one **Independent Person** as appropriate.

8.16 The **Quorum** of the **Sub-Committees** is three **Councillors**.

8.17 The **Chair** of each **Sub-Committee** will be a **Councillor**.

8.18 The **Sub-Committees** and their functions are set out below:

<u>Assessment Sub-Committee</u>

Assessment of complaints in accordance with the **Council's Arrangements for Dealing with Code of Conduct Complaints** and to either:

- Decide that there is not enough information to make a decision;
- Decide that no action should be taken in respect of the complaint;

- Refer the matter for full investigation; or
- Refer the matter for other action.

Determinations Sub-Committee

To receive reports from the **Monitoring Officer** or his/her appointed investigating officer and to decide either:

- to determine finding of no failure to comply with the **Councillors' Code of Conduct** in **Part 4**;
- to determine finding of failure to comply with the **Councillors' Code of Conduct** in **Part 4** and impose relevant sanctions; or
- Refer the matter for other action;

in accordance with the **Council's Arrangements for Dealing with Code of Conduct Complaints**.

SECTION D8 - EMPLOYEE JOINT CONSULTATIVE COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Scope

1.1 The **Employee Joint Consultative Committee** shall meet as and when required. The **Chair** or **Deputy Chair** may request the **Monitoring Officer** to call a meeting at any time. A meeting shall also be called within seven days of the receipt of a requisition signed by not less than one third of the members of either side. The matters to be discussed at any meeting of the Committee shall be stated upon the notice summoning the meeting, provided that any other business may be considered if admitted by a majority vote of those present at such meeting.

1.2 No resolution shall be regarded as **Carried** unless it has been approved by a majority of the members present on each side of the **Committee**.

1.3 The proceedings of any meeting of the **Committee** shall be reported to **Cabinet**.

Composition

1.4 The **Employee Joint Consultative Committee** will comprise six Councillors in **Political Balance** on behalf of the Council as employer and six representatives from the recognised trade unions on behalf of employees, in the following proportions:

General and Municipal Union (GMB)	two representatives
Unite	one representative
UNISON	three representatives

1.5 If a representative on behalf of the employees ceases to be an Officer of the Council, he/she shall thereupon cease to be a member of the **Employee Joint Consultative Committee** and any vacancy shall be filled by the Council.

1.6 The **Chair** and a **Deputy Chair** will be appointed by the **Employee Joint Consultative Committee** annually, at its first meeting following the statutory **Annual Meeting** of the Council. If the Chair appointed is a Councillor on behalf of the Council, the Deputy Chair shall be appointed from the representative on behalf of the employees, and vice versa. The Chair of the meeting shall not have a second or **Casting Vote**.

Quorum

1.7 The **Employee Joint Consultative Committee Quorum** will be three **Councillors** and three representatives on behalf of the employees.

Convening Meetings

1.8 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

1.9 Each group may appoint substitute Councillors in accordance with the **Councillors' Substitute Scheme Procedure Rules** in **Part 3**.

1.10 Each representative on behalf of the employees may appoint a substitute and is responsible for making their own arrangements.

Advisors and Observers

1.11 The following Officers may attend meetings of the **Employee Joint Consultative Committee** in an advisory capacity:

The **Chief Executive**
The **Strategic Directors**
Head of Human Resources and Organisational Development

1.12 The **Monitoring Officer** will be responsible for convening meetings and shall be represented by a Democratic Services Officer for the sole purpose of recording the **Minutes** of the meeting.

1.13 Trade Union Officials or organisers will be allowed to attend the meetings and may speak to the meeting. Trade Union Representatives (other than the designated members of the **Employee Joint Consultative Committee**) will be permitted to attend as observers, subject to the provision of two working days' notice to the Head of Human Resources and Organisational Development.

2 FUNCTIONS OF THE EMPLOYEE JOINT CONSULTATIVE COMMITTEE

2.1 To provide a means of resolution for those matters that the Employee Consultation Group has been unable to resolve, provided that the decision is not one that should be made elsewhere.

2.2 To consider any relevant matter referred to it by a Committee of the Council or by any of the recognised trades unions.

2.3 To discharge any other functions specifically assigned to the **Employee Joint Consultative Committee**.

2.4 The **Employee Joint Consultative Committee** may refer any question coming before it for the consideration and advice of the East Midlands Regional Joint Council for Local Government Services.

SECTION D9 - INDEPENDENT REMUNERATION PANEL

1 PANEL FORM AND STRUCTURE

Composition

1.1 The **Independent Remuneration Panel** will comprise four **Independent Members**. In order to maintain the independence of the Independent Remuneration Panel, members shall not be:

- a person who has within the period of five years before receiving the date of appointment been a **Councillor** or Officer of the Council;
- a person who is a relative or close friend of a **Councillor** or Officer of the Council; and/or
- a person who does not either live or work in the **District**.

1.2 The term of office for members of the **Independent Remuneration Panel** is four years.

1.3 The **Chair** will be appointed at the first meeting of the **Independent Remuneration Panel** each year. The Chair shall have a **Casting Vote**.

Quorum

1.4 The **Independent Remuneration Panel Quorum** will be three members of the panel.

Convening Meetings

1.5 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.

2 MATTERS RESERVED FOR THE INDEPENDENT REMUNERATION PANEL

To make recommendations to Council:

2.1 as to the amount of basic allowance that should be payable to its **Councillors**;

2.2 about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such an allowance;

2.3 about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance;

2.4 as to the amount of co-optees' allowance;

2.5 as to whether the Council's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependents and if it does make such a recommendation, the amount of this allowance and the means by which it is determined;

2.6 on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended;

2.7 as to whether annual adjustments of allowance levels may be made by reference to an index and, if so, for how long such a measure should run;

2.8 as to which members of the Council are to be entitled to pensions in accordance with a scheme made under section 7 of the Superannuation Act 1972;

2.9 on whether basic allowances and special responsibility allowances should be treated as amounts in respect of which such pensions are payable.

SECTION E - THE CABINET (EXECUTIVE FUNCTIONS)

1 Introduction

1.1 The **Cabinet** will carry out the Council's **Executive Functions**. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be **Non-Executive Functions** are, by default, Executive Functions.

1.2 Where the **Cabinet** is exercising these functions, it may delegate those functions to Officers but not to an individual **Cabinet Member**.

1.3 Where **Executive Functions** have been delegated, that does not prevent the **Cabinet** from reviewing decisions made in the discharge of those functions in accordance with the provisions of this **Part 2**.

1.4 All **Executive Functions** not expressly reserved to the **Cabinet**, are delegated to Officers, subject to the restrictions on Officer powers set out in the **Officer Scheme of Delegation** at **Part 2 Section G** of the **Constitution**.

1.5 The **Cabinet** is responsible for making proposals to **Full Council** about what its priorities should be and how it should use its resources. Once approved by the Full Council, these proposals become the Council's **Budget and Policy Framework**.

1.6 The **Cabinet** is responsible for making all of the necessary arrangements to ensure that the priorities identified by the Council are delivered within the **Budget and Policy Framework** set by the **Full Council**. If Cabinet wishes to make a decision which is not in line with the Budget and Policy Framework, this must be referred to the Full Council as a whole to decide, subject to any relevant provisions in the **Financial Procedure Rules** in **Part 3**.

2 Composition

2.1 The **Cabinet** comprises the **Leader** of the Council together with at least two, but no more than nine other **Councillors**, one of whom will be the **Deputy Leader**, all appointed by the Leader. **Cabinet Members**, including the Deputy Leader, are appointed at the **Annual Meeting** of the **Full Council** at which the Leader is tappointed. The **Chair** and **Deputy Chair of the Council** cannot be appointed to the Cabinet. No substitution arrangements will apply to the Cabinet.

2.2 The **Leader** and **Cabinet Members** cannot sit on the **Scrutiny Committees** or the **Audit and Governance Committee**. They can sit on any other Committees of the Council and can chair them but **Cabinet** Members should not be in a majority.

2.3 The **Cabinet Quorum** will be four **Councillors**.

3 The Leader

3.1 The **Leader** will be a Councillor elected for a one year term to the position of Leader.

3.2 The **Leader** will hold office until he/she:

3.2.1 resigns from the office;

3.2.2 is disqualified or otherwise ceases to be a Councillor;

3.2.3 is removed from office by **Resolution** of the **Full Council** that requires the support of a simple majority of those Councillors present; or

3.2.4 ends the term of office at the **Annual Meeting** of **Full Council** one year after the term begins, when the position of **Leader** is elected by simple majority for the next year.

3.3 If the **Full Council** passes a **Resolution** to remove the **Leader**, the Full Council shall elect another Councillor as Leader at the meeting at which the Leader is removed from office, or at a subsequent meeting of the Full Council. If there is a vacancy in the office of Leader for any other reason, the Full Council shall elect another Councillor as Leader at the first Full Council meeting after the vacancy occurs. In the interim the **Deputy Leader** will assume the responsibilities of the Leader.

3.4 The law vests all executive responsibilities in the **Leader** of the Council who may choose to delegate them in any manner allowed by the law, namely:

3.4.1 the **Cabinet**;

3.4.2 an individual **Cabinet Member**;

3.4.3 a Committee of the **Cabinet**;

3.4.4 an Officer of the Council;

3.4.5 another authority;

3.4.6 a **Joint Committee.**

3.5 At each **Annual Meeting** the **Leader** will inform Council of how he/she intends executive powers to be exercised over the ensuing municipal year. The Leader may alter these at any time during their period of office. Such changes may be reported to Council by the Leader.

4 The Deputy Leader

4.1 The **Leader** shall appoint a **Deputy Leader** who shall be a **Cabinet Member**

and deputise for the Leader and carry out the functions delegated to the Leader in periods of their incapacity or absence.

4.2 The **Deputy Leader** shall hold office until such time as the term of office of the **Leader** who appointed him/her comes to an end, or until he/she:

4.2.1 resigns from the office;

4.2.2 is disqualified or otherwise ceases to be a Councillor; or

4.2.3 is removed from office by the **Leader**.

4.3 If for any reason the **Leader** is unable to act or the office of Leader is vacant, and the **Deputy Leader** is unable to act or the office of Deputy Leader is vacant, the **Cabinet** must act in the Leader's place, or arrange for a **Cabinet Member** to act in his/her place.

5 Cabinet Members

5.1 Each **Cabinet Member** will be appointed by the **Leader** to cover one of the specific portfolio responsibilities (other than those reserved to the Leader) determined by the Leader. The opposition party shall nominate Councillors as shadow **Portfolio Holders** for each of the Cabinet portfolios.

5.2 A **Cabinet Member** shall hold office until such time as the term of office of the **Leader** who appointed him/her comes to an end, or until he/she:

5.2.1 resigns from the office;

5.2.2 is disqualified or otherwise ceases to be a Councillor; or

5.2.3 is removed from office by the **Leader**.

5.3 Each **Cabinet Member** may, by notification in writing to the **Leader** and to the **Chief Executive**, appoint a maximum of two Councillors as **Cabinet** support members to support the Cabinet Member in the discharge of his/her functions. Such Cabinet support members shall hold office until he/she:

5.3.1 Resigns from office;

5.3.2 Is disqualified or otherwise ceases to be a **Councillor**; or

5.3.3 Is removed from office, either individually or collectively, by notification in writing by the relevant **Cabinet Member** to the other **Cabinet** support member, the **Leader** and the **Chief Executive**.

5.4 Such **Cabinet** support members shall provide advice and support to relevant **Cabinet Members** but cannot take any executive decision or action.

6 Individual Cabinet Member Decisions

6.1 **Cabinet Members** shall have the responsibilities as determined by the **Leader** from time to time.

6.2 **Cabinet Members** exercising **Executive Functions** may delegate those functions to Officers.

6.3 Details of current **Cabinet Members** and their portfolios are available on the Council's website.

7 Proceedings of the Cabinet

7.1 Proceedings of the **Cabinet** shall be conducted in accordance with the **Cabinet (Executive) Procedure Rules** in **Part 3**.

8 Joint Executive Arrangements

8.1 Where **Joint Arrangements** are established with one or more local authorities and/or their **executives** to exercise functions which are **Executive Functions**, any **Joint Committee** appointed in accordance with those arrangements may, subject to the terms of those arrangements, discharge those Executive Functions. See the Council's Joint Arrangements.

9 General responsibilities of the Executive

9.1 The **Executive** is responsible for:

9.1.1 ensuring the effective and efficient discharge of the functions delegated to them;

9.1.2 ensuring that any Council services within their remit are appropriate for and responsive to the needs and views of the Council's residents, and are delivered effectively and efficiently;

9.1.3 ensuring that good external relationships and effective local liaison are promoted in relation to Council services within their remit;

9.1.4 monitoring the functions of the Council within their remit and contributing to any Council aims, objectives and policies;

9.1.5 determining policies and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing any necessary action;

9.1.6 determining the Council's views on matters specific to their areas of responsibility and related external matters;

9.1.7 ensuring the effective and efficient management of any services and

resources within their remit and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person;

9.1.8 ensuring the promotion of rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services;

9.1.9 promoting and developing international exchanges and links with towns and cities in other countries.

10 Matters reserved for the Executive

10.1 The following functions shall be exercised only by the **Executive** and will be taken by the **Cabinet**, or a Committee or **Sub-Committee** appointed by it, unless the **Leader** chooses to exercise these functions personally or allocate them to an individual **Cabinet Member** or a Committee of the Cabinet.

10.2 Where the **Cabinet** is exercising an **executive function**, in whole or in part, as set out below, the Cabinet is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it, subject to any restrictions or constraints imposed by the law or this **Constitution**.

10.3 The **Cabinet** is responsible for:

10.3.1 the taking of **Key Decisions.** These will be published in the **Executive Decision Notice** insofar as they can be anticipated;

10.3.2 setting fees, charges or concession policies in respect of **Executive Functions**;

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**;

10.3.4 on an annual basis, to draw up proposals for the Council's revenue **Budget**, **Capital Programme**, **Treasury Management** Policy and **Council Tax** levels for consideration and determination by **Full Council**;

10.3.5 to prepare the draft **Budget and Policy Framework** documents and in so doing to consult with the Corporate Scrutiny Committee and to include in its submission to the **Full Council** a statement of views received and the **Cabinet** response to those views;

10.3.6 to approve or adopt non-development plan documents and to modify, revise, revoke or withdraw a **Development Plan Document** where such modification, revision, revocation or withdrawal: is required to give effect to a direction of the **Secretary of State** under the Planning

and Compulsory Purchase Act 2004; is recommended by a person carrying out an independent examination under Section 20 of the 2004 Act; or is authorised by a determination made by **Full Council** when approving or adopting the **Development Plan** document;

10.3.7 ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs and the delivery of policy/strategy;

10.3.8 to be responsible for promoting community leadership, social value and the economic, social and environmental well-being of the area;

10.3.9 approving, monitoring and reviewing the provision of services to the Council which are delivered by internal and/or external suppliers;

10.3.10 overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally;

10.3.11 overseeing relationships with, participation in and contribution to external organisations and partnerships, the Local Government Association, or their successors or like bodies;

10.3.12 ensuring Officers exercising **Delegated Powers** on behalf of the **Cabinet** discharge their responsibilities efficiently and effectively;

10.3.13 monitoring and reviewing issues relating to the implementation of strategy and policy;

10.3.14 supporting any relevant regional arrangements relating to regional policy, transportation, planning and environmental issues;

10.3.15 to refer to the **Full Council** for determination all matters which are departures from the **Budget and Policy Framework** adopted by the Full Council, except matters of urgency which shall be dealt with in accordance with the procedures set out in **Part 3 Section E**;

10.3.16 to undertake a continuing review of the Council's broad policy objectives and priorities over the whole range of its functions and to secure a continuous review and evaluation of the effectiveness of services and demonstrate that the Council is delivering those services in accordance with the principles of **Best Value**, calling upon the **Scrutiny Committees** to assist in that process as it considers appropriate;

10.3.17 to report to the **Full Council**, where appropriate, on any matters which Council or the **Scrutiny Committees** have requested;

10.3.18 to present a business progress report annually in writing to Council usually at the meeting preceding Annual **Full Council** (to be presented

by the **Leader** on behalf of **Cabinet**);

10.3.19 to take any urgent action necessary in the event of a civil emergency and to determine general policy matters at such times;

10.3.20 promoting the Council's policies relating to climate change from time to time in force;

10.3.21 to exercise the Council's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder;

10.3.22 to exercise the powers and duties of the Council under Sections 13 of the Public Order Act 1986;

10.3.23 dealing with any **Petitions** referred to **Cabinet** in accordance with the Council's adopted Petition scheme;

10.3.24 to make decisions on behalf of the Council as member or shareholder in any companies that the Council is, or may become, a member or shareholder;

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

10.4 **Cabinet** may discharge these functions itself, through a Cabinet Committee or **Sub-Committee** or by delegation to an Officer. In addition, the Cabinet may appoint such advisory panels, including any Councillor, as it considers appropriate to provide advice to it.

11 Responsibilities of all Cabinet Members

11.1 The following are the general responsibilities which apply to all **Cabinet Members**. These responsibilities include various functions which are delegated to each Cabinet Member to discharge.

11.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the **Cabinet Member** with the primary responsibility shall take the lead, in consultation with all Cabinet Members with an interest.

11.3 Each **Cabinet Member** is the spokesperson for the policy area or 'portfolio' they are responsible for. They also:

11.3.1 lead on developing Council policy and make recommendations to the **Cabinet**;

11.3.2 provide guidance to the **Cabinet** on delivering services within their portfolio area;

11.3.3 give guidance to the **Cabinet** on **Budget** priorities;

11.3.4 monitor performance and make sure policy is delivered;

11.3.5 lead on improving Council services;

11.3.6 ensure that activities meet the **Council's** overall vision, core values and guiding principles;

11.3.7 represent the **Council** at a national and local level;

11.3.8 contribute to **Debate** and decision-making;

11.3.9 work with all **Councillors** and Officers to make sure that the scrutiny process works correctly including appearing before relevant Scrutiny meetings and responding to **Scrutiny Committee** reports;

11.3.10 make decisions as delegated to them by the **Leader** within the responsibility of the **Cabinet Member's** portfolio;

11.3.11 ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

12 **Responsibilities of the Leader**

The **Leader** of the Council shall:

12.1 Chair the **Cabinet**;

12.2 Nominate a **Deputy Leader**;

12.3 Select the **Cabinet Members** and determine their **portfolios of responsibility**, determine the size of and preside over and provide leadership and direction to the **Cabinet**;

12.4 Have the power to vary the portfolios held by **Cabinet Members** and shall determine which Cabinet Members shall hold a lead role in respect of any cross cutting policy matter;

12.5 Appoint **Committees** and **Sub-Committees** of the **Cabinet** and determine their powers;

12.6 Represent and act as ambassador for the Council as **Leader** of the Council (recognising the role of the **Chair of the Council**);

12.7 Have overall responsibility for:

12.7.1 policy development and design;

12.7.2 Ministerial and Members of Parliament liaison;

12.8 Co-ordinate the decision-making process of the **Cabinet** and its **Committees** within the **Budget and Policy Framework** agreed by the Council;

12.9 Co-ordinate the **Cabinet's** preparation of draft proposals to amend or update the **Budget and Policy Framework**;

12.10 Co-ordinate the preparation of the **Annual Budget**;

12.11 Represent the Council's views on matters of corporate or strategic policy and any other matters which are within the **Leader's Terms of Reference**;

12.12 Submit to the **Cabinet** all policy and/or operational matters which have corporate implications or which cross the remits of the individual **Cabinet Members**;

12.13 Provide appropriate and timely **Cabinet** responses to **Scrutiny Committee** recommendations and to monitor the implementation of those responses.

12.14 Act in the place of any **Cabinet Member** having delegated authority under this scheme.

The portfolio responsibilities of the **Leader** can be found on the Council's website.

13 **Scope of and Limitations to Individual Cabinet Member Decision-Making**

13.1 Any decisions taken by individual **Cabinet Members,** including the **Leader**, will be notified, by email, to all Councillors as soon as possible after the decision has been taken. The record of all decisions shall be recorded and publicised in accordance with the **Access to Information Procedure Rules** in **Part 3**.

13.2 **Cabinet Members** are empowered to make delegated decisions as determined by the Leader.

13.3 **Cabinet Members** may take a **Key Decision** subject to the usual requirements in relation to Key Decisions (including advance publication) detailed in the **Access to Information Procedure Rules** in **Part 3**.

13.4 **Cabinet Members** may refer a decision to the **Cabinet**.

13.5 **Cabinet Members** may delegate a function or decision to an Officer. If a function is so delegated, the Cabinet Member shall complete a written record.

13.6 If the **Monitoring Officer**, **S151 Officer** or **Chief Executive** give advice that a decision would fall outside the powers of the **Cabinet Member**, the Cabinet Member shall refer the matter to the **Leader** or the **Cabinet**.

13.7 Where it is not clear in which **portfolio** an issue sits, the **Leader** will decide.

13.8 Decisions by individual **Cabinet Members** including the **Leader**, must be

recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically.

14 Procedure for Taking Executive Decisions

14.1 All **Executive Decisions** shall be taken in accordance with the principles of decision-making as described in **Section A** of this **Part 2**.

14.2 **Executive Functions** must be exercised in accordance with the Council's **Budget and Policy Framework** subject to any discretions permitted by, and within any limitations imposed by, the **Cabinet (Executive) Procedure Rules** in **Part 3**.

14.3 Decisions made by the **Leader**, **Cabinet**, an individual **Cabinet Member** or a Committee of the Cabinet, or **Key Decisions** made by an Officer with delegated authority from the **Executive**, or under **Joint Arrangements**, shall be subject to the "**Call-in**" procedure as set out in the **Scrutiny Procedure Rules** in **Part 3**.

SECTION F - JOINT ARRANGEMENTS

1.1. The **Full Council** may establish **Joint Arrangements** with other local authorities and/or their executives to exercise functions (which are **non-Executive Functions** in any of the participating authorities) or advise the Council. The **Cabinet** may establish Joint Arrangements for Executive Functions. Joint Arrangements may include appointing **Joint Committees**.

1.2. **Joint Arrangements** will normally take one of two forms: the appointment of a **Joint Committee** of two or more authorities, or the delegation of functions by one authority to another.

1.3. If the **Joint Committee** is to discharge **Non-Executive Functions**, it must be appointed by **Full Council** and appointments must reflect the **Political Balance** of the Council as a whole. If it is to discharge **Executive Functions**, it must be appointed by the **Cabinet**. The Cabinet can only appoint **Cabinet Members** to the Joint Committee (except where the Joint Committee involves five or more authorities or has to be set up under specific legislation). If it is to discharge a mix of non-executive and Executive Functions, it must be appointed by Full Council with the agreement of the **Leader**. In that case, if only one Councillor is appointed, he/she can be, but need not be, a Cabinet Member, but if more than one Councillor is appointed then those appointed must include at least one Cabinet Member, and the **Political Balance** rules do not apply.

1.4. **Full Council** or the **Cabinet** may delegate their powers and functions to another **Local Authority** or the **Executive** of another Local Authority.

1.5. The decision whether or not to accept the delegation of **Non-Executive Functions** from another **Local Authority** shall be reserved to a **Full Council** meeting.

1.6. The decision whether or not to accept the delegation of **Executive Functions** shall be taken by the **Cabinet**.

1.7. The **Cabinet** may contract-out **Executive Functions** to another body or organisation if this is allowed by an order under Section 70 of the Deregulation and Contracting Out Act 1994. Alternatively, the Cabinet may enter into arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's decision-making.

1.8. The Council currently participates in the following **Joint Arrangements**:

1.8.1. The Council has entered a joint arrangement with neighbouring **District** councils and the County Council for the enforcement of decriminalised parking.

1.8.2. The Council has entered a joint arrangement with neighbouring

Councils for the administration of Revenues and Benefits.

1.8.3. The Council has entered a joint arrangement with the local authorities in Leicester, Leicestershire and Rutland for the establishment of a Police and Crime Panel.

1.8.4. The Council has entered a joint arrangement with neighbouring **District** councils under which Blaby District Council discharges the Council's functions in relation to Disabled Facilities Grants.

1.8.5. The Council has entered a joint arrangement with Charnwood Borough Council under which Charnwood Borough Council discharges the Council's functions in relation to Building Control.

SECTION G - OFFICER SCHEME OF DELEGATION

This part of the **Constitution** sets out the ways in which the Officers of the Council can make decisions and which decisions they have the power to make. It is called the "**The Officer Scheme of Delegation**"

It is separated into four parts:

Section G1 - Introduction to the Officer Scheme of Delegation

Section G2 - General Delegations to Designated Officers

Section G3 - Delegations to Head of Paid Service and Statutory Officers

Section G4 - Proper Officer and Specified Officer Functions

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

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**:

15.1 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**;

15.2 Will not depart from any approved policies, scheme, or, any direction of the **Full Council** or **Cabinet** and/or appropriate Committee;

15.3 Will have due regard to the Public Sector Equality Duty;

15.4 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

15.5 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.

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.

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.

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.

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 potential or actual 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 alleged or actual 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 **Awarding grants to third parties**

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**.

13 **Complaints**

13.1 To take action regarding complaints received.

13.2 To settle any Ombudsman / Complaint Cases:

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

13.2.2 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.**

13.3 To approve compensation payments to remedy complaints in accordance with the Council's Complaints Procedure and **Financial Procedure Rules** in **Part 3** provided that the Monitoring Officer has advised on the appropriateness of compensation for maladministration in accordance with s92 Local Government Act 2000.

14 **Attestation of the Common Seal of the Council**

14.1 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.

14.2 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.**

14.3 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.

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

The Council is required to designate a number of Officers to discharge statutory functions. The legal provisions and the Officer designated by the Council to discharge each function are listed in the table below. Further detail about the responsibilities of the **Head of Paid Service** and each **statutory Officer** then follows.

A table of designated **Proper Officer**s is set out below:

Legislative Provision	**Statutory Power the Council Must Delegate to an Officer**	**Officer Designated as the Statutory Officer**
S4 Local Government and Housing Act 1989	Designate one of their Officers as the Head of Paid Service	Chief Executive
S151 Local Government Act 1972	Appoint an Officer responsible for the administration of the authority's financial affairs	Strategic Director for Resources
S5 Local Government and Housing Act 1989	Designate one of their Officers as the Monitoring Officer	Head of Legal and Support Services
S36 Freedom of Information Act 2000	Qualified person in relation to s36 of the Act	Head of Legal and Support Services

1 **Functions delegated to the Head of Paid Service (Chief Executive)**

1.1 To act as the Council's statutory Head of Paid Service pursuant to section 4 of the Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Head of Paid Service under the **Constitution** generally.

1.2 Where he/she considers it appropriate to do so, to prepare a report to the Council setting out their proposals as to:

1.2.1 the manner in which the discharge by the Council of their different functions is co-ordinated;

1.2.2 the number and grades of staff required by the Council for the discharge of their functions;

1.2.3 the organisation of the Council's staff;

1.2.4 the appointment and proper management of the Council's staff.

1.3 To be responsible for and take action in relation to corporate strategy, policy initiatives and integrated planning and service delivery.

1.4 The corporate management of the Council and, specifically:

1.4.1 Advice to the Council on the **Policy Framework**;

1.4.2 Preparation of, and consultation on, the draft of the **Executive Decision Notice** on a monthly basis;

1.4.3 The responsibility for the discharge of the Council's functions in implementation of statutory and non-statutory plans including the modernisation, collation, indexation and publication of policies and practices of the Council within the evolving Policy Framework as the **Full Council** and the **Executive** shall determine.

1.5 As required to exercise any function delegated to any other Officer of the Council, with the exception of those functions delegated exclusively to the Council's **S151 Officer** or the **Monitoring Officer**. Further, in the event of any dispute or doubt as to the **Delegated Powers** of any other **Designated Officer**, the **Chief Executive** shall have the authority to determine which Designated Officer is to exercise that power.

1.6 To provide the 'certificate of opinion' for an employee making an application to the **Audit and Governance Committee** for exemption of his/her post from political restriction under section 3 of the Local Government and Housing Act 1989 (opinion as to whether the duties of the post involve regularly giving advice to **Councillors** or speaking to journalists/broadcasters).

1.7 The power to determine that an emergency has occurred, namely, an event or situation which threatens serious damage to human welfare or to the environment in the **District** or war or terrorism which threatens serious damage to the security of the United Kingdom.

1.8 The power to incur expenditure and take any necessary action within **Local Authority** statutory functions, including jointly with other authorities, in the event of an emergency or where urgent action is needed to enable the Council to fulfil its functions.

1.9 To nominate other **Senior Officers** of the **Council**, whether orally or in writing, to take administrative decisions in the event of an emergency.

1.10 In the event that the **Chief Executive** is absent or unable to act for any reason, the **Strategic Directors** may exercise these powers. In the event that the Strategic Directors are absent or unable to act for any reason, the powers in paragraphs1.8, 1.9 and 1.10 above may be exercised by any other **Chief Officer** who is available to act.

1.11 To take urgent **Key Decisions** in place of the **Executive** in accordance with

the **Cabinet (Executive) Procedure Rules** in **Part 3**.

1.12 In the event that all **Cabinet Members** are removed from office, to exercise all **Executive Functions** in consultation with the **Chair of the Council** until a new **Cabinet** has been appointed.

1.13 To discharge the functions of Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.

1.14 To act as Returning Officer, Local, Acting or Deputy Returning Officer in local elections, parliamentary elections, police and crime commissioners' elections and referenda.

1.15 The review of electoral arrangements and **District** boundaries.

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

1.16.7 The Head of Paid Service may delegate the discharge of this function to another Officer.

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

1.18 To be responsible for performance review issues.

1.19 To suspend the Strategic Directors where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct (**Cabinet** to be notified as soon as possible after the action is taken in accordance with the Employment Procedure Rules contained in the **Constitution**).

1.20 To make interim appointments to fill vacancies, and to make interim designations as **S151 Officer** and **Monitoring Officer** where a vacancy arises in such position, the term of each such appointment or designation not to extend beyond 18 months without the confirmation of the **Appointments Committee**.

1.21 To make agreements with other local authorities and external agencies in compliance with the **Contract Procedure Rules** in **Part 3** for the placing of staff and joint working arrangements (including committing expenditure within authorised budgets).

1.22 To authorise the use of juveniles and vulnerable adults as covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.

2 **Functions delegated to the S151 Officer (Strategic Director for Resources)**

2.1 To act as the Council's statutory chief finance Officer pursuant to section 114A Local Government Finance Act 1988 and carry out the responsibilities assigned to the S151 Officer under the Council's **Financial Procedure Rules** in **Part 3** and under the **Constitution** generally, including carrying out all **Treasury Management** functions and activities in accordance with the approved **Treasury Management** Strategy.

2.2 To make arrangements for the proper administration of the Council's financial affairs in accordance with section 151 of the Local Government Act 1972.

2.3 To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

2.4 Maintaining strong financial management underpinned by effective financial controls by:

2.4.1 Advising on effective systems of internal management and financial control;

2.4.2 Ensuring that financial management arrangements are sound and effective;

2.4.3 Ensuring a prudential financial framework is in place;

2.4.4 Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well documented internal financial controls;

2.4.5 Securing effective arrangements for prudential borrowing, **Treasury Management**, pensions and trust funds;

2.4.6 Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny;

2.4.7 Advising on anti-fraud and anti-corruption strategies and measures;

2.4.8 Securing effective systems of financial administration; and

2.4.9 Ensuring that statutory and other accounts and associated claims and returns in respect of grants are prepared.

2.5 To approve the detailed format of the financial plan and the **Budget** prior to approval by the **Full Council**.

2.6 To approve the annual calculation of the Council's **Council Tax** requirement in accordance with section 31A Local Government Finance Act 1992 prior to approval by the **Full Council**.

2.7 To report annually to Council on the robustness of the **Budget** and adequacy of reserves as required by section 25 Local Government Act 2003.

2.8 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to Council Officers and **Councillors**.

2.9 To report to Councillors, in consultation with the **Monitoring Officer**, if there is or there is likely to be unlawful expenditure or an unbalanced **Budget** as required by sections 111-116 Local Government Finance Act 1988.

2.10 To establish and maintain the **General Fund** and collection fund of the Council in accordance with the provisions of the Local Government Act 1988.

2.11 To manage the capital programme flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources.

2.12 To approve the draft Council's Accounts and Accounting Policies each year in accordance with the Accounts and Audit (England) Regulations 2015.

2.13 To approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme, in accordance with agreed procedures, save in relation to **Chief Officers** which is reserved to the **Independent Remuneration Panel**.

2.14 To write off uncollectible debts relating to the management of tenanted properties, up to the level equivalent to four months' rent. All debts written off this way would be reported to **Cabinet** for information through the quarterly reporting procedures.

2.15 To provide financial information to the media, members of the public and the community.

3 Functions delegated to the Monitoring Officer (Head of Legal and Support Services)

3.1 To act as the Council's statutory **Monitoring Officer** pursuant to section 5 and 5A Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Monitoring Officer under the **Constitution** generally.

3.2 To ensure that the Council, its Officers and its elected **Councillors** maintain the highest standards of conduct.

3.3 To contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

3.4 To establish and maintain the **Councillors' Code of Conduct** in **Part 4** to address the conduct that is expected of **Councillors** and co-opted members of the Council when they are acting in that capacity.

3.5 To establish and maintain a **Register of Interests** of Councillors and co-opted members of the Council in accordance with the provisions of the Localism Act 2011.

3.6 To contribute to the promotion and maintenance of high standards of conduct through provision of support to the **Audit and Governance Committee**.

3.7 To receive and act on reports made by the **Audit and Governance Committee**.

3.8 To consider complaints against **Councillors** including conducting investigations into matters as appropriate and the making of reports or recommendations in respect of them to **Sub- Committees** of the **Audit and Governance Committee.**

3.9 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to Council Officers and **Councillors**.

3.10 To report to **Councillors** on any actual or potential breaches of the law or maladministration as required by section 5 Local Government Housing Act 1989.

3.11 To advise whether decisions of the **Cabinet** are in accordance with the **Budget and Policy Framework**.

3.12 To be responsible for the maintenance and operation of the **Constitution**. The

Monitoring Officer has authority to make minor amendments and corrections to the Constitution to ensure that:

3.12.1 legislative references are updated;

3.12.2 it reflects the Council's structures and decision-making requirements;

3.12.3 consequential amendments are made as a result of Council, Executive (**Leader**, **Cabinet**, **Cabinet Member**) and Committee decisions; and

3.12.4 it is clear and unambiguous and maintains efficiency of operations.

3.13 To advise and assist the Democratic and Support Services **Team Manager** with the proper performance of the **Access to Information Procedure Rules** in **Part 3**.

3.14 To fulfil the requirements of the 'qualified person' in relation to section 36 of the Freedom of Information Act 2000.

3.15 To designate "**Proper Officers**" for the purpose of particular statutory functions and to make any changes needed to the table at 1.5 in Section G4 of this Part of the **Constitution**.

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

3.17 Authority to consider and act upon the recommendations of delegated officers in accordance with Section G2 Clauses 4.1 and 4.2 and to sign any document necessary in legal proceedings on behalf of the Council and authority to sign informations and complaints, and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless Statute provides otherwise.

3.18 May grant **Dispensations** to **Councillors** who require such Dispensations for one meeting or on one occasion from requirements relating to interests set out in the **Councillors' Code of Conduct** in **Part 4** as appropriate.

For the purpose of carrying out these functions, the **Monitoring Officer** shall be provided with the following resources:

3.19 The right of access to all documents and information held by or on behalf of the Council, including documents and information held by any Officer or **Councillor** of the Council. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any **Political Group** represented on the Council;

3.20 The right of access to any meetings of Officers or **Councillors** (or both) of the Council, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or

on behalf of any political party represented on the Council;

3.21 The right to require any Officer or **Councillor** of the Council, or any contractor of the Council, to provide an explanation of any matter under investigation;

3.22 A right to report to the **Full Council**, the **Audit and Governance Committee**, and to the **Cabinet**, including a right to present a written report and to attend and advise verbally;

3.23 The right to require the assistance of any Officer of the Council in carrying out an investigation and to delegate to that Officer any of the powers of the post of Monitoring Officer;

3.24 A power to mediate a local resolution to any complaint of breach of the **Councillors' Code of Conduct** in **Part 4**, in accordance with the **Council's** relevant procedures;

3.25 The right of access to the **Head of Paid Service/Chief Executive**, **Strategic Directors** and the **S151 Officer**; and

3.26 The right, after consultation with the **Head of Paid Service/Chief Executive** and/or the **S151 Officer** where appropriate to notify the Police, the Council's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.

SECTION G4 - PROPER OFFICER AND SPECIFIED OFFICER FUNCTIONS

1.1 Many legislative provisions require the appointment of a "**Proper Officer**" or "Specified Officer" to undertake formal responsibilities on behalf of the Council.

1.2 Statutory provisions and regulations are from time to time amended, replaced or re-enacted. When a statutory provision or regulation is amended, replaced or re-enacted, the appointments in the table below shall be effective in relation to the corresponding new provision.

1.3 Substitutes are identified to act where the **Proper Officer** is absent or otherwise unable to act.

1.4 The **Chief Executive/Head of Paid Service** shall be the **Proper Officer** of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:

1.4.1 such designation is given by the Council to any other Officer or

1.4.2 the **Chief Executive**/Head of Paid Service, exercising the powers given to him/her by this **Constitution**, appoints another Officer of the Council to be the **Proper Officer** for a specific service area or function.

SPECIFIED OFFICERS

Statutory Requirement	**Allocated to**	**Substitute**
Local Government and Housing Act 1989 Section 4 Head of Paid Service	Chief Executive	Strategic Directors
Representation of the People Act 1983 Section 8 Electoral Registration Officer	Chief Executive	A deputy, as appointed by the Electoral Registration Officer
Representation of the People Act 1983 Section 28 Acting Returning Officer (Parliamentary)	Chief Executive	As appointed by the Acting Returning Officer
Representation of the People Act 1983 Section 35 Returning Officer (Local Elections)	Chief Executive	As appointed by the Returning Officer

Local Government and Housing Act 1989 Section 5 Monitoring Officer	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Local Government Act 1972 Section 151 Chief Finance Officer	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer

1.5 A table of designated **Proper Officer**s is set out below:

Section of the Local Government Act 1972 and Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
Section 13 To act as a Parish Trustee	Chief Executive	Strategic Directors
Section 83 (1) to (4) Witness and receipt of Declarations of Acceptance of Office	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 84 Receipt of Declaration of Resignation of Office	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 86 Declare any vacancy in office	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chair	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 89 (1) (b) Receipt of notice of casual vacancy from two local government electors	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 99 Signature of summons to council meetings	Chief Executive	Head of Legal and Support Services (Monitoring Officer)

Section 100B Exclusion of reports, etc. from inspection	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100C Written Summary where Minutes would disclose Exempt Information	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100D Compilation of list of background papers	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100F Exclusion from production to Councillors of documents disclosing Exempt Information	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 115 (2) Receipt of money due from Officers	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer
Section 146 (1) (a) and (b) Declarations and service with regard to securities	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer
Section 191 Functions with respect to Ordnance Survey	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 210 (6) and (7) Charity functions of holders of offices with existing authorities transferred to holders of equivalent offices with new authorities or, if there is no such office, to Proper Officer	Chief Executive	Strategic Directors
Section 223 Authorise Officers to appear in legal proceedings	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer

Section 225 (1) Receipt and retention of documents deposited with the Authority	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 228 (3) Making accounts open to inspection by any Councillor of the Authority	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer
Section 229 (5) Certification of Photographic copies of Documents	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 234 Authentication of Documents	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 234 Officer authorised to sign forms of notice to give effect to planning applications	Head of Planning and Regeneration	Planning and Development Team Manager
Section 236 (9) and (10) To send copies of byelaws to Parish Council	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 238 Certification of byelaws	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 248 Officer who will keep the Roll of Freemen	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Schedule 12, Para 4 (2) (b) Signature of summonses to Council Meetings	Chief Executive	Head of Legal and Support Services (Monitoring Officer)

Schedule 12, Para 4 (3) Receipt of notice regarding address to which summonses to meetings are to be sent	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Schedule 14, Para 25 (7) Certifying resolutions applying or dis-applying provisions of Public Health Acts 1875-1961	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Local Government Act 1974	**Proper Officer**	**Alternative Proper Officer**
Section 30(5) To give notice that copies of an Ombudsman's report are available	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
Section 100B (2) Exclusion of whole or part of reports from public inspection	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100B (5) Withholding of reports containing Exempt Information	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100B (7) (c) Supply of papers to press	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 100C (2) Summaries of Minutes	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 100D Inspection of background papers	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors

Section 100F Councillors' right to papers	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section of the Local Government Finance Act 1988 and Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
Section 114 Duty to report etc	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer
Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
Part 1 (s.2.4, 3, 4, 5, 15) and regulations made thereunder	Chief Executive	Strategic Directors
Section 2 and Section 3 Preparation and deposit of politically restricted posts and issue of certificate in respect of politically restricted posts	Chief Executive	Strategic Directors
Section of the Party Wall etc Act 1996 and Proper Officer's Functions	**Proper Officer**	**Alternative Proper Officer**
Section 10(8) Appointing Officer	Chief Executive	Strategic Directors
Section of the Public Health Act 1936 and the Public Health Act 1961	**Proper Officer**	**Alternative Proper Officer**
Sections 84 and 85 of the Public Health Act 1936 Proper Officer functions	Strategic Directors	Head of Community Services
Section of the Food Safety Act 1990	**Proper Officer**	**Alternative Proper Officer**
Section 5 Authorised Officer to act in matters arising under the Act	Strategic Directors	Head of Community Services

Section 27 Nomination of a Public Analyst	Strategic Directors	Head of Community Services
Section 49 Signature on documents authorised or required under the Act	Strategic Directors	Head of Community Services
Local Government Act 2000 and Regulations made thereunder and Proper Officer functions	**Proper Officer**	**Alternative Proper Officer**
Proper Officer functions	Chief Executive	Strategic Directors
Section of the Freedom of Information Act 2000 and Proper Officer Functions	**Proper Officer**	**Alternative Proper Officer**
Section 36 the "qualified person"	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section of the Regulation of Investigatory Powers Act 2000 and Proper Officer Functions	**Proper Officer**	**Alternative Proper Officer**
Part II Authorised Officers who may authorise, review or cancel the carrying out of directed surveillance or the use of covert human intelligence sources	Chief Executive Strategic Directors	Heads of Service
Part II Senior Responsible Officer	Chief Executive	Strategic Directors

Miscellaneous: Statutory Provision and Proper Officer Functions	Proper Officer	Alternative Proper Officer
Section 41 Local Government (Miscellaneous Provisions) Act 1976 Certifying true copies of Minutes	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 321 (3) Highways Act 1980 Certifying copies of approved plans	Chief Executive	Strategic Directors
Section 61 Building Act 1984 Receive notification of and having free accessto repairs of drains	Strategic Directors	As delegated by the Strategic Directors
Section 149 Environmental Protection Act 1990 Discharging functions relating to stray dogs	Head of Community Services	Environmental Health Team Manager
Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990 Lists of protected buildings	Strategic Directors	Head of Planning and Regeneration
Proceeds of Crime Act 2002 Part 7 Nominated Officer to receive disclosures ofsuspected Money Laundering	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer

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SECTION A1 - INTERPRETATION AND CHAIR'S RULING

SECTION A2 - PROCEDURE RULES

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23. Committees and Sub-Committees

24. Suspension of Council and Committee Procedure Rules

25. Petitions

SECTION A1 - INTERPRETATION AND CHAIR'S RULING

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.

2. The procedure rules in section A2 do not apply to meetings of the **Cabinet** – for which see the **Cabinet (Executive) Procedure Rules** in **Part 3** Section B.

3. References in these **Council and Committee Procedure Rules** to the **Chair of the Council**, **Leader** of the Council or Chair, include the appointed deputy or any other **Councillor** acting in their absence.

4. References in these **Council and Committee Procedure Rules** to the **Chair of the Council** shall include the **Chair** of any meeting where appropriate.

5. These **Council and Committee Procedure Rules** should be read in conjunction with other parts of the **Constitution**.

6. The ruling of the **Chair of the Council** on the application and interpretation of these **Council and Committee Procedure Rules** is final.

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 ensuring 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 **Council** 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 two Cabinet Members may indicate to the **Chair** and then address the Council for not more than five **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.

4. **Chair of the Council and Deputy Chair of the Council**

4.1 The **Chair of the Council** and the **Deputy Chair of the Council** will be appointed by the **Annual Meeting** of **Full Council**.

4.2 If the office of **Chair of the Council** becomes vacant during a civic year it will be filled at the next **Full Council** meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.

4.3 If the office of **Deputy Chair of the Council** becomes vacant during a civic year it will be filled at the next **Full Council** meeting, or, if a vacancy arises within 14 days before that meeting, it will be filled at the next but one meeting.

4.4 The **Chair of the Council** will chair meetings of the **Full Council**. In the Chair of the Council's absence the **Deputy Chair of the Council** will chair the meeting. In the absence of both the Chair of the Council and the Deputy Chair of the Council, the Full Council will appoint another Councillor to chair the meeting.

5. Time and Place of Meetings

5.1 The time and place of meetings will be determined by the **Chief Executive** and notified in the summons.

5.2 All Council meetings will begin at 6:30pm, unless the Council or the **Chair** decides otherwise. The Council will normally meet at the Council Offices.

6. Notice and Summons to Meetings

6.1 The **Chief Executive** or other authorised Officer will give notice to the public of the time and place of any meeting in accordance with the **Access to Information Procedure Rules** in **Part 3**. At least five **Clear Days** before a meeting, the **Agenda** will be sent via email to all Councillors with the date, time and place of each meeting and with links to access the reports via the Council's website.

6.2 No report shall appear as an item on the summons for a meeting unless the opportunity has been afforded to the **Monitoring Officer** and the **S151 Officer** to consider the legal and financial implications of the report and the impact, if any, on the **Budget and Policy Framework**.

6.3 In the event of an urgent matter requiring consideration, the report will be included on the summons or be considered as an urgent item, in accordance with the **Access to Information Procedure Rules** in **Part 3**, and with the agreement of the **Monitoring Officer** and the **S151 Officer**.

7. Chair and Deputy Chair of Meetings

7.1 The person presiding at the meeting may exercise any power or duty of the **Chair** in relation to the conduct of a meeting. Where these rules apply to meetings of boards or **Committees**, reference to the Chair also include the Chairs of boards or Committees.

7.2 The **Annual Meeting** of **Full Council** will appoint **Chair**s and (where required) **Deputy Chairs** of all Committees.

7.3 The **Full Council** may at any time remove a **Chair** or **Deputy Chair** of a Committee.

7.4 Where there is a Committee vacancy for **Chair,** the **Deputy Chair** will act as **Chair** until the **Full Council** fills the vacancy.

7.5 Where **Full Council** has appointed the **Chair** and **Deputy Chair** and there are vacancies for both Chair and Deputy Chair, the Committee or **Sub-Committee** will appoint one of its members to be temporary Chair until the vacancy is filled by the Full Council.

7.6 Written notice of the resignation of a **Chair** or **Deputy Chair** will be effective on receipt by the **Chief Executive**.

7.7 If the **Chair** and **Deputy Chair** are disqualified from acting, are absent, or decline to act as chair, the meeting will appoint another member to chair the meeting. If that **Councillor** has to leave, another Councillor should be appointed.

8. Quorum

8.1 Subject to any specific statutory requirement and/or other requirement of this Constitution, the **Quorum** of a meeting will be one quarter of the whole number of members or three voting members, whichever is the greater.

8.2 There must be a **Quorum** within 15 minutes of the scheduled start time of a meeting, otherwise the meeting will stand adjourned.

8.3 If, during the course of a meeting, the number of **Councillors** present falls below the **Quorum**, the meeting cannot continue. The meeting will be adjourned and any outstanding business will be considered at a time and date fixed by the **Chair**. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting or **Extraordinary Meeting** convened for that purpose.

9. Duration of Meetings

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

10. Questions by the Public

General

10.1 A member of the public may ask a question including one of the **Leader** or a **Cabinet Member** at any meeting of the Council.

Order of questions

10.2 Questions will be asked in the order in which notice of them was received, except that the **Chair** may group together similar questions. A maximum of thirty minutes will be allowed for the questions and answers. The Chair will decide the time allocated to each question.

Notice of questions

10.3 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the **Monitoring Officer** no later than 12 noon three **Clear Days** before the date of the meeting. Each question must give the name and address of the questioner and must name the **Cabinet Member** to whom it is to be put.

Number of questions

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

Scope of questions

10.5 The **Monitoring Officer** may reject a question if it:

10.5.1 is not about a matter for which the Council has a responsibility or which affects the **District**;

10.5.2 is vexatious, derogatory, defamatory, frivolous or offensive;

10.5.3 concerns a Council employment or staffing matter or sensitive personal information about a Councillor;

10.5.4 is unrelated to functions of the Committee;

10.5.5 would require the disclosure of confidential or **Exempt Information**;

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

10.5.7 relates to a planning application.

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

Record of questions

10.7 The **Monitoring Officer** will immediately send a copy of the question to the **Cabinet Member** to whom it is to be put if applicable. The Democratic Services Team will maintain a table of questions received and this can be made available on request. The details of all accepted questions are available within the **Minutes** of the meeting, which are available and searchable on the Council's website. Rejected questions will include reasons for rejection.

10.8 Copies of all questions will be circulated to all **Councillors** and will be made available to the public attending the meeting.

Asking the question at the meeting

10.9 The **Chair** will invite the questioner to put the question to the **Cabinet Member** named in the notice. If a questioner who has submitted a written question is unable to be present, the question will not be dealt with.

Supplemental question

10.10 A questioner who has put a question in person may also put one brief supplementary question without notice to the **Cabinet Member** who has replied to his/her original question. A supplementary question must arise directly out of the original request or reply. The **Chair** may reject a supplementary question on any of the grounds in Rule 10.5 above or if the question takes the form of a speech.

Response

10.11 An answer may take the form of:

10.11.1 a direct oral answer;

10.11.2 where the desired information is contained in a publication of the Councillor other published work, a reference to that publication; or

10.11.3 where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

10.12 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the **Cabinet Member** to whom it was put, will be dealt with by a written answer.

Reference of question to a Committee

10.13 Unless the **Chair** decides otherwise, no discussion will take place on any question but any **Councillor** may **Move** that the matter raised by a question be referred to **Cabinet** or the appropriate board or Committee. Once seconded, such a motion will be voted on without discussion.

10.14 Ordinarily the **Chair** will invite the **Leader** or the **Cabinet Member** with responsibility for the issue concerned to respond to the question. In some circumstances, the Chair may invite a **Councillor** to respond to the question, if appropriate.

11. **Questions by Councillors**

On Announcements or Reports of the Leader, the Cabinet, or the Chair of a Board or Committee

11.1 A **Councillor** may ask the **Leader** or a **Cabinet Member**, or the **Chair** of a board or Committee questions without notice about any matter contained in any address or report under paragraph 2.4.4 and 2.4.9 when it is being considered.

Questions from Councillors and responses under this provision shall be limited to five minutes in total in relation to 2.4.4 and 2.4.9 respectively.

Questions on notice at Full Council

11.2 Subject to Rule 11.3, a **Councillor** may ask the **Leader**, a **Cabinet Member**, or the **Chair** of **Full Council** or a Committee, a question on any matter in relation to which the Council has powers or duties, or which affects the interests of the **District** or its residents.

11.3 A Councillor may only ask a question under Rule 11.2 if either:

11.3.1 they have submitted their question in writing or by electronic mail to the **Monitoring Officer** no later than 12 noon three **Clear Days** before the date of the meeting; or

11.3.2 where the question relates to urgent matters, they have the consent of the **Councillor** to whom the question is to be put and the content of the question is given to the **Monitoring Officer** by midday on the day of the meeting.

Response

11.4 An answer may take the form of:

11.4.1 a direct oral answer;

11.4.2 where the desired information is contained in a publication of the **Councillor** other published work, a reference to that publication; or

11.4.3 where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Supplementary question

11.5 A **Councillor** asking a question under Rule 11.2 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

Number of questions

11.6 Questions are limited to one per **Councillor** per meeting, plus one supplementary question.

Time for Questions

11.7 There will be a time limit of thirty minutes on **Councillors**' questions and answers with no extension of time. Questions not dealt with in this time will be dealt with by written responses. The **Chair** will decide the time allocated to each

question.

Format of Questions

11.8 **Councillors** must confine their contributions to questions and answers and not make statements or attempt to **Debate**. The **Chair** will decide whether a Councillor is contravening the rule and stop the Councillor concerned. The Chair's ruling will be final.

12. **Motions on Notice**

Notice

12.1 Except for motions which can be moved without notice under Rule 13 below and motions to remove the **Leader**, written notice of every motion, signed by at least one **Councillor**, must be delivered to the **Monitoring Officer** not later than midday seven **Clear Days** before the date of the meeting. All accepted motions are available within the **Minutes** of the meeting and are available and searchable on the Council's website.

Motion set out in Agenda

12.2 Motions for which notice has been given will be listed on the **Agenda** in the order in which notice was received, unless the **Councillor** giving notice states, in writing, that he/she proposes to **Move** it to a later meeting or withdraw it.

Scope

12.3 Motions must be about matters for which the Council has a responsibility or which affect the area.

Exclusion of notices of motion out of order

12.4 The **Chair**, on the advice of the **Chief Executive**, may refuse a motion which may be out of order in accordance with the reasons set out in Rules 10.5.1-10.5.7 or he/she may make such corrections therein as will bring it into due form with the approval of the mover(s).

12.5 In accordance with Rule 14 below, if a motion seeks to vary or reverse a decision made by Council within the previous six months it will not be included in the summons.

Motions to remove the Leader

12.6 The **Leader** may be removed from office during his/her one year term of office by **Resolution** of Council. Such a motion is required to be delivered to the **Chief Executive** seven **Clear Days** before the meeting. The motion must be in writing, signed by 20% of the total number of councillors and propose a nomination for a new Leader.

12.7 In the event that the **Leader** is removed by a **Resolution** of Council under the above paragraph, the new Leader may be appointed at the same or next available meeting of the Council.

Motions not moved

12.8 If a motion set out in the summons is not moved by the **Councillor(s)** who gave notice, it shall be treated as withdrawn and shall not be moved without fresh notice.

Motions to be referred to Committee

12.9 Motions falling within the remit of a **Committee** shall, after being moved and seconded, be automatically referred to the relevant Committee, however, the **Chair** has the power to allow them to be dealt with at the Council meeting save in relation to **Executive Functions**.

13. **Motions and Amendments Without Notice**

13.1 The following **Motions** and **Amendments** may be moved without notice:

13.1.1 to appoint a **Chair** of the meeting at which the motion is moved;

13.1.2 in relation to the accuracy of the **Minutes**;

13.1.3 to change the order of business in the **Agenda**;

13.1.4 to refer something to an appropriate body or individual;

13.1.5 to appoint a Committee or Councillor arising from an item on the summons for the meeting;

13.1.6 to require a named vote to be taken in accordance with Rule 16.4 or 16.5;

13.1.7 to approve or refuse recommendations of **Committees** or Officers and any **Resolutions** following from such approval or refusal;

13.1.8 to grant leave to withdraw a motion;

13.1.9 to amend a motion;

13.1.10 to proceed to the next business;

13.1.11 that the question be now put (other than by a **Councillor** who was the last speaker);

13.1.12 to **Adjourn** a **Debate**;

13.1.13 to **Adjourn** a meeting;

13.1.14 to extend the meeting in accordance with Rule 8;

13.1.15 to suspend a particular Rule in accordance with Rule 24.1 below;

13.1.16 to exclude the public and press in accordance with the **Access to Information Procedure Rules** in **Part 3**;

13.1.17 to not hear further from a **Councillor** named in accordance with Rule 20.4 or to exclude them from the meeting under Rule 20.5; and

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

14. Previous Decisions and Motions

Motion to Rescind a previous decision

14.1 A **Motion** or **Amendment** to **Rescind** a decision arising from a motion moved and adopted at a Council meeting within the past six months cannot be moved unless the Notice of Motion is signed by at least one third of the members. Once the Motion or Amendment is dealt with, no one can propose a similar Motion or Amendment for six months.

Motion similar to one previously rejected

14.2 A **Motion** or **Amendment** in similar terms to one that has been rejected at a meeting of the **Full Council** in the past six months cannot be moved unless the notice of motion or Amendment is signed by at least one third of **Councillors**. Once the Motion or Amendment is dealt with, no one can propose a similar Motion or Amendment for six months.

15. Rules of Debate

No speeches until motion seconded

15.1 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the **Motion** has been seconded.

Motion in writing

15.2 Unless notice of the **Motion** has already been given or the Motion is set out as a recommendation, the motion or an **Amendment**, as soon as it is seconded will be written down and agreed by the proposer and read out prior to any discussion.

Seconder's speech

15.3 When seconding a **Motion** or **Amendment**, a **Councillor** may reserve their speech until later in the **Debate.**

Content and length of speeches

15.4 Speeches must be directed to the question under discussion or to a personal explanation or **Point of Order**. No speech may exceed five minutes without the consent of the **Chair**.

When a Councillor may speak again

15.5 A **Councillor** who has spoken on a **Motion** may not speak again whilst it is the subject of **Debate**, except:

15.5.1 to speak once on an **Amendment** moved by another Councillor;

15.5.2 to **Move** a further **Amendment** if the motion has been amended since he/she last spoke;

15.5.3 if his/her first speech was on an **Amendment** moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was **Carried**);

15.5.4 in exercise of a **Right of Reply**;

15.5.5 on a **Point of Order**; and

15.5.6 by way of personal explanation.

Amendments to motions

15.6 An **Amendment** to a **Motion** must be relevant to the Motion and may:

15.6.1 refer the Motion to an appropriate body or individual for consideration or reconsideration;

15.6.2 leave out words;

15.6.3 leave out words and insert or add others; or

15.6.4 insert or add words;

as long as the effect of 15.6.2 to 15.6.4 is not to **Negate** the motion.

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

15.8 If an **Amendment** is not **Carried**, other Amendments to the original **Motion** may be moved.

15.9 If an **Amendment** is **Carried**, the **Motion** as amended takes the place of the

original Motion. This becomes the **Substantive Motion** to which any further Amendments are moved.

15.10 After an **Amendment** has been **Carried**, the **Chair** will read out the amended motion before accepting any further Amendments, or if there are none, put it to the vote.

Alteration of motion

15.11 A **Councillor** may alter a **Motion** of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

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

15.13 Only alterations which could be made as an **Amendment** may be made.

Withdrawal of motion

15.14 A **Councillor** may withdraw a **Motion** which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the Motion after the mover has asked permission to withdraw it unless permission is refused.

Right of Reply

15.15 The mover of a **Motion** has a right to reply at the end of the **Debate** on the motion, immediately before it is put to the vote.

15.16 If an **Amendment** is moved, the mover of the original **Motion** has the **Right of Reply** at the close of the **Debate** on the Amendment, but may not otherwise speak on it.

15.17 The mover of the **Amendment** has the penultimate **Right of Reply** to the **Debate** on his/her Amendment but has no Right of Reply to the mover of the original **Motion**.

Motions which may be moved during Debate

15.18 When a **Motion** is under **Debate**, no other Motion may be moved except the following procedural Motions:

15.18.1 to withdraw a Motion;

15.18.2 to amend a Motion;

15.18.3 to proceed to the next business;

15.18.4 that the question be now put;

15.18.5 to **Adjourn** a **Debate**;

15.18.6 to **Adjourn** a meeting;

15.18.7 that the meeting continue for a further half hour;

15.18.8 to exclude the public and press in accordance with the **Access to Information Procedure Rules** in **Part 3**; and

15.18.9 to not hear further a **Councillor** named under Rule 21.4 or to exclude them from the meeting under Rule 21.5.

Closure Motions

15.19 A **Councillor** may **Move**, without comment, the following **Motions** at the end of a speech of another Councillor:

15.19.1 to proceed to the next business;

15.19.2 that the question be now put;

15.19.3 to **Adjourn** a **Debate**; or

15.19.4 to **Adjourn** a meeting.

15.20 If a **Motion** to proceed to next business is seconded and the **Chair** thinks the item has been sufficiently discussed, he/she will give the mover of the original Motion a **Right of Reply** and then put the procedural Motion to the vote.

15.21 If a **Motion** that the question be now put is seconded and the **Chair** thinks the item has been sufficiently discussed, he/she will put the procedural Motion to the vote. If it is passed he/she will give the mover of the original Motion a **Right of Reply** before putting his/her Motion to the vote.

15.22 If a **Motion** to **Adjourn** the **Debate** or to Adjourn the meeting is seconded and the **Chair** thinks the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she will put the procedural Motion to the vote without giving the mover of the original Motion the **Right of Reply**.

Point of Order

15.23 A **Councillor** may raise a **Point of Order** at any time. The **Chair** will hear it immediately. A Point of Order may only relate to an alleged breach of these **Council and Committee Procedure Rules** or the law. The Councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final.

Personal explanation

15.24 A **Councillor** may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present **Debate**. The ruling of the **Chair** on the admissibility of a personal explanation will be final.

16. **Voting**

Majority

16.1 Unless this **Constitution** (or the law) provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question was put.

Chair's Casting Vote

16.2 If there are equal numbers of votes for and against, the **Chair** will have a second or **Casting Vote**. There will be no restriction on how the Chair chooses to exercise a Casting Vote.

Show of hands

16.3 Unless a **Recorded Vote** is demanded under Rules 16.4 and 16.5 below, the **Chair** will take the vote by show of hands, or if there is no dissent, by the **Affirmation of the Meeting**.

Recorded vote

16.4 If one **Councillor** present at the meeting demands it, the names for and against the **Motion** or **Amendment** or abstaining from voting will be taken down in writing and entered into the **Minutes**.

16.5 **Recorded Votes** must be taken at a **Budget Council Meeting** of the **Full Council** where it:

16.5.1 makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or

16.5.2 issues a **Precept** under Chapter 4 of Part 1 of that Act.

16.6 Where any **Councillor** requests it immediately after the vote is taken, their vote will be so recorded in the **Minutes** to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

16.7 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

17. **Minutes**

Signing the Minutes

17.1 The **Chair** will sign the **Minutes** of the proceedings at the next suitable meeting. The Chair will **Move** that the Minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

No requirement to sign Minutes of previous meeting at Extraordinary Meeting

17.2 Where in relation to any meeting, the next meeting for the purpose of signing the **Minutes** is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an **Extraordinary Meeting**), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of Minutes.

Form of Minutes

17.3 **Minutes** will contain all **Motions** and **Amendments** in the exact form and order the **Chair** put them**.**

18. **Deputations**

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

18.2 A person wishing to make a deputation must give written notice to the **Monitoring Officer** no later than midday three **Clear Days** before the day of the meeting.

18.3 A maximum of two **Deputations** only will be permitted at any meeting and they will be selected in the order notice is received. Only one deputation will be permitted if the **Monitoring Officer** receives notice of a **Petition** in accordance with Rule 25.

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

18.5 The deputation may address the meeting for no more than five minutes and Councillors may then question the deputation for a further five minutes.

18.6 The relevant **Portfolio Holder** or board or Committee **Chair** may, if he/she chooses, then address the meeting for up to five minutes.

18.7 There shall be no vote taken on any deputation. A **Councillor** may propose that the subject matter be placed on the **Agenda** of the next ordinary meeting of the relevant board or Committee, such a motion to be moved and seconded formally and put without discussion. If no such motion is moved or **Carried**, the **Petition** will be referred to a **Strategic Director**, **Head of Service** or **Team Manager** who will respond to the Petition in writing within 28 days.

19. **Record of Attendance**

19.1 The Democratic Services Team will note all **Councillors** that are present during the whole or part of a meeting to assist with the record of attendance.

20. **Exclusion of Public**

20.1 Members of the public and press may only be excluded either in accordance with the **Access to Information Procedure Rules** in **Part 3** of this **Constitution** or Rule 23 (Disturbance by Public).

21. **Councillor Conduct**

General Conduct

21.1 **Councillors** are required to comply with the **Councillors' Code of Conduct** in **Part 4** at all times. Any Councillor with an interest in the matter under consideration shall comply with the provisions of the Code. Where necessary and appropriate the **Chair** will remind Councillors of their responsibilities under the Code during the course of the meeting.

Standing to speak

21.2 When a **Councillor** speaks at **Full Council** he/she must stand and address the meeting through the **Chair** except where the Councillor or Councillors may be physically unable to do so. If more than one Councillor stands, the Chair will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a **Point of Order** or a point of personal explanation.

Chair standing

21.3 When the **Chair** stands during a **Debate**, any **Councillor** speaking at the time must stop and sit down. The meeting must be silent.

Councillor not to be heard further

21.4 If a **Councillor** persistently disregards the ruling of the **Chair** by behaving improperly or offensively or deliberately obstructs business, any Councillor may **Move** that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.

Councillor to leave the meeting

21.5 If the **Councillor** continues to behave improperly after such a motion is **Carried**, any Councillor may **Move** that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

General disturbance

21.6 If there is a general disturbance making orderly business impossible, the **Chair** may **Adjourn** the meeting for as long as he/she thinks necessary.

22. **Disturbance by Public**

Removal of member of the public

22.1 If a member of the public interrupts proceedings, the **Chair** will warn the person concerned. If he/she continues to interrupt, the Chair will order the removal of that person from the meeting room.

Clearance of part of meeting room

22.2 If there is a general disturbance in any part of the meeting room open to the public, the **Chair** may call for that part to be cleared.

23. **Committees and Sub-Committees**

Appointment of Committees

23.1 The Council may establish such **Committees** as it considers necessary to carry out the work of the Council and may refer to those Committees such matters as are considered appropriate.

23.2 The Council shall establish the following **Committees** of the Council:

23.2.1 **Appointments Committee**;

23.2.2 **Investigatory Committee**;

23.2.3 **Planning Committee**;

23.2.4 **Local Plan Committee**;

23.2.5 **Two Scrutiny Committees**;

23.2.6 **Audit and Governance Committee**; and

23.2.7 **Licensing Committee**.

23.3 **Committees** may establish standing **Sub-Committees**, to carry out the work of the Committee and may refer to those Sub-Committees such matters as are considered appropriate. Committees may also establish ad hoc Sub-Committees to consider any specific matter referred to them.

23.4 Except in relation to those decisions which by statute must only be taken by the **Full Council**, the Council may delegate powers to **Committees** or **Sub-Committees**. Where a matter has been delegated to a Committee, the Committee may further delegate the matter to a **Sub-Committee** unless the Full Council otherwise directs.

23.5 Where a matter is delegated the decisions of the **Committee** or **Sub-Committee** do not require approval by the **Full Council** (or Committee) unless the delegation has been previously withdrawn in relation to the particular item.

Election of Chairs and Deputy-Chairs of Committees

23.6 The Appointment of **Chair**s and **Deputy Chairs** of **Committees** will be in accordance with Rule 7 and the provisions set out in **Section D** in respect of each Committee.

Membership of Committees, Sub-Committees and Joint Committees

23.7 In relation to **Committees**, the **Annual Meeting** of the **Full Council** will:

23.7.1 subject to the remainder of this Rule 23, determine the number of **Councillors** to serve on them;

23.7.2 allocate seats on them to the **Political Groups** in accordance with the principles of **Political Balance** where required; and

28.8.3 appoint named Councillors and substitutes to them giving effect to the wishes (where expressed) of each **Political Group**.

23.8 Appointments to all **Sub-Committees** will be made by their parent **Committees** in accordance with:

23.8.1 the principles of **Political Balance** as necessary (as to the allocation of numbers of seats); and

23.8.2 the wishes of the **Political Groups** (as to individual appointments).

23.9 The principles of **Political Balance** are defined in this **Constitution**.

23.10 Where a **Political Group** wishes to change one of its appointed **Councillors** on a **Committee** or Sub-Committee, the **Full Council** or parent Committee shall give effect to that group's wishes.

23.11 Where there is a change in the **Political Balance** of the Council, the allocation of seats on **Committees** and **Sub-Committees** will be reviewed and changes made as soon as practicable:

23.11.1 to reflect the new **Political Balance**; and

23.11.2 the wishes of the **Political Groups**.

Business to be Conducted

23.12 Meetings will be held on the occasions set out in the calendar of meetings agreed by the Council and at such other times as they are required to deal with matters arising.

23.13 At each meeting the following business will be conducted:

23.13.1 consideration of the **Minutes** of the last meeting;

23.13.2 **Declarations of Interest**, if any; and

23.13.3 matters set out in the **Agenda** for the meeting.

Right to Place Items on the Committee Agenda

23.14 The **Chair** of a Committee may put on the **Agenda** of the relevant Committee any matter which he/she wishes, provided that it is relevant to the business of that Committee.

23.15 Any member of a Committee may request that an item is placed on the **Agenda** for a meeting. The item will be placed on the Agenda for a meeting provided the **Chair** of the Committee, in consultation with the **Chief Executive**, agrees to the item's inclusion. In the event that the Chair does not agree to the item being placed upon the Agenda any three members of the relevant Committee may require that an item be placed upon the Agenda. Any such requirement must be made either at the meeting or to the Chief Executive in writing and signed by the three members.

23.16 Any **Chief Officer** may place an item on the **Agenda** that he/she considers the Committee needs to consider or take a decision on.

23.17 The **Chief Executive**, **Monitoring Officer** and/or **S151 Officer** may require that a meeting is convened in pursuance of their statutory duties.

24. Suspension of the Council and Committee Procedure Rules

24.1 Rules 9, 11 to 15, 18 and 25 may be suspended by motion on notice or without notice, if at least one half of the whole number of **Councillors** are present. Suspension shall only be for the duration of the meeting.

25. Petitions

25.1 **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.

25.2 The Council has formally adopted a **Petition** scheme.

25.3 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.

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

SECTION B – CABINET (EXECUTIVE) PROCEDURE RULES

Rule

1. **Procedures General**
2. **Form and Content of the Meeting**
3. **Speaking Rights**
4. **Questions by the Public**
5. **Minutes**
6. **Deputations**
7. **Record of Attendance**
8. **Councillor Conduct**
9. **Disturbance by Public**
10. **Suspension and Amendment of the Cabinet (Executive) Procedure Rules**
11. **Petitions**

SECTION B – CABINET (EXECUTIVE) PROCEDURE RULES

1. Procedures General

1.1 Who May Make Executive Decisions

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

1.1.1 the **Cabinet** as a whole;

1.1.2 a **Committee** of the Cabinet;

1.1.3 an individual **Cabinet Member**;

1.1.4 an **Officer** of the Council;

1.1.5 an area committee;

1.1.6 **Joint Arrangements**; or

1.1.7 another **Local Authority**.

1.2 The arrangements for the discharge of **Executive Functions** determined by the **Leader** are set out in the executive arrangements of the **Constitution** (see **Part 2** of this Constitution).

1.3 Delegation by the Leader

1.3.1 At the **Annual Meeting** of the **Full Council**, the **Leader** will present the names of the **Councillors** appointed to the **Cabinet** by the Leader (including the **Cabinet Member** who is appointed as the **Deputy Leader**) and their portfolios.

1.3.2 Either at the **Annual Meeting** of the **Full Council** or as soon as practicable thereafter, the **Leader** will present to the **Monitoring Officer** a written record of:

(a) the detailed remits of the **portfolios** of the **Cabinet Members**;

(b) any delegations made by the **Leader** in respect of the discharge of the Council's **Executive Functions**. The document presented by the Leader to the **Monitoring Officer** will contain the following information about the discharge of the Council's Executive Functions in relation to the coming year:

(i) the extent of authority of the **Cabinet** as a whole;

(ii) the extent of any authority delegated to individual

Cabinet Members, including details of any limitation on their authority;

(iii) the **Terms of Reference** and **Constitution** of such **Committees** of the **Cabinet** as the **Leader** appoints and the names of **Cabinet Members** appointed to them;

(iv) the nature and extent of any delegation of **Executive Functions** to area **Committees**, or any other authority or any **Joint Arrangements** and the names of those **Cabinet Members** appointed to any **Joint Committee** for the coming year; and

(v) the nature and extent of any delegation of **Executive Functions** to Council Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

1.4 **Sub-delegation of Cabinet Functions**

1.4.1 Where the **Leader** delegates an **Executive Function** to the **Cabinet** then unless the Leader directs otherwise, the Cabinet may delegate further to a Committee of the Cabinet or to a Council Officer;

1.4.2 Where the **Leader** delegates an **Executive Function** to a Committee of the **Cabinet** or an individual **Cabinet Member** then unless the Leader directs otherwise, a Committee of the Cabinet or an individual Cabinet Member may delegate further to a Council Officer;

1.4.3 Even where **Executive Functions** have been delegated under 1.4.1 or 1.4.2 above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation; and

1.4.4 Where the **Leader** seeks to withdraw a delegation from a Committee of the **Cabinet**, notice will be deemed to be served on that Committee of the Cabinet when the Leader has served it on its **Chair**.

1.5 **The Officer Scheme of Delegation and Executive Functions**

The **Leader** may amend the **Officer Scheme of Delegation** set out in **Part 2** of this **Constitution** insofar as it relates to **Executive Functions** at any time during the year in accordance with the procedure set out below:

1.5.1 Where the **Leader** wishes to delegate the discharge of an **Executive Function** that has not been previously delegated, the Leader must give written notice of the new delegation to both the person or body to whom the Executive Function is to be delegated and the **Monitoring Officer**.

1.5.2 Where the **Leader** wishes to transfer the discharge of an **Executive**

Function that has been previously delegated, the Leader must give written notice to the person or body from whom the exercise of the function is to be transferred, the person or body to whom the exercise of the Executive Function is to be transferred and the **Monitoring Officer**.

1.5.3 Any transfer of delegation of an **Executive Function** under 1.5.1 or 1.5.2 above will take effect on receipt of the **Leader**'s written notice by each of the parties listed above. The **Monitoring Officer** will ensure that a record of the transfer of the Executive Function is kept.

1.5.4 Where the **Leader** wishes to withdraw the delegation of an **Executive Function** that has been delegated and to discharge the Executive Function personally, the Leader must give written notice to the person or body from whom the exercise of the Executive Function is to be withdrawn and to the **Monitoring Officer**.

1.5.5 The withdrawal of the delegation of an **Executive Function** under 1.5.4 above will take effect on receipt of the **Leader**'s written notice by both of the parties listed above. The **Monitoring Officer** will ensure that a record of the withdrawal of the Executive Function is kept.

1.6 The **Monitoring Officer** will ensure that the **Constitution** is updated accordingly where the delegation is to be extended beyond six months.

1.7 **Key Decisions and Urgency**

1.7.1 **Key Decisions** may only be taken by the **Leader**, the **Cabinet**, a Committee of the Cabinet, an individual **Cabinet Member** or the **Chief Executive** as described below.

1.7.2 **Key Decisions** will ordinarily be taken by the **Cabinet** unless the **Leader** decides to discharge them personally or allocate them to an individual **Cabinet Member** or a Committee of the Cabinet. The Leader may do this at any time.

1.7.3 The **Leader** may take any **Key Decision** in place of, or between meetings of, the **Cabinet**, including decisions that have become urgent, in accordance with the **Access to Information Procedure Rules** in **Part 3** of this **Constitution**.

1.7.4 When a **Key Decision**, which would otherwise have been taken by the **Cabinet**, has become genuinely urgent and unavoidable, and:

(i) it is not practicable to call a meeting of the Cabinet, and/or

(ii) the **Leader** is not available or not able to act for any reason,

then the **Deputy Leader** shall be authorised to take the decision or to allocate the decision to the **Cabinet Member** having the relevant

portfolio responsibilities, or to a Committee of the Cabinet.

1.7.5 If the **Deputy Leader** is not available, or not able to act for any reason, in the circumstances stated in 1.7.4, then the **Chief Executive** shall be authorised to take the decision.

1.7.6 The decision taker will comply with the "**General Exception**" and/or "**Special Urgency**" procedures as set out in the **Access to Information Procedure Rules** in **Part 3** of this **Constitution**, as appropriate, before taking the decision. The decision taker will also:

(i) consult with the relevant **Cabinet Member**(s), so far as practicable, before taking the decision;

(ii) inform the **Leader** as soon as possible after the decision is taken; and

(iii) report the decision to the next **Cabinet** meeting.

1.7.7 In the event that no **Cabinet Members** remain in office then all functions of the **Leader** and **Cabinet** shall be exercised by the **Chief Executive** acting so far as is practicable in consultation with the **Chair of the Council**, or **Deputy Chair** if the Chair of the Council is unable to act, until such time as a new Leader is elected by the **Full Council**.

1.8 Place and Time of Cabinet Meetings

The **Cabinet** will meet in accordance with the agreed published Calendar of Meetings. Arrangements for an additional **Extraordinary Meeting** required in light of circumstances will be agreed by the **Leader** with the Democratic Services Team. The Cabinet shall meet at the Council Offices or another location to be agreed by the Leader.

1.9 Public or Private Meetings of the Executive

The **Executive** (the **Leader**, the **Cabinet,** individual **Cabinet Members** or a Committee of the Cabinet) will meet in public, subject to the consideration of exempt or confidential information as provided for in the **Access to Information Procedure Rules** in **Part 3**.

1.10 Decisions Taken by the Executive

The **Executive** will take decisions in accordance with the **Access to Information Procedure Rules** in **Part 3**.

1.11 Declaration of Interests

Where the **Leader** or a **Cabinet Member** has an interest in the matter under consideration, this shall be dealt with in accordance with the **Councillors' Code**

of Conduct in **Part 4**.

2. Form and Content of the Meeting

2.1 Chair of Meeting

2.1.1 If the **Leader** is present, he/she will chair the meeting. In his/her absence, the **Deputy Leader** will chair the meeting. In the absence of both, another **Cabinet Member** appointed to do so by those Cabinet Members present will chair the meeting.

2.2 Attendance Rights

2.2.1 All **Cabinet Members** shall be entitled to attend meetings of the **Cabinet** unless the Cabinet determine otherwise. Attendance by other **Councillors** or the public shall be in accordance with the **Access to Information Procedure Rules** in **Part 3**, by invitation, or as set out in Rule 2.3 below.

2.2.2 The **Chief Executive**, the **S151 Officer** and the **Monitoring Officer**, and their nominees, are entitled to attend any meeting of the **Cabinet** where a decision is to be made.

2.3 Business to be Conducted

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

2.3.1 consideration of the **Minutes** of the last meeting;

2.3.2 **Declarations of Interest**, if any;

2.3.3 matters referred to the **Cabinet** (whether by a **Scrutiny Committee** or by the **Full Council**) for reconsideration by the Cabinet in accordance with the provisions contained in the **Scrutiny Procedure Rules** in **Part 3** or the **Budget and Policy Framework Procedure Rules** in **Part 3**;

2.3.4 consideration of any reports from the **Scrutiny Committees**;

2.3.5 matters set out in the **Agenda** for the meeting, and which shall indicate which are **Key Decisions** and which are not, in accordance with the **Access to Information Procedure Rules** in **Part 3**; and

2.3.6 dealing with any **Petitions** referred to **Cabinet** in accordance with the Council's adopted Petition scheme.

2.4 Right to Place Items on the Cabinet Agenda

2.4.1 The **Leader** will decide upon the **Agenda** for the meetings of the **Cabinet**. He/she may put on the Agenda of any Cabinet meeting any

matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any **Cabinet Member** or **Officer** in respect of that matter. The **Chief Executive** will comply with the Leader's requests in this respect.

2.4.2 A **Councillor** may ask the **Chief Executive** to put an item on the **Agenda** of **Cabinet** for consideration. The item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.

2.4.3 The **Monitoring Officer** and/or the **S151 Officer** may include an item for consideration on the **Agenda** of a **Cabinet** meeting and may require the **Chief Executive** to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, S151 Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly call a meeting and include an item on the Agenda of that Cabinet meeting or a Cabinet meeting that has already been called. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the Agenda may also require that a meeting be convened at which the matter will be considered.

2.5 **Consultation**

All reports to the **Cabinet** from any **Cabinet Member** or an Officer on proposals relating to the **Budget and Policy Framework** must contain details of the nature and extent of consultation with **Stakeholders** (if any) and the **Scrutiny Committees**, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

3. **Speaking Rights**

3.1 The **Chair** and spokesperson(s) of the **Scrutiny Committees** shall be entitled, at any formal public meeting of the **Cabinet**, to speak on any matter on the **Agenda** for that meeting.

3.2 Other **Councillors** not previously described above may also speak at such meetings with the permission of the **Leader** or person presiding in his/her absence.

4. **Questions by the Public**

4.1 At every formal public meeting of the **Cabinet** there shall be a period of time for questions to be put to **Cabinet Members** by the public. The following rules shall apply:

4.1.1 questions will be asked in the order in which notice of them was received, except that the **Leader** may group together similar questions and will determine how **Cabinet** question time should be allocated where there are a number of members of the public wishing to ask questions;

4.1.2 questions will be brief, clear and focussed;

4.1.3 no person may submit more than one question and no more than one such question may be asked on behalf of one organisation;

4.1.4 questions may only be asked if notice has been given by delivering it in writing or by electronic mail to the **Monitoring Officer** no later than 12 noon three **Clear Days** (that is, not counting the day of the meeting or the day of delivery) before the date of the meeting;

4.1.5 each question must give the name and address of the questioner;

4.1.6 the **Monitoring Officer** may reject a question if it:

(i) is not about a matter relating to the powers, duties or responsibilities of the **Cabinet**;

(ii) is vexatious, derogatory, defamatory, frivolous or offensive;

(iii) relates to a Council employment or staffing matter or sensitive personal information about a **Councillor**;

(iv) would require the disclosure of confidential or **Exempt Information**; or

(v) is substantially the same as a question which has been previously put to the **Cabinet** in the last six months.

4.1.7 Copies of all questions will be circulated to all **Cabinet Members** and will be made available to the public attending the meeting.

4.2 Asking the Question at the Meeting

The **Leader** will invite the questioner to put the question to the **Cabinet Member** named in the notice. If a questioner who has submitted a written question is unable to be present, the question will not be dealt with.

4.3 Asking a Supplemental Question

A questioner who has put a question in person may also put one supplementary question to the **Cabinet Member** who has replied to his/her original question. A supplementary question must arise directly out of the original question or the reply. The **Leader** may reject a supplementary question on any of the grounds set out in 4.1.6 above.

4.4 **Response**

An answer may take the form of:

4.4.1 a direct oral answer;

4.4.2 where the desired information is contained in a publication of the **Councillor** other published work, a reference to that publication; or

4.4.3 where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

5. **Minutes**

5.1 The **Leader** will sign the **Minutes** of the proceedings at the next suitable meeting. The Leader will **Move** that the Minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

5.2 Where in relation to any meeting, the next meeting for the purpose of signing the **Minutes** is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an **Extraordinary Meeting**), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of Minutes.

6. **Deputations**

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

6.2 A person wishing to make a deputation must give written notice to the **Monitoring Officer** no later than midday three **Clear Days** before the day of the meeting.

6.3 A maximum of two **Deputations** only will be permitted at any meeting and they will be selected in the order notice is received. Only one deputation will be permitted if the **Monitoring Officer** receives notice of a **Petition** in accordance with Rule 11.

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

6.5 The deputation may address the meeting for no more than five minutes and Councillors may then question the deputation for a further five minutes.

6.6 The relevant **Portfolio Holder** or board or Committee **Chair** may, if he/she chooses, then address the meeting for up to five minutes.

6.7 There shall be no vote taken on any deputation. A **Councillor** may propose that the subject matter be placed on the **Agenda** of the next ordinary meeting of the relevant board or Committee, such a motion to be moved and seconded formally and put without discussion. If no such motion is moved or **Carried**, the **Petition** will be referred to a **Strategic Director**, **Head of Service** or **Team Manager** who will respond to the Petition in writing within 28 days.

7. Record of Attendance

7.1 All **Cabinet Members** present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

8. Councillor Conduct

8.1 General Conduct

Councillors are required to comply with the **Councillors' Code of Conduct** in **Part 4** at all times. Where necessary and appropriate the **Leader** will remind Councillors of their responsibilities under the Code during the course of the meeting.

8.2 Chair standing

When the **Chair** stands during a **Debate**, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

8.3 Councillor not to be heard further

If a **Councillor** persistently disregards the ruling of the **Leader** by behaving improperly or offensively or deliberately obstructs business, the Leader may **Move** that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.

8.4 Councillor to leave the meeting

If the **Councillor** continues to behave improperly after such a motion is **Carried**, the **Leader** may **Move** that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

8.5 General disturbance

If there is a general disturbance making orderly business impossible, the **Leader** may **Adjourn** the meeting for as long as he/she thinks necessary.

9. **Disturbance by Public**

9.1 **Removal of member of the public**

If a member of the public interrupts proceedings, the **Leader** will warn the person concerned. If he/she continues to interrupt, the Leader will order the removal of that person from the meeting room.

9.2 **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the **Leader** may call for that part to be cleared.

10. **Suspension and Amendment of the (Cabinet) Executive Procedure Rules**

Rules 4, 6 and 11 may be suspended by motion on notice or without notice, if at least one half of the whole number of **Councillors** are present. Suspension shall only be for the duration of the meeting.

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 Petition Scheme in Part 6.

SECTION C – ACCESS TO INFORMATION PROCEDURE RULES

Rule

1. **Scope**
2. **Additional Rights to Information**
3. **Rights to Attend Meetings**
4. **Notices of Meeting**
5. **Public Access to Agenda and Reports Before the Meeting**
6. **Supply of Copies**
7. **Public Access to Minutes After the Meeting**
8. **Public Access to Background Papers and Summary of Rights**
9. **Exclusion of Access by the Press and Public to Meetings**
10. **Exclusion of Access by the Public to Reports**
11. **Application of these Procedure Rules to the Executive**
12. **The Executive Decision Notice**
13. **Publicity**
14. **General Exception**
15. **Special Urgency**
16. **Private Meetings**
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18. **Decisions by Individual Cabinet Members**
19. **Records of Decisions**
20. **Scrutiny Committees' Access to Documents**
21. **Additional Rights of Access for Councillors**
22. **Material Relating to Executive Decisions**
23. **Nature of Rights**
24. **Rights of Councillors – "Need to Know"**
25. **Reporting of Meetings by the Press and Public**

SECTION C – ACCESS TO INFORMATION PROCEDURE RULES

1. **Scope**

1.1 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**.

2. **Additional Rights to Information**

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

3. **Rights to Attend Meetings**

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

4. **Notices of Meeting**

4.1 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.

4.2 **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.

4.3 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.

5. **Public Access to Agenda and Reports Before the Meeting**

5.1 The Council will make copies of the **Agenda** and reports open to the public available for inspection online and at the 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 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**.

5.2 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**.

5.3 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.

5.4 This Rule 5 does not require the publication of exempt or confidential information.

6. **Supply of Copies**

6.1 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:

6.1.1 any **Agenda** and reports which are open to public inspection;

6.1.2 any further statements or particulars necessary to indicate the nature of the items in the **Agenda**; and

6.1.3 if the **Monitoring Officer** thinks fit, copies of any other documents supplied to **Councillors** in connection with an item.

6.2 Copies of the digital **Agendas** of **Cabinet** meetings will be circulated to all **Councillors**.

6.3 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.

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

7.1 The Council will make available copies of the following for six years after a meeting or an individual **Cabinet Member** decision:

7.1.1 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);

7.1.2 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;

7.1.3 the **Agenda** for the meeting; and

7.1.4 reports relating to items when the meeting was open to the public.

8. Public Access to Background Papers and Summary of Rights

8.1 List of Background Papers

8.1.1 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:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) 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.

8.2 Public inspection of Background Papers

8.2.1 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**.

8.3 Summary of Public's Rights

8.3.1 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 Offices.

9. Exclusion of Access by the Press and Public to Meetings

9.1 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.

9.2 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:

9.2.1 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;

9.2.2 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

9.2.3 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.

9.3 **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.

9.4 **Meaning of Exempt Information**

Exempt Information means information falling within the following seven 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 publicinterest 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).	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 Financial or business affairs includes contemplated, as well as past or current activities 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)	Information within paragraph 3 is not Exempt Information if it is required to be registered under- (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. 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.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and	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 Employee means a person employed under a contract of service Labour relations matter	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.

	employees of, or office holders under, the authority	means: (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 any dispute about a matter falling within paragraph (a) above (applies to trade disputes relating to office holders as well as employees) Office holder 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	
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.		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 publicinterest in disclosing the information.
6.	Information which reveals thatthe authority proposes – a) to give under any	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	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 publicinterest in disclosing the

	enactment a notice under or by virtue of which requirements are imposed ona person; or to make an order or direction under any enactment.	whether information is exempt or not falls to be determined	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 publicinterest 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.

10. **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.

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

11.1 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

11.2 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.

12. The Executive Decision Notice

12.1 Period of the Executive Decision Notice ("The Notice")

12.1.1 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.

12.1.2 The Notice must be published at the Council 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.

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

12.2 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 Decision**s are to be taken must be published at the Council 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.

13. **Publicity**

13.1 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.

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

14. **General Exception**

14.1 If a matter which is likely to be a **Key Decision** has not been included in the **Executive Decision Notice**, then subject to Rule15 (**Special Urgency**), the decision may still be taken if:

14.1.1 the decision must be taken by such a date that it is impracticable

to **Defer** the decision;

14.1.2 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;

14.1.3 The **Monitoring Officer** has made copies of that notice available to the public at the Council Offices and on the website for inspection; and

14.1.4 at least five **Clear Calendar Days** have elapsed since the **Monitoring Officer** complied with 14.1.2 and 14.1.3.

14.2 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.

14.3 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.

15. **Special Urgency**

15.1 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.

15.2 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.

15.3 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 Offices and on the Council's website.

15.4 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.

16. **Private Meetings**

16.1 Subject to Rule 16.2, a **Private Meeting** may not take place unless:

16.1.1 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 Council Offices and on the website of the intention to hold the**Cabinet** or Cabinet Committee meeting in private; and

16.1.2 At least five **Clear Calendar Days** before the scheduled meeting, a further notice has been made available for inspection by the public at the Council 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.

16.2 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.

16.3 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 Council Offices and on the website.

16.4 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.

16.5 Notice of **Private Meeting**s 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**.

16.6 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.

16.7 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.

17. **Reports to Council**

When a Scrutiny Committee can require a report

17.1 If the **Scrutiny Committee** thinks that a **Key Decision** has been taken which was not included in the **Executive Decision Notice** and has not been the subject of:

(a) the **General Exception** procedure under Rule 14; or
(b) the **Special Urgency** procedure under Rule 15;

the **Scrutiny Committee** can require a report.

17.2 The power to require a report rests with the **Scrutiny Committee** but is also delegated to the **Chief Executive** who shall require such a report on behalf of the Scrutiny Committee when so requested by the **Chair** of the Scrutiny Committee or any five **Councillors**. Alternatively, the requirement may be raised by **Resolution** passed at a meeting of the Scrutiny Committee.

The Cabinet's report to Full Council

17.3 The **Cabinet** will prepare a report for submission to the next available meeting of the **Full Council**. However, if the next meeting of the Full Council is within seven days of receipt of the **Resolution** of a **Scrutiny Committee**, then the report may be submitted to the meeting after that. The report to Full Council will set out particulars of the decision, the individual or body making the decision, and if the **Leader** is of the opinion that it was not a **Key Decision**, the reasons for that opinion.

Quarterly reports on Special Urgency decisions

17.4 The **Leader** will submit quarterly reports to the **Full Council** on the **Executive Decisions** taken in the circumstances set out in Rule 15 (**Special Urgency**) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. **Decisions by Individual Cabinet Members**

18.1 The **Cabinet** currently takes all decisions collectively but if decisions are delegated to individual **Cabinet Members** the following rules will apply.

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

18.3 When an Officer prepares a report which is to be given to a **Cabinet Member** for decision, he/she must first give a copy of that report to the **Chief Executive** (or an Officer nominated by him/her).

18.4 The **Chief Executive** will publish the report to the monitoring bodies, the **S151 Officer** and the **Monitoring Officer**. The report will be made publicly available as soon as reasonably practicable.

18.5 Individual decisions may only be made by **Cabinet Members** in the presence of the **Chief Executive**, **S151 Officer** or **Monitoring Officer** or their nominee (unless they waive that requirement) and the Officer (or an Officer nominated by him/her) whose responsibility it is to record the decision.

18.6 As soon as is reasonably practicable after an individual **Cabinet Member** or Officer has made an executive decision he/she shall produce, or cause to be produced, a written statement including:

(a) a record of the decision including the date it was made;
(b) a record of the reasons for the decision;
(c) details of any alternative options considered and rejected at the time by the **Councillor**;
(d) when he/she made the decision;
(e) a record of any interest declared by any **Cabinet Member** who was consulted by the Councillor about the decision; and
(f) a note of any relevant **Dispensation** granted by the **Chief Executive**.

18.7 A copy of the written statement setting out the decision must be sent to the **Monitoring Officer**. All decisions of the **Cabinet** must be published and will be subject to **Call-in** (see the **Scrutiny Procedure Rules** in **Part 3**).

19. **Record of Decisions**

19.1 After an executive decision is taken by the **Cabinet**, an individual **Cabinet Member** or a Committee of the Cabinet, the **Monitoring Officer** or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as reasonably practicable and make it available for inspection by the public. The record will include:

19.1.1 the date of the decision;

19.1.2 a statement of the reasons for each decision and any alternative options considered and rejected at that meeting;

19.1.3 details of any interest relating to the matter decided which is declared by any member of the decision-making body which

made the decision; and

19.1.4 in respect of any declared interest, a note of **Dispensation** granted.

19.2 This Rule 19 applies to all **Executive Decisions**, which may or may not be **Key Decisions**.

19.3 The **Minutes** of the meeting will be regarded as the record of these decisions.

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

20. Scrutiny Committees' Access to Documents

20.1 Subject to Rule 20.2, members of the **Scrutiny Committees** (including any Sub-Committee) will be entitled, on request as soon as reasonably practicable and in any case no later than ten **Clear Days** after a request has been received, to copies of any document which is in the possession or control of the **Executive** and which contains material relating to:

20.1.1 any business transacted at a meeting of the **Cabinet** or its **Committees** or:

20.1.2 any decision taken by an individual **Cabinet Member**.

Limit on rights

20.2 A member of a **Scrutiny Committee** (or Sub-Committee) will not be entitled to:

(a) any document that is in draft form;
(b) any document containing advice provided by a political advisor; or
(c) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or intend to review.

20.3 Where the **Executive** determine that any member of a **Scrutiny Committee** is not entitled to copy documents in accordance with paragraph 20.1 it must provide a written statement setting out its reasons.

21. Additional Rights of Access for Councillors

21.1 Members of a Committee or decision-making body of the Council or of the **Cabinet** are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.

22. **Material Relating to Executive Decisions**

22.1 All **Councillors** will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the **Cabinet** or one of its groups which relates to any executive decision at least five **Clear Days** before a public meeting at which the decision is to be taken. If it contains **Exempt Information** falling within paragraphs 1 to 6 of the categories of Exempt Information the Councillors will be required to sign a register kept for the purpose of such requests.

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

23. **Nature of Rights**

23.1 These rights of a Councillor are additional to any other rights of **Access to Information** a Councillor may have.

24. **Rights of Councillors – "Need to Know"**

24.1 **Councillors** will be entitled to access documents and to attend the confidential part of meetings of **Committees** and **Sub-Committees** and public meetings of the **Cabinet** (even though they are not a member of those bodies) where they can demonstrate a "need to know" in order to perform their duties as Councillors.

24.2 Subject to Rule 25.3 below, the circumstances where a "need to know" may be treated as arising will include:

24.2.1 Where the matter relates to a **Sub-Committee** of a Committee of which the Councillor is a member;

24.2.2 Where the matter relates to a Committee of the **Cabinet** where the Councillor is a **Cabinet Member**;

24.2.3 Where the matter is within the remit of the **Audit and Governance Committee** or **Scrutiny Committee** of which the Councillor is a member;

24.2.4 Where the **Full Council** is required to approve the decisions or recommendations of **Committees**, **Sub-Committees** or the **Cabinet**;

24.2.5 Where the matter has been delegated to a Committee or Sub-Committee, but significantly affects the reputation of the whole Council;

24.2.6 Where the matter relates specifically to a Councillor's own ward; and

24.2.7 In relation to exempt material within a report on a decision that has been called in for consideration by **Scrutiny Committee** and a Councillor has signed a **Call-in** notice and that Councillor has indicated that they wish to address the Scrutiny Committee as part of the Call-in process.

24.3 There will not be a "need to know" if a **Councillor** is acting in bad faith or in pursuance of a personal interest or merely out of curiosity.

24.4 A **Councillor** wishing to see confidential or exempt Council, Committee, Sub-Committee or **Cabinet** documents or to attend the confidential part of a meeting should make a written application to the **Monitoring Officer**, setting out the reasons and information in support of their claim to have a "need to know", and why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform his/her duties.

24.5 The determination as to whether or not a "need to know" has been demonstrated will be based on Officer advice and may include legal advice.

24.6 Once a determination has been made, this will be communicated to the **Councillor** who has made the claim.

25. **Reporting of Meetings by the Press and Public**

25.1 Any member of the press or public attending a public meeting of the Council may record the proceedings and report them to others. 'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A person attending the meeting may use any appropriate communication method, including the Internet, to publish or share the recorded material. This would include the use of social media.

25.2 Any person wishing to record a public meeting is not required to give the Council prior notice although they are encouraged to do so in order that reasonable facilities can be provided.

25.3 No one is entitled to record or report the proceedings of a meeting if the meeting has moved into private session to consider confidential or exempt business. In such circumstances, the public and press are required to leave the meeting and to deactivate and/or remove any recording or communications equipment.

25.4 Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any

of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.

25.5 Any person recording or reporting a meeting may not film any member of the public who remains in the public gallery.

25.6 Anyone wishing to record or report on meetings shall be reminded at the start of the meeting that the law of defamation will apply, as well as the law relating to public order offences. They shall also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The **Chair** or person presiding at the meeting shall give this advice with the support of Officers.

SECTION D – SCRUTINY PROCEDURE RULES

Rule

1. **Establishment and Membership**
2. **Terms of Reference**
3. **Meetings of the Scrutiny Committees**
4. **Work Plan**
5. **Agenda for Scrutiny Committees**
6. **Policy Review and Budget Development**
7. **Reports and Recommendations of the Scrutiny Committees**
8. **Making sure that Scrutiny Reports are considered by the Cabinet**
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11. **Councillors and Officers Giving Account**
12. **Attendance by Others**
13. **Call-in**
14. **Exceptions**
15. **Call-in and Urgency**
16. **The Party Whip**
17. **Procedure at the Scrutiny Committees' Meetings**
18. **Crime and Disorder Matters**

SECTION D – SCRUTINY PROCEDURE RULES

1. **Establishment and Membership**

The **Council** will establish the **Scrutiny Committees** set out in **Part 2** of this **Constitution** and will appoint to them as it considers appropriate, subject to political proportionality. Where there is any doubt as to which Scrutiny Committee is the "relevant Scrutiny Committee" (as referred to in this Constitution), the decision of the **Monitoring Officer** shall be final.

2. **Terms of Reference**

The general and specific role of the **Scrutiny Committees** will be as set out in **Part 2** of this **Constitution**.

3. **Meetings of the Scrutiny Committees**

3.1 Each **Scrutiny Committee** will meet five times per year.

3.2 The Corporate Scrutiny Committee will meet an additional sixth time during the Council's **Budget** setting process to consider Budget proposals.

3.3 In addition, meetings of either **Scrutiny Committee** may be convened from time to time:

3.3.1 to consider matters called in;

3.3.2 on the instruction of the **Chief Executive** in consultation with the **Chair** of the relevant **Scrutiny Committee** where consideration of an urgent matter is required;

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

4. **Work Plan**

4.1 The **Scrutiny Committees** will be responsible for setting their own work plan and in doing so they shall take into account the wishes of members on the **Committee** who are not members of the largest **Political Group** on the **Full Council**.

4.2 The **Scrutiny Committees** shall also respond, as soon as their work plans permit, to requests from the **Full Council** and the **Cabinet** to review particular areas of Council activity. Where they do, the Scrutiny Committees shall report their findings and any recommendations back to the Cabinet and/or Full Council. The Full Council and/or the Cabinet shall consider the report of the relevant Scrutiny Committee at the next available meeting.

5. **Agenda for the Scrutiny Committees**

5.1 Any member of the **Scrutiny Committees** shall be entitled to request, in writing, that an item be included on the **Agenda**, provided that the item is within the remit of the Committee in question. The Committee will decide how the item should be considered and whether or not

it can be included in its work programme.

5.2 Similarly, the **Leader** of the **Council** or a **Cabinet Member** with specific portfolio responsibilities may give notice in writing requiring an item to appear on an **Agenda** of a **Scrutiny Committee**, relating to its area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

5.3 Subject to the **Council and Committee Procedure Rules** in **Part 3**, any other five **Councillors** may give notice in writing to the **Chief Executive**, requesting an item to appear on an **Agenda** of a **Scrutiny Committee**. The item shall be included after consulting the **Chair** of the Committee.

5.4 On receipt of a notice under Rule 5.1, 5.2 or 5.3, the matter will be included on the **Agenda** for, and discussed at, a meeting of the Committee. Notices under Rule 5.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.

5.5 In considering whether or not to exercise any of its powers in relation to the matter referred under Rule 5.3 the Committee may have regard to any **Representations** made by the **Councillors** as to why it would be appropriate to exercise any of its powers. If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Councillors of the decision and the reasons for it.

5.6 Where a **Scrutiny Committee** exercises its power to make a report or recommendation to the **Full Council** or the **Cabinet** on any matter referred to it by **Councillors** under Rule 5.3 the Committee must provide the Councillors with a copy of the report or recommendation (subject to Rule 9).

6. Policy Review and Budget Development

6.1 The Corporate Scrutiny Committee has a key role in **Budget** development and the Community Scrutiny Committee has a key role in policy development. The **Budget and Policy Framework Procedure Rules** in **Part 3** contains details of the process by which the Scrutiny Committees may perform that role.

6.2 In relation to the development of the Council's approach to other matters not forming part of its **Budget and Policy Framework**, the **Scrutiny Committees** may make proposals to the **Cabinet** for developments in so far as they relate to matters within their **Terms of Reference**.

6.3 **Scrutiny Committees** may hold enquiries in relation to policy review and may appoint advisors and specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

7. Reports and Recommendations of the Scrutiny Committees

7.1 This Rule 7 applies where either **Scrutiny Committee** makes a report or recommendation to the **Full Council** or the **Cabinet**, except in relation to a crime and disorder matter. The Committee will prepare a formal report and submit it to the **Proper Officer** for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a

departure from or a change to the agreed **Budget and Policy Framework**).

7.2 The **Scrutiny Committees** may publish the report or recommendations. Any confidential information must be excluded and any relevant **Exempt Information** may be excluded in line with the provisions of the **Access to Information Procedure Rules** in **Part 3**.

7.3 If the **Scrutiny Committees** cannot agree on one single final report to the **Council** or the **Cabinet** as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

7.4 The **Scrutiny Committees** must by notice in writing require the **Full Council** or **Cabinet**:

7.4.1 to consider the report or recommendation;

7.4.2 to respond to the Committee indicating what (if any) action the **Full Council** or **Cabinet** proposes to take;

7.4.3 if the Committee has published the report or recommendation to publish the response;

7.4.4 if the Committee provided a copy of the report or recommendation to a Councillor under Rule 5.6, to provide the Councillor with the response; and

7.4.5 to do all of the above within two months of receiving the report or recommendations or (if later) the notice.

7.5 It is the duty of the **Full Council** or **Cabinet** to which a notice is given under Rule 7.4 to comply with the requirements specified in the notice.

7.6 The **Council** or the **Cabinet** shall consider the report of the **Scrutiny Committee** after being submitted to the **Proper Officer**.

7.7 The **Chair** or other appropriate member of the relevant **Scrutiny Committee** shall attend the meeting of the **Cabinet** or **Council** to present the Committee's report.

8. **Making sure that Scrutiny Reports are considered by the Cabinet**

8.1 The **Agenda** for **Cabinet** meetings shall include an item for matters referred to it by the **Scrutiny Committees**. Reports referred to the Cabinet shall be included at this point in the Agenda unless either they have been considered in the context of the Cabinet's deliberations on a substantive item on the Agenda or the Cabinet gives reasons why they cannot be included and states when they will be considered.

9. **Rights of Scrutiny Committee Members to Documents**

9.1 In addition to their rights as **Councillors**, members of the **Scrutiny Committees** have the additional right to documents, and to **Notice of Meetings** as set out in the **Access to Information Procedure Rules** in **Part 3** of this **Constitution**.

9.2 Nothing in this Rule 9 prevents more detailed liaison between the **Cabinet** and the **Scrutiny Committees** as appropriate depending on the particular matter under consideration.

10. **Rights of Cabinet Members**

10.1 Subject to the provisions of the **Access to Information Procedure Rules** in **Part 3** and without prejudice to the rights of **Cabinet Members**, Cabinet Members may attend meetings of the **Scrutiny Committees** including parts of the meeting where exempt items are being discussed and shall be entitled to receive the **Agenda** for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the Committee.

11. **Councillors and Officers Giving Account**

11.1 The **Scrutiny Committee** may scrutinise and review decisions made or actions taken in connection with the discharge of any **executive function**. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any **Cabinet Member**, the **Chief Executive** and/or any **Chief Officer** to attend before it to explain in relation to matters within their remit:

11.1.1 any particular decision or series of decisions;

11.1.2 the extent to which the actions taken implement **Council** policy; and/or

11.1.3 their performance;

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

11.2 Where any **Councillor** or **Officer** is required to attend the **Scrutiny Committees** under this provision, the **Chair** of the relevant Scrutiny Committee will inform the **Proper Officer**. The Proper Officer shall inform the Councillor or Officer in writing giving at least seven working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced. Where the account to be given will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

11.3 Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the **Scrutiny Committee** shall in consultation with the Councillor or Officer arrange an alternative date for attendance.

11.4 The **Scrutiny Committees** may require a Strategic Director, **Head of Service** or **Team Manager** to interview any member of staff and to record such interview and provide a copy of the interview record to the Committee. A member of the relevant Scrutiny Committee shall be present at any interview but only in an observer capacity.

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

12. **Attendance by Others**

The **Scrutiny Committee** may invite people other than those people referred to in Rule 11 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, **Stakeholders** and **Councillors** and Officers in other

parts of the public sector and may invite such people to attend.

13. **Call-in**

Call-in should only be used in exceptional circumstances. These are where members of the **Scrutiny Committees** have evidence which suggests that the **Cabinet** did not take the decision in accordance with the principles set out in **Part 2**, Section A (Introduction to Decision Making) of this **Constitution**.

(a) When a decision is made by the **Cabinet** or a group of the Cabinet or a **Key Decision** is made by an Officer with delegated authority, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the **Council** normally within seven days of being made. The **Chair** of each **Scrutiny Committee** will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

(b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless any two Councillors (or more) object to it and require in writing that the decision be called in.

(c) As soon as reasonably practicable, the **Monitoring Officer** shall **Call-in** a decision for scrutiny by a **Scrutiny Committee** if so requested and shall then notify the decision taker of the Call-in. A meeting of the relevant Scrutiny Committee shall be convened to consider the Call-in or it could be considered at the next appropriate scheduled meeting of either Scrutiny Committee, if timescales permit. The Monitoring Officer, in consultation with the **Chief Executive** and **S151 Officer**, may reject a request for Call-in if, in their opinion, it is repetitious, vexatious or fails to set out any grounds which might reasonably cause **Cabinet** to change their decision.

(d) If, having considered the decision, the relevant **Scrutiny Committee** is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the **Council**. If referred to the decision maker they shall then reconsider, amending the decision or not, before adopting a final decision.

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

(f) If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been

held, whichever is the earlier.

14. **Exceptions**

14.1 In order to ensure that **Call-in** is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

14.1.1 that the **Scrutiny Committees** may, in total, only **Call-in** four decisions per year; and

14.1.2 once a **Councillor** has signed a request for **Call-in** under paragraph 13 (Call-in) above, he/she may not do so again until a period of three months has expired.

15. **Call-in and Urgency**

15.1 The **Call-in** procedure set out above shall not apply where the decision being taken by the **Cabinet** is urgent. A decision will be urgent if any delay likely to be caused by the Call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to Call-in. The **Chair of the Council** must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the **Chair**, the **Deputy Chairs** consent shall be required. In the absence of both, the **Chief Executive** or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be recorded in the **Minutes** and be reported to the next available meeting of the Council, together with the reasons for urgency.

15.2 The operation of the provisions relating to **Call-in** and urgency shall be monitored annually, and a report submitted to **Council** with proposals for review if necessary.

16. **The Party Whip**

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

17. **Procedure at the Scrutiny Committees' Meetings**

17.1 The **Scrutiny Committees'** meetings shall consider the following business:

17.1.1 **Minutes** of the last meeting;

17.1.2 **Declarations of Interest** (including party **Whip** declarations);

17.1.3 consideration of any matter referred to the Committee for a decision in relation to **Call-in** of a decision;

17.1.4 responses of the **Cabinet** to reports of the relevant Scrutiny Committee;

17.1.5 the business otherwise set out on the **Agenda** for the meeting; and

17.1.6 dealing with any **Petitions** to hold an Officer to account received under the Council's adopted Petition scheme.

17.2 Where a **Scrutiny Committee** conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

17.2.1 that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

17.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and

17.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

17.3 Following any investigation or review, the **Committee** shall prepare a report, for submission to the **Cabinet** and/or **Full Council** as appropriate and shall make its report and findings public.

18. Crime and Disorder Matters

18.1 The Community Scrutiny Committee will exercise the functions of a Crime and Disorder Panel. Any **Councillor** who is not a member of Community Scrutiny Committee may refer a local Crime and Disorder matter to that Committee, which shall sit as a Crime and Disorder Committee.

18.2 A local Crime and Disorder matter means a matter which concerns:

18.2.1 Crime and Disorder including anti-social behaviour or behaviour which adversely affects the local environment; or

18.2.2 the misuse of drugs, alcohol or other substances which affect all or part of the ward for which the Councillor is elected or any person who lives or works in that ward.

18.3 A **Councillor** who wishes to refer a matter to the Crime and Disorder Committee may request that that matter is included on the **Agenda** for and is discussed at a meeting of the Community Scrutiny Committee. The Committee will consider whether or not to make a report or a recommendation to the **Council** on the matter. If the Committee decides not to make a report or make a recommendation it will notify the Councillor of this decision and the reasons for it. If the Committee makes a report or recommendation to Council it will provide a copy of that report or recommendation to the Councillor who referred the matter in question to the Committee and provide a copy of the report or the recommendation to the responsible authorities and the corporation persons and bodies as it considers appropriate.

18.4 The **Council** upon receipt of the report or recommendation must consider it and respond to the Community Scrutiny Committee indicating what action, if any, it proposes to take and have regard to the report or recommendation in exercising its functions.

SECTION E – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

Rules

1. **The Framework for Executive Decisions**
2. **Process for Developing the Framework**
3. **Decisions Outside the Budget or Policy Framework**
4. **Urgent Decisions Outside the Budget or Policy Framework**
5. **Virement**
6. **In-Year Changes to Budget and Policy Framework**
7. **Call-in of Decisions Outside the Budget or Policy Framework**
8. **Suspension**

SECTION E – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Executive Decisions

1.1 The Council will be responsible for the adoption of its **Budget and Policy Framework** as set out in **Part 2**. Once a **Budget** or a policy framework document has been agreed, it is the responsibility of the **Cabinet** and Officers to implement it.

2. Process for Developing the Framework

2.1 The process by which the **Budget and Policy Framework** shall be developed is:

2.1.1 The Council's Section 151 Officer will be responsible for preparing draft budget proposals, following consultation with relevant Officers and Cabinet Members.

2.1.2 Draft budget proposals will be presented to the Cabinet for its consideration prior to the draft proposals being published for consultation.

2.1.3 Consultation with the general public, business ratepayers and trade unions will be carried out in accordance with the process approved by Cabinet under paragraph 2.1.2 above.

2.1.4 The draft budget proposals will be presented to the relevant Scrutiny Committee prior to Cabinet agreeing final budget proposals for approval by Council.

2.1.5 In agreeing final budget proposals for approval by Council, Cabinet will take account of any consultation responses received, any recommendations from the relevant Scrutiny Committee and any other information that has materialised since the preparation of the initial draft budget proposals, including but not limited to, information provided by the Government in relation to the Local Government Finance Settlement.

2.1.6 **Council** will consider the proposals of the **Cabinet** and may adopt them, amend them, refer them back to the Cabinet for further consideration or substitute its own proposals in their place. However, if, having considered a draft plan or strategy, it has any objections to it, Council must take the action set out in 2.1.7below.

2.1.7 Before **Council**:

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

it must inform the **Leader** of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the **Cabinet** to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

2.1.8 Where **Council** gives instructions in accordance with 2.1.7, it must specify a period of at least five working days beginning on the day after the date on which the **Leader** receives the instructions on behalf of the **Cabinet** within which the Leader may:

(a) submit a revision of the draft plan or strategy as amended by the **Cabinet** (the "revised draft plan or strategy") with the Cabinet's reasons for any amendments made to the draft plan or strategy to Council for Council's consideration; or

(b) inform Council of any disagreement that the **Cabinet** has with any of Council's objections and the Cabinet's reasons for any such disagreement.

2.1.9 When the period specified by **Council**, referred to in Rule 2.1.8, has expired Council must, when:

(a) amending the draft plan or strategy or, if there is one, the revised plan or strategy;

(b) approving for the purpose of its submission to the **Secretary of State** or any **Minister of the Crown** for his approval, any plan or strategy (whether or not in the form of a draft or a revised draft) of which any part is required to be so submitted; or

(c) adopting (with or without modification) the plan or strategy;

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

2.1.10 Subject to rule 2.1.14, where, before 8 February in any financial year, the **Cabinet** submits to **Council** for its consideration in relation to the following financial year:

(a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 34 to 36A or 46 to 49B of the Local Government Finance Act 1992 (calculation of **Budget** requirement, etc.) and Part 5 of Chapter 1 of the Localism Act 2011;

(b) estimates of other amounts to be used for the purposes of such a calculation;

(c) estimates of such a calculation; or

(d) amounts required to be stated as a **Precept** under Chapter IV of Part I of the Local Government Finance Act 1992 (Precepts);

and following consideration of those estimates or amounts Council has any objections to them, it must take the action set out in Rule 2.1.11.

2.1.11 Before **Council** makes a calculation (whether originally or by way of a substitute) in accordance with any of the sections referred to in Rule 2.1.10 above or issues a **Precept** under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the **Leader** of any objections which it has to the **Cabinet's** estimates or amounts and must give him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with Council's requirements.

2.1.12 Where **Council** gives instructions in accordance with Rule 2.1.11 above, it must specify a period of at least five working days beginning on the day after the date on which the **Leader** receives the instructions on behalf of the **Cabinet** within which the Leader may:

(a) submit a revision of the estimates or amounts as amended by the **Cabinet** ("revised estimates or amounts") which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts to Council for its consideration; or

(b) inform the Council of any disagreement that the **Cabinet** has with any of Council's objections and the Cabinet's reasons for any such disagreement.

2.1.13 When the period specified by **Council** referred to in paragraph 2.1.12 has expired, Council must, when making calculations (whether originally or by way of a substitute) in accordance with any of the Sections referred to in Rule 2.1.11 above or issuing a **Precept** under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

(a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;

(b) the **Cabinet's** reasons for those amendments;

(c) any disagreement that the **Cabinet** has with any of the Council's objections; and

(d) the **Cabinet**'s reasons for that disagreement which the **Leader** submitted to the Council, or informed the Council of, within the period specified.

2.1.14 Rules to 2.1.10 to.1.13 shall not apply in relation to:

(a) calculations or substitute calculations which the Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (limitation of **Council Tax** and **Precept**); and

(b) amounts stated in the **Precept** issued to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of that Act.

3. Decisions Outside the Budget or Policy Framework

3.1 Subject to the provisions of Rule 5 (**Virement**) the **Cabinet**, **Cabinet Members**, groups of the Cabinet and any **Officers** or **Joint Arrangements** may only take decisions which are in line with the **Budget and Policy Framework**. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the **Budget** approved by **Full Council**, then that decision may only be taken by Council, subject to Rule 4 below.

3.2 If the **Cabinet**, a **Cabinet Member**, groups of the Cabinet, any **Officers**, or **Joint Arrangements** want to make such a decision, they shall take advice from the **Monitoring Officer** and/or the S151 Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the **Budget**.

If the advice of either of those Officers is that the decision would not be in line with the existing **Budget and/or Policy Framework**, then the decision must be referred by that body or person to Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the Budget or policy framework) shall apply.

4. Urgent Decisions Outside the Budget or Policy Framework

4.1 The **Cabinet**, a **Cabinet Member**, a group of the Cabinet, or **Officers** (in particular the **Chief Executive** and/or the **Strategic Directors**, or **Joint Arrangements**) may take a decision which is contrary to the **Council's** policy framework or contrary to or not wholly in accordance with the **Budget** approved by **Full Council** if the decision is a matter of urgency. However, the decision may only be taken:

4.1.1 If it is not practicable to convene a quorate meeting of the **Full Council**; and

4.1.2 If the **Chair** of the relevant **Scrutiny Committee** agrees in writing that the decision is a matter of urgency.

4.2 The reasons why it is not practicable to convene a quorate meeting of **Full Council** and the **Chair** of the relevant **Scrutiny Committee**'s consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant Scrutiny Committee, the consent of the **Chair of the Council**, and in the absence of both, the **Deputy Chair of the Council**, will be sufficient.

4.3 Following the decision, the decision taker will provide a full report to the next available **Council** meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. Virement

5.1 Steps taken by the **Cabinet**, a **Cabinet Member**, a group of the Cabinet, or **Officers**, or **Joint Arrangements** to implement Council policy shall not exceed the budgets allocated to each relevant **Budget** head. However, such bodies or individuals shall be entitled to vire across Budget heads within such limits as shall be laid down in the **Financial Procedure Rules** in **Part 3**. Beyond those limits, approval to any **Virement** across Budget heads shall require the approval of the **Full Council**.

5.2 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**.

6. In-Year Changes to Budget and Policy Framework

6.1 The responsibility for agreeing the **Budget and Policy Framework** lies with the **Council**, and decisions by the **Cabinet**, a **Cabinet Member**, a group of the Cabinet, **Officers**, or **Joint Arrangements** must be in line with it. No changes to any **Budget**, policy and/or strategy which make up the Budget and Policy Framework may be made by those bodies or individuals except those changes:

6.1.1 Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

6.1.2 Necessary to ensure compliance with the law, ministerial direction or government guidance;

6.1.3 In relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation but where the existing policy document is silent on the matter under consideration;

6.1.4 When changes are made in accordance with the Supplementary Estimate thresholds set out in the **Financial Procedure Rules** in **Part 3**.

7. Call-in of Decisions Outside the Budget or Policy Framework

7.1 Where a **Scrutiny Committee** is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's **Budget**, then it shall seek advice from the **Monitoring Officer** and/or **S151 Officer**.

7.2 In respect of functions which are the responsibility of the **Cabinet**, the report of the **Monitoring Officer** and/or **S151 Officer** shall be to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated or not, the Cabinet must meet within 21 days of receiving the report to decide what action to take in respect of the Monitoring Officer's or S151 Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the S151 Officer conclude that the decision was a departure, and to the relevant **Scrutiny Committee** if the Monitoring Officer or the S151 Officer conclude that the decision was not a departure.

7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the **Monitoring Officer** and/or the S151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the **Budget**, the relevant **Scrutiny Committee** may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. **Council** shall meet as soon as practicable on the request from the relevant Scrutiny Committee (or within 28 days if a meeting of the Council is scheduled within that period). At the meeting Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the S151 Officer.

7.4 **Council** may either:

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

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

7.4.3 Where Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the **Budget**, and does not amend the existing framework to accommodate it, require the **Cabinet** to reconsider the matter in accordance with the advice of the **Monitoring Officer** and/or the **S151 Officer**.

7.5 If **Council** does not meet, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held,

whichever is the earlier providing that the **Monitoring Officer** and/or the **S151 Officer** is/are satisfied that the decision is within the **Budget and Policy Framework** or falls within Rules 6.1.1-6.1.3.

8. Suspension

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

8.2 Every contract made by the Council will comply with the Contract Procedure Rules set out in **Part 3** of this **Constitution**.

SECTION F – FINANCIAL PROCEDURE RULES

Rules

1. **Introduction**
2. **Financial Regulation A - Financial Management**
3. **Financial Regulation B - Financial Planning**
4. **Financial Regulation C - Risk Management and Control of Resources**
5. **Financial Regulation D - Systems and Procedures**
6. **Financial Regulation E - External Arrangements**

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 "**Budget** holder" 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 Budget holder 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. All Councillors and officers have a general responsibility for taking reasonable action to provide or the security of the assets under their control, and for ensuring that the use of the Council's resources is legal, properly authorised and provides value for money. What that means is, before spending any of the Council's money or entering into a commitment with financial consequences, officers and Councillors need to answer "Yes" to these three questions:

- **Is this spending within the Council's regulations?**
- **Can the Council afford it?**
- **Is it Value for money?**

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**. All officers and Councillors have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure these standards are met.

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. The S151 Officer shall be consulted on the contents of any commitments in good time to be able to assess the financial implications and the S151 Officer shall incorporate into any subsequent reports such comment on the financial aspects as he/she considers necessary or appropriate.

A.23 **Budget** holders are responsible for the control and accountability of resources consumed and generated by their service areas.

Other Financial Accountabilities

Virement

The scheme of virement is intended to enable Strategic Directors, Heads of Service and budget holders to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources. It is administered by the S151 Officer within guidelines set out within these financial procedure rules.

The overall budget is set by the Council. Budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The procedures for virements is the mechanism for moving

resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis, i.e. employees, premises etc.

A virement does not create additional overall budget liability and therefore should not lead to an overspend. A virement should not be used where one off savings are used to fund recurring expenditure thereby creating future commitments, including full-year effects of decisions made part way through a year, for which future resources have not been identified.

Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

(a) the amount is used in accordance with the purposes for which it has been established;

(b) The Cabinet/Council has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet/Council.

The movement of budgets between services as a result of changes in management responsibility or changes in accounting policy or other changes that do not affect the amount available for service provision are not classed as virements and can be approved by the S151 Officer.

A Virement that is likely to impact on the level of service activity of another service area should be implemented only after agreement with the relevant service.

In all cases the overall budget position of the Council will be considered and virements should not be requested by Strategic Directors, Heads of Service or the S151 Officer if underspends in some services are required to meet overspends in other areas. In all cases the competing demands and priorities as identified in the Council Delivery Plan will be paramount.

Strategic Directors and Heads of Service may request to vire sums within service budgets without limit provided such virement does not give rise to a change of Council policy or amend the permanent establishment. All such approval should be approved by the S151 Officer in the format requested.

All virements in excess of £50,000 will be reported within financial monitoring reports.

The S151 Officer is responsible for keeping a record of all virements and ensuring the finance system is updated in respect of approvals given.

Capital budget virements are governed by the same principles as revenue virements outlined above.

A

Supplementary Estimates

A.25 The Budget is set on an annual basis and events occur that require additional spending within the year. This is particularly the case where there is a statutory requirement which cannot be avoided. 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 **Virement**s, or savings, have been considered. Supplementary estimates include budgets fully funded by external grant or contribution.

A.26 Any unring fenced grants will be allocated as agreed with the Senior Leadership Team.

A.27 Where the Council receives ring fenced grant income either through a bidding process or new burdens funding other than that identified in the approved budget, an additional budget will be created and Directors and Heads of Service will be allowed to incur expenditure in line with the conditions of the grant. Cabinet or Council approval is not required as the Council has no discretion over how the funds are used.

A.28 The table below sets out the approval level required based on the value of the supplementary estimates. Council funding includes, but is not limited to revenue budget reserves, Section 106, capital receipts and borrowing. In all circumstances, the S151 Officer will be consulted on the proposals. Supplementary estimates apply to capital and revenue.

Amount	**Approval Required**
Up to £99,999	Head of Service + S151 Officer
£100,000–£250,000	Cabinet
Over £250,000	Full Council

A.29 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.30 The **Chief Executive**, **Strategic Directors** and Heads of Service shall monitor revenue expenditure and the Capital Strategy Group shall monitor Capital expenditure on a regular basis. Significant matters will be reported to the **Cabinet** as necessary. Both the revenue and capital forecast outturn will be reported to Cabinet on a quarterly basis.

Treatment of Year-end Balances

A.31 Any budget underspends will normally be added to the General Reserve or Medium Term Financial Plan Reserve at the end of the financial year at the discretion of the S151 Officer. Directors may instead request that specific budget underspends are transferred to the following financial year. Any such transfer of budget provisions is subject ot agreement of the S151 Officer. The approval of Cabinet is also required if the budget transfer is in excess of £100,000.

Any budget overspends cannot be carried forward and will instead be funded from reserves.

Accounting Policies

A.32 The **S151 Officer** is responsible for selecting accounting policies and ensuring that they are applied consistently.

Accounting Records and Returns

A.33 The **S151 Officer** is responsible for determining the accounting procedures and records for the Council.

The Annual Statement of Accounts

A.34 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**.

3. Financial Regulation B: Financial Planning

Introduction

B.1 **Full Council** is responsible for agreeing the Council's **Budget and Policy Framework**, which will be proposed by the **Cabinet**. In terms of financial planning, the key elements are:

the corporate plan; the

budget;

the capital programme; and

the medium term financial strategy.

Policy Framework

B.2 **Full Council** is responsible for approving the **Budget and Policy Framework** (which is detailed in **Section C** of **Part 2**).

B.3 **Full Council** is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the **Budget and Policy Framework**. Decisions should be referred to the Full Council by the **Monitoring Officer**.

B.4 **Full Council** is responsible for setting the level at which the **Cabinet** may reallocate **Budget** funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the Budget policy framework within the financial limits set by the Council.

Preparation of the Council's Delivery Plan

B.5 The **Head of Paid Service** is responsible for proposing the Delivery Plan to the **Cabinet** for consideration before its submission to the **Full Council** for approval.

Budgeting

B.6 The **S151 Officer** shall report annually to the **Cabinet** on the details of capital and revenue estimates for all the council's functions. He/she shall prepare and update annually a five-year rolling revenue **Budget** forecast. Each year the Cabinet shall consider and recommend, based on corporate priorities, the strategic allocation of resources to services and submit a report to Council.

B.7 The format and timescale of the estimates shall be determined by the S151 Officer. It is the responsibility of the **Strategic Directors**, Heads of Service and **Team Managers** to ensure that **Budget** estimates reflecting agreed service plans are submitted to the **S151 Officer** and that these are prepared and submitted as directed by the S151 Officer.

Budget Monitoring and Control

B.8 The **Chief Executive**, **S151 Officer**, **Strategic Directors**, Heads of Service and Team Managers shall:

a) only incur revenue expenditure where there is an approved **Budget** provision in that financial year;

b) only incur capital expenditure where that project is in the Council's capital programme as applied to that financial year;

The S151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must monitor and control expenditure against **Budget** allocations and report to the **Cabinet** on the overall position on a quarterly basis.

It is the responsibility of Team Managers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the S151 Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their **Budget** allocation and alert the S151 Officer to any problems.

Budgetary Control - Capital

B.9 In addition to B8 above, the following Financial Regulations shall apply:

a) whenever a new capital project is considered desirable, the **Chief Executive** or **Strategic Directors** shall (after submitting the project (with a detailed business case) to the Capital Strategy Group) submit the project to the **Cabinet** which shall, after considering advice from the **S151 Officer** (to include the implications of the Prudential Code if applicable and any current and future revenue implications) and other appropriate Officers, make recommendations to the Council as to its acceptance or otherwise, indicating where appropriate its inclusion on the Long Term Capital Projects List and the level of priority for its implementation;

b) subject to (c) below, approval by **Council** of the Capital Programme shall be a prerequisite for the commencement of a project and to enter into a contract;

c) notwithstanding approval in the Capital Programme, if the proposed or actual expenditure (excluding supervision costs) exceed the approved estimate, the **Team Manager** shall, before proceeding, refer the proposal, with the comments of the S151 Officer, to the **Cabinet**;

d) Directors and Heads of Service shall be able to adjust the timing of delivery of capital projects between years in consultation with the portfolio holder and S151 Officer;

e) the S151 Officer is empowered to authorise spending in an emergency on any unforeseen health and safety work relating to a project.

Emergencies or Disasters

B.10 In the event of an emergency or disaster, these Financial Regulations shall be suspended and the **Chief Executive** be given **Delegated Powers** in consultation with the Section 151 Officer, Monitoring Officer and Leader of the Council to take any action deemed necessary in respect of the financial matters of the Council, subject to such action being reported to the **Cabinet**.

Maintenance of Reserves

B.11 It is the responsibility of the **S151 Officer** to advise the **Cabinet** and/or **Full Council** on prudent levels of reserves for the Council.

B.12 The Chief Finance Officer shall maintain reserves in accordance with the relevant codes of practice on local authority accounting in the United Kingdom and agreed accounting policies.

B.13 The use of reserves to finance expenditure should be authorised by the **S151 Officer** unless it is explicitly authorised within the approved Budget or Capital Programme. Details of the Council's reserves will be reported in the Statement of Accounts in accordance with guidance published in the code of practice on local authority accounting. Reserve balances will be reported to Cabinet on a quarterly basis as part of the budget monitoring suite of reporting.

4. Financial Regulation C: Risk Management and Control of Resources

Introduction

C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

Risk Management

C.2 The **Cabinet** is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

C.3 The **S151 Officer** is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the **Cabinet** on proper insurance cover where appropriate.

Internal Control

C.4 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

C.5 The **S151 Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory
and other authorities that govern their use.

C.6 It is the responsibility of the **Chief Executive**, **Strategic Directors**, Heads of Service and Team Managers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

C.7 The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording such amounts, shall be separated as completely as possible from the duty of collecting or disbursing them.

Audit requirements

C.8 The Audit Manager and the **S151 Officer** have a responsibility for ensuring that the Council has an adequate and effective internal audit service in operation in accordance with Section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2015.

C.9. The work of the Internal Audit Section will be performed with due professional care and in accordance with the Accounts and Audit Regulations 2015 and the **Global Internal Audit Standards in the UK Public Sector** (GIAS) and any subsequent guidance which updates or replaces these.

C.10 Internal Audit is an assurance function which primarily provides an independent and objective opinion to the Council on its governance arrangements and internal controls.

C.11 The Audit Manager will fulfil the role and responsibilities of the "Chief Audit Executive" as set-out in the GIAS. In order to perform their duties, the Audit Manager or their nominated representatives have authority to:

a) enter at all reasonable times, any Council premises or land;

b) have access to all records, documents, correspondence and computer systems relating to the Council and its activities;

c) require and receive such explanations as necessary concerning any matter under examination;

d) require any employee of the Council to produce records, cash, stores or any other Council property under their control, necessary to carry out their duties.

Where necessary such rights of access may be called upon and should be granted to Internal Auditors on demand and not subject to prior notice or approval. All employees are required to assist Internal Audit in fulfilling its roles and responsibilities.

C.12 Managers, and not Internal Audit, have ultimate responsibility for ensuring that internal controls throughout the Council are adequate and effective. This responsibility includes the duty to continuously review internal controls and ensure that they remain suitable in design and effective in operation. The existence of Internal Audit does not diminish the responsibility of management to establish and maintain systems of internal control to ensure that activities are conducted in a secure, efficient and effective manner.

Stores and Inventories

C.13 Each Team Manager shall be responsible for the custody and physical control of the stocks and stores in his/her service area and the records kept by the storekeepers shall be prescribed by the **S151 Officer**. Wherever possible, stocks and stores should be marked as the property of the Council.

C.14 Each Team Manager, in conjunction with the **S151 Officer**, shall make arrangements for continual stock-taking covering all items at least once per year. Stock-taking procedures shall be conducted by Officers independent of the day to day activities within the system. Any surpluses or deficiencies revealed shall be reported to the S151 Officer who shall, in conjunction with the appropriate Team Manager, agree any action required/recommend to the **Cabinet** any action considered necessary.

C.15 Stocks shall be maintained within the minimum and maximum levels determined by the appropriate Team Manager, and the maximum level shall not be exceeded, except in special circumstances with the approval of the S151 Officer.

C.16 Each Team Manager shall prepare and maintain an inventory in a form approved by the **S151 Officer**. The inventory shall include movable plant and machinery, rolling stock, furniture, fittings and equipment. The only exception is office stationery equipment (for example; calculators, hole punches, staplers, waste bins).

In addition to the divisional inventory, equipment purchased by the Information Technology Section, including that purchased on behalf of other Services, shall be recorded on the Information Technology inventory.

C.17 All inventories shall be checked annually by Team Managers. Individual surpluses or deficiencies over £50 shall be dealt with in the manner prescribed for stores in paragraph C.14 (above). Where individual inventory items with an estimated value below £50 become surplus to requirements, the Council has a procedure for dealing with such items, which shall be adhered to.

C.18 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the relevant Team Manager.

C.19 All items appearing on the Inventory shall be indelibly marked as property of the Council.

Security

C.20 Each Team Manager shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under his/her control. He/she shall consult the **S151 Officer** in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

C.21 The maximum limit for cash holdings shall be agreed with the S151 Officer and shall not be exceeded without his/her express permission.

C.22 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of such keys must be reported to the S151 Officer immediately the loss is discovered.

C.23 The **S151 Officer** shall be responsible for maintaining proper security and privacy as respects information held on computer for its use, in accordance with the Data Protection Acts 1984 and 1998, the Computer Misuse Act 1990 and the Freedom of Information Act 2000.

Banking Arrangements

C.24 All arrangements with the Council's Bankers shall be made by or under arrangements approved by the **S151 Officer**, who shall be authorised to operate such banking accounts as he/she may consider necessary. Such arrangements shall be reported to the **Cabinet** from time-to-time.

C.25 Transfers from accounts (but not between accounts) shall not be made unless authorised by one of the Financial Signatories to the Council.

C.26 The **S151 Officer** shall be responsible for the ordering and custody of cheques to meet payments by him/her on behalf of the Council. Cheques shall be prepared, verified and accounted for under the direction of the S151 Officer and signed by him/her or one of the Financial Signatories to the Council provided that, for the purpose of this regulation only,

'signature' shall include the printed/facsimile signature of the S151 Officer.

Petty Cash and Float Accounts

C.27 The **S151 Officer** shall issue guidance as to the operation and management of these accounts.

C.28 **Team Managers** shall ensure that:

(a) disbursements (other than renewal of imprest) shall be limited to expenses which are unavoidable and urgent. No single item exceeding

£50 in amount (unless specifically authorised by the S151 Officer) shall be paid out of the petty cash account. All payments shall be supported by a receipted voucher to the extent that the S151 Officer may require and in particular to enable the recovery of Value Added Tax.

(b) each account is accurately maintained on an imprest system;

(c) such accounts are not used for depositing income nor for employees personal expenditure;

(d) an Officer responsible for an account shall make adequate arrangements for the security of cash and accounting records;

(e) On leaving the employment of the Council or otherwise ceasing to hold an imprest advance, an Officer shall account to the S151 Officer for the amounts advanced to him/her and payments made.

Treasury Management

C.29 The Council has adopted **CIPFA's** Code of Practice for **Treasury Management** in the Public Services.

C.30 The **Full Council** is responsible for approving the **Treasury Management** Policy Statement setting out the matters detailed in paragraph 15 of **CIPFA's** Code of Practice for Treasury Management in the Public Services. The policy statement is proposed to the Full Council by the **Cabinet**. The **S151 Officer** has delegated responsibility for implementing and monitoring the statement.

C.31 All money in the hands of the Council shall be aggregated for the purpose of **Treasury Management** and shall be under the control of the **S151 Officer**.

C.32 The S151 Officer is responsible for reporting to the **Cabinet** a proposed **Treasury Management** Strategy for the coming financial year at or before the start of each financial year.

C.33 All **Cabinet** decisions on borrowing, investment or financing shall be delegated to the **S151 Officer**, who is required to act in accordance with **CIPFA's** Code of Practice for **Treasury Management** in the Public Services.

C.34 The **S151 Officer** is responsible for reporting annually to the **Cabinet** on the activities of the **Treasury Management** operation and on the exercise of his/her delegated Treasury Management powers.

Staffing

C.35 The **Full Council** is responsible for determining how Officer support for **Cabinet** and non-executive roles within the Council will be organised.

C.36 The **Chief Executive**, **Strategic Directors**, Heads of Service and Team Managers are responsible for providing overall management to staff. The Human Resources Team Manager is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

C.37 The **Chief Executive**, **Strategic Directors**, Heads of Service and Team Managers are responsible for controlling total staff numbers by:

(a) advising the Cabinet on the **Budget** necessary in any given year to cover estimated staffing levels;

(b) adjusting the staffing to a level that can be funded within approved **Budget** provision;

(c) varying the provision as necessary within that constraint in order to meet changing operational needs; and

(d) the proper use of appointment procedures.

Insurances

C.38 The **S151 Officer** shall effect all insurance cover and register all claims in consultation with other Officers where necessary.

C.39 Team Managers shall give prompt notification to the **S151 Officer** in writing of all new risks, properties, vehicles or other assets which require to be insured and of any alterations affecting existing insurances.

C.40 Team Managers shall immediately notify the **S151 Officer** in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police where necessary unless otherwise decided by the **Chief Executive**.

C.41 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.

C.42 The S151 Officer shall annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Team Managers as appropriate.

C.43 Team Managers shall consult the **S151 Officer** respecting the terms of any indemnity which the Council is requested to give.

C.44 Team Managers shall ensure that their employees are aware of any limitation of cover, e.g. motor insurance covering official duty only.

C.45 Where a claim arises which is less than or equal to the value of the excess on any policy, the Team Manager shall submit a written request to the S151 Officer to make a specific financial offer. The request must be supported by reasons in favour of settlement and can only be signed by the **Chief Executive**, **S151 Officer** or Team Manager.

Contracts

C.46 All financial transactions under contracts should be conducted in accordance with the Council's Contract Procedure Rules.

C.47 Officers are authorised to incur **revenue** expenditure (including in relation to revenue projects) in accordance with the following authorisation levels, subject to complying with the Contract Procedure Rules (where required):

Value of Expenditure	**Authorisation**
Up to £1,999	Salary Bands A, B and C
£2,000 - £4,999.99	Salary Bands D, E and F
£5,000 - £9,999.99	Salary Bands G, H and I
£10,000 - £24,999.99	Team Managers
£25,000 - £49,999.99	Heads of Service
£50,000 and above	Chief Executive and Strategic Directors, plus any officers with unlimited authorisations as per the Constitution

C.48 Officers are authorised to incur **capital** expenditure in relation to capital projects in accordance with the following authorisation levels, subject to complying with the Contract Procedure Rules (where required):

Value of Expenditure	**Authorisation**
Up to £24,999	Team Managers and above (the Project Owner)
£25,000 - £49,999.99	Heads of Service

£50,000 and above	Chief Executive and Strategic Directors, plus any officers with unlimited authorisations as per the Constitution

C.49 The appointed Supervising Officer in control of the works shall give written orders in respect of all variations from the specification of the works included in the contracts and copies of these orders shall be forwarded to the S151 Officer with the estimated variations in cost noted thereon. Any such extra variation, where the estimated additional cost of which exceeds 5%, shall be reported to the appropriate Board as soon as practicable with details of the reason for the additional cost and the proposed method of funding the extra cost.

C.50 Payments to contractors on account of contracts shall be made only on a certificate issued by the Supervising Officer in control of the works which shall show the total amount of the contract, the value of work executed to date, retention money, amount paid to date and amount certified as due. Details, variations and fluctuations included in the value of work to date shall accompany the certificate.

C.51 On completion of a contract and before the issue of the certificate for final payment thereunder, the appointed Supervising Officer shall produce to the Audit Manager a detailed statement of the work under the contract, with all vouchers and documents relating to prime cost and provisional sums and any other particulars required showing full measurements, additions, deductions and omissions. The Final Certificate shall not be issued nor shall the contractor be informed that the final account is agreed and the balance under the contract paid until:

(a) the Audit Manager has examined the accounts, vouchers and documents, and approved the final account.
(b)
(c) If any question of propriety of payment arises, the **Cabinet** shall have directed payment.

C.52 Claims from contractors in respect of matters not clearly within the terms of an existing contract shall be referred to the **Chief Executive/Monitoring Officer** for consideration of the Council's legal liability and where necessary, to the **S151 Officer** for financial consideration before a settlement is reached.

C.53 Where completion of a contract is delayed beyond the completion date or any properly authorised extension thereof, it shall be the duty of the Supervising Officer to take appropriate action in respect of any claim for liquidated damages.

C.54 In any case where the total cost of any work carried out under a contract exceeds by more than 10%, or £10,000, whichever is the lesser amount, the approved contract sum, a report of such cost shall, after agreement of the final account, be submitted to the appropriate Board by the appropriate **Head of Service** detailing any additional cost and proposed method of funding not previously reported under Regulation C.47.

C.55 Subject to the expenditure on such matters being included in approved estimates, all orders or contracts for the supply of goods or materials or for the execution of work shall comply with the **Contract Procedure Rules** in **Part 3**.

C.56 When, in exceptional circumstances authority is sought to waive **Financial Procedure Rules**, the report to the appropriate Board must give adequate reasons and specify precisely the procedures to be waived.

Salaries

C.57 The payment of all salaries, wages and other emoluments to all employees of the Council shall be made by the **S151 Officer** and under arrangements approved and controlled by him/her.

C.58 The **S151 Officer** shall be responsible for all records relating to National Insurance, Income Tax, Superannuation and Statutory Sick Pay. The Human Resources **Team Manager** shall be responsible for the issue of statements under the Contracts of Employment Acts.

C.59 Each **Head of Service** shall be responsible for the completion of timesheets by employees, other than Officers, under his/her control and for their evaluation and certification. Timesheets shall be forwarded to the S151 Officer in accordance with his/her directions, who shall be responsible for the preparation of salaries or wages. The Head of Service concerned, under the directions of the S151 Officer shall be responsible for the provision of transport and staff for the payment of salaries or wages.

C.60 Each **Head of Service** shall notify the **S151 Officer**, as soon as possible, and in a form prescribed by him/her, of all matters affecting payment of salaries and wages and in particular:

(a) appointments, resignations, dismissals, suspensions, secondment and transfers.

(b) Absences from duty for sickness or other reason, apart from approved leave with pay.

(c) Changes in remuneration, other than normal increments, pay awards and agreements of general application.

(d) Information necessary to maintain records of service for superannuation, income tax, national insurance, etc.

C.61 Each **Head of Service**, in conjunction with the Human Resources Team Manager, shall make arrangements to annually confirm the authenticity of those employees appearing on the payroll for his/her Service. Such arrangements shall include the verification of individual rates of pay.

Leasing

C.62 All items proposed to be leased shall be approved by the Council prior to arrangements being made.

C.63 All leasing agreements will be arranged and agreed by the **S151 Officer**. An agreement can only be signed on behalf of the Council, by the **Chief Executive** or the S151 Officer, providing that the revenue estimate is not exceeded.

C.64 The **Head of Service** responsible for the goods to be leased shall provide the S151 Officer with such information as is required by him/her in order to obtain the best and most appropriate type of lease possible.

5. **Financial Regulation D: Systems and Procedures**

Introduction

D.1 Sound systems and procedures are essential to an effective framework of accountability and control. **General**

D.2 The **S151 Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes proposed by the **Chief Executive**, **Strategic Directors**, Heads of Service and Team Managers to the existing financial systems or the establishment of new systems must be approved by the S151 Officer. However, the Chief Executive, Strategic Directors, Heads of Service and Team Managers are responsible for the proper operation of financial processes in their own Services.

D.3 The **Chief Executive**, **Strategic Directors**, Heads of Service and Team Managers should ensure that their staff receive relevant financial training that has been approved by the **S151 Officer**.

D.4. The **Chief Executive**, **Strategic Directors**, Heads of Service and Team Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Team Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.

Authorised Signatories

D.5 It is the responsibility of the **Chief Executive**, **Strategic Directors** and Heads of Service to ensure that a proper **Officer Scheme of Delegation** has been established within their area and is operating effectively. The Officer Scheme of Delegation should identify staff authorised to act on their behalf in respect of payments, income collection and placing orders, together with the financial limits of their authority. The financial limits will

be determined by the Council's Corporate Leadership Team. Team Managers shall ensure that specimen signatures and initials of such authorised staff are sent to the **S151 Officer** and such records shall be amended by the Team Manager on the occasion of any change therein.

Control of Expenditure

D.6 Orders for goods and services shall not be issued unless the expenditure is included in an approved estimate or other specified financial provision.

D.7 All orders shall be in writing, signed by the appropriate Team Manager or such other Officer as nominated by him/her and notified to the **S151 Officer**.

D.8 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility service; and for periodical payments such as rent or rates/local tax, for petty cash purchases or such other exceptions as the **S151 Officer** may approve.

D.9 Each order shall conform to the directions of the Council with respect to central purchasing, use of contracts and the standardisation of supplies and materials and be in a form approved by the **S151 Officer** in accordance with Regulation D.2 above.

D.10 Monied invoices and/or delivery notes should, where appropriate, accompany the delivery of goods and the receiving Officer must certify thereon, at the time of delivery, receipt of the goods. Where ordered and delivered by weight or volume the receiving Officer shall make such periodical tests as are necessary to ensure that the quantities charged have actually been delivered.

D.11 All invoices, accounts and claims relating to amounts due from the Council shall be checked in the Service concerned and such checking being indicated by the initials of the examining Officer and certified by the appropriate Team Managers or such other Officer as nominated by him/her. The number of the official order and the head of expenditure to which it relates must be indicated thereon. Expenditure/income should be coded in accordance with instructions issued by the **S151 Officer**, with VAT appropriately identified in order that the S151 Officer may recover output tax (VAT). A VAT invoice/receipt must be obtained in all appropriate cases.

D.12 The Team Managers concerned shall be responsible for the accuracy of accounts submitted for payment which shall be signed by the Team Managers or authorised Officer in accordance with regulation D.5. The passing of an account for payment by or on behalf of the Team Managers shall mean:

(a) that the materials have been supplied, the work performed or the services rendered and that they are satisfactory as to quality and correct as to quantity;

(b) that the price is in accordance with quotations, contract agreement or current market rate whichever is applicable;

(c) that the account is allocated to the correct expenditure heading;

(d) that all trade and cash discounts and other proper allowances have been deducted;

(e) that the account has not been previously paid and that the copy of the official order has been marked off to prevent duplicate payment;

(f) that the account is arithmetically correct unless a variation has been agreed by the **S151 Officer**;

(g) that the expenditure is within the Council's legal powers.

NOTE: The passing of an account for payment by a Team Manager or authorised Officer confirms that he/she is satisfied that all necessary steps in the certification procedure have been satisfactorily carried out.

Accordingly, it is for the Team Manager or authorised Officer to recognise the initials of Officers carrying out this preliminary certification procedure as those of Officers who are in a position to satisfactorily perform the work responsibly. It is essential that a minimum of two Officers at least should be involved in the preliminary certifications in order that the Officer certifying that the goods have been supplied or the work done is different

from the Officer certifying the remaining items. It is also desirable that the making out of official orders and the entering of goods received records are undertaken by different Officers and that this should be divorced from the certification of invoices although it is appreciated that this is not always possible in smaller Services. A Team Manager who delegates the certification of accounts should satisfy him/herself that the procedure is operating satisfactorily by signing all accounts personally from time-totime).

D.13 Before authorising payments to a sub-contractor, as defined by the Inland Revenue, for construction work carried out, the certifying Officer of the Service concerned shall satisfy him/herself that the sub-contractor to whom payment is due is the holder of a valid Sub-Contractors Tax Certificate issued by the Inland Revenue, otherwise tax at the appropriate rate must be deducted as required by any statutory provisions in being at that time.

D.14 Invoices made out by an Officer of the ordering Service and statements unaccompanied by the relative invoices and delivery notes, copy invoices or reminders shall not be accepted as a basis for payment.

D.15 In all cases of purchase of property, the S151 Officer shall be the authorising Officer. When requesting payment he/she shall provide full particulars of the property, the name of the vendor/purchaser, the amount of purchase money, expenses and Minute authorisation. Full particulars of the property purchased shall be entered in the official Register of Properties kept by the S151 Officer.

D.16 Duly certified accounts shall be passed without delay to the S151 Officer who shall examine them to the extent that he/she considers necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may require.

D.17 The S151 Officer shall be authorised to pay all accounts duly certified in accordance with these regulations. The normal method of payment shall be by cheque, BACS or other instrument drawn on the Council's banking account.

D.18 Each **Head of Service**/Team Manager shall, as soon as possible after 31 March and no later than detailed in the final accounts timetable each year, notify the S151 Officer of outstanding expenditure relating to the previous financial year.

Control of Income

D.19 All arrangements for the collection of monies due to the Council shall be subject to approval by the **S151 Officer** in conjunction with the

appropriate Team Manager and the S151 Officer shall set up debits for all items of income due. No such items over £10,000 shall be written off as irrecoverable unless approved by the **Cabinet**. Any request to forego income shall be subject to written approval of the S151 Officer.

D.20 The Team Managers shall promptly furnish the **S151 Officer** with such particulars in such form as he/she may require in connection with work done, goods supplied or service rendered and all other amounts due to the Council as may be required by him/her to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.

D.21 The S151 Officer shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council and the S151 Officer shall have the right to inspect any documents or other evidence in this connection as he/she may decide.

D.22 All receipt forms, books, tickets and other such items shall be ordered and supplied to Team Managers by the **S151 Officer**, who shall satisfy him/herself as to the arrangements for their control.

D.23 Each employee who receives monies on behalf of the Council or in the normal course of their duty shall give such acknowledgment and enter up punctually such records as may be approved by the **S151 Officer**. Such income shall be paid to the S151 Officer or direct to the Council's account, either daily or when there is a sum of £100 in hand. Any variation from this procedure shall be subject to the written approval of the S151 Officer. On no account should such monies be paid into the personal account of an employee. No deduction may be made from such money save to the extent that the S151 Officer may specifically authorise. Each Officer who so banks money shall enter on the paying-in slip a reference to the related debt or otherwise indicate the origin of the cheque on the reverse of each cheque, the Officer shall enter the name of his/her Service, office or establishment.

D.24 Personal cheques shall not be cashed out of money held on behalf of the Council.

D.25 Every transfer of official money from one member of staff to another will be evidenced in the records of the Services concerned by the signature of the receiving Officer.

D.26 Post-dated cheques will not normally be accepted. The only formal exception to this rule will be acceptance of a cheque, by the Assistant Senior Exchequer Services Officer, which shall not be dated more than seven working days in advance*. This will only be allowed where the

debtor has no previous history of dishonoured cheques. The Assistant Senior Exchequer Services Officer will only accept one cheque per debtor on each occasion. Such cheques will be recorded and retained by the Assistant Senior Exchequer Services Officer.

In exceptional circumstances, any other requests to accept a post-dated cheque must have the approval of the S151 Officer.

*(This is to allow provision where a debtor is expecting funds to be credited to a bank account during the period it is likely to take to return a cheque and receive replacement.)

D.27 The **Chief Executive**, **Strategic Directors**, Heads of Service or Team Managers may in conjunction with the S151 Officer write-off as irrecoverable sundry and other debts not exceeding £10,000. The Chief Executive or Heads of Service may write-off as irrecoverable sundry and other debts not exceeding £25 where these are deemed uneconomical to pursue and cannot be added to a future account. No debts over £10,000 shall be written off as irrecoverable without the approval of **Cabinet**.

NOTE: Outstanding debts will still be pursued after write-off should information be received which indicates that there is a possibility that the debt can be recovered.

D.28 The **Chief Executive**, **Strategic Directors** or Heads of Service may, in conjunction with the **S151 Officer**, write-off as non-refundable credits on accounts not exceeding £10,000. The Chief Executive or Heads of Service may write-off as non-refundable credits on accounts not exceeding £25 where these are deemed uneconomical to pursue and cannot be deducted from a future account. No such items over £10,000 shall be written off as non-refundable without the approval of the **Cabinet**.

6. Financial Regulation E: External Arrangements

Introduction

E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various **Stakeholders**. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

Partnerships, Joint Ventures and Companies in which the Council is a Guarantor or has a Share Holding Interest

E.2 The **Cabinet** is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming

partnerships with other local public, private, voluntary and community sector organisations to address local needs.

E.3 The **Cabinet** can delegate functions - including those relating to partnerships - to Officers. These are set out in the **Officer Scheme of Delegation** that forms part of the **Constitution**. Where functions are delegated, the Cabinet remains accountable for them to the **Full Council**.

E.4 The **Monitoring Officer** is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.

E.5 The **S151 Officer** must ensure that the accounting arrangements to be adopted relating to partnerships, joint ventures and companies are satisfactory. He/she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

E.6 Team Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. Where it is proposed that the Council be involved in an arrangement of this nature the appropriate Officer will first consult with the S151 Officer and the **Monitoring Officer** on the proposals.

E.7 The S151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

E.8 Further to Regulation E.7 unless secure arrangements are put in place to Financial Regulations and this shall be stated in any such contracts. the contrary, any such arrangements will comply with the Council's

SECTION G – CONTRACT PROCEDURE RULES

These Contract Procedure Rules are made under section 135 of the Local Government Act 1972.

Rules

1. **Introduction and Application of Contract Procedure Rules**
2. **Scope**
3. **Roles and Responsibilities**
4. **Consultation and Approvals Prior to Advertising a Procurement**
5. **Approvals and Procurement Procedures**
6. **Advertising**
7. **Evaluating Bids**
8. **CPR Suspension and Exemptions**
9. **Framework Agreements, Dynamic Markets and Open Frameworks**
10. **Contracts**
11. **Contract Extensions and Modifications**
12. **Contract Management**
13. **Definitions**

SECTION G – CONTRACT PROCEDURE RULES

1 Introduction and Application of Contract Procedure Rules

These Contract Procedure Rules (**CPR**) set out the framework for the procurement of works, services and goods. They are an essential set of rules and compliance with them will ensure that officers seek and obtain value for money, and that public money is properly spent and accounted for.

1.1 Council officers and members must comply with these CPR in all instances when buying works, services and goods on behalf of the Council, and failure to comply may result in disciplinary action being taken against the officer concerned. Officers have a duty to report any breaches of these CPR to the Strategic Director for Resources.

1.2 These CPR form part of the Council's Constitution and provide the framework that governs the Council's procurement of contracts for works, services and goods. Following these CPR helps the Council to demonstrate:

- good internal governance;
- propriety and the proper spending of public money;
- value for money and effective use of resources is being achieved;
- additional social value in the delivery of works, services and goods;
- the delivery of high-quality works, services, supplies;
- compliance with relevant laws;
- controls to deter fraud, bribery and corruption;
- support of the local economy and small to medium enterprises (**SMEs**); and
- application of sound procurement practice.

1.3 Every contract for works, services and goods made by the Council must conform to all relevant UK legislation. UK public procurement legislation and policy require that the procurement of contracts should:

- Deliver value for money;
- Maximise public benefit;
- Involve the sharing of information with all potential suppliers fairly;

• Enable the Council to act, and be seen to act, with integrity;

• Ensure that the Council treats suppliers equally and fairly;

• Ensure that the Council takes all reasonable steps to prevent unfair advantages or disadvantages; and

• Reduce barriers to entry for SMEs whenever and wherever possible.

1.4 Contracts must not be artificially split to avoid the application of the key thresholds contained in these CPR. The Council's responsibilities are collective rather than based upon what individual services require.

1.5 All figures in these CPR are **inclusive** of VAT unless stated otherwise.

1.6 Officers dealing with the procurement of standard or repetitive goods and services, or where multiple smaller individual requirements are needed should consider the use of Framework Agreements and should seek guidance from the Council's Procurement Officer.

2. Scope

2.1 These CPR **apply**:

- whenever the Council intends to spend money (or provide other payments in kind) under contracts for works, services or supplies;
- to expenditure from either capital or revenue sources;
- to works and services concession contracts;
- to supplies for re-sale;
- to both officers and members;
- where the Council acts as the lead partner in a multi-authority procurement (in addition to the equivalent rules for partner organisations); and
- where any third-party organisation is authorised to procure works, services and/or supplies on behalf of the Council as the Council's agent or representative.

2.2 These CPR **do not** apply:

- to contracts of employment;

- to service level agreements made between departments within the Council;

- grants the Council is awarding to third-parties;

- to acquisitions and disposals of land or buildings, except in so far as it relates to a contract for works, services or goods;

- to financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments, in particular transactions by the Council to raise money or capital;

- in the case of individual investments which are not deemed as the purchase of supplies or services for the purposes of these CPR;

- any contract related to the receipt of investment advice or a related ancillary service under the Financial Services & Markets Act 2023;

- where the Council instructs counsel or any external legal advisors to represent or act on its behalf in relation to legal matters;

- contracts awarded to Local Authority Controlled Companies unless the Monitoring Officer determines otherwise;

- in the case of civil contingencies;

- contracts with local authorities for the joint delivery of services or discharge of functions, provided that they demonstrate value for money.

Provided that, in all instances, all relevant legislation, rules, and guidance **must** still be complied with, together with other relevant parts of the Council's Constitution.

3. Roles and Responsibilities

3.1 Overall responsibility for these CPR rests with the Strategic Director for Resources. Further information and advice on these CPR can be sought from the Council's Procurement Officer.

3.2 **Any** officer undertaking procurement or purchasing activity on behalf of the Council
must comply with these CPR and any and all relevant legislation and regulations.

3.3 Strategic Directors are responsible for ensuring that **all** Officers with procurement responsibilities within their directorates fully understand and comply with these CPR.

3.4 Strategic Directors are responsible for **all** purchase orders and contracts tendered and let by their directorates, are accountable to Cabinet for the performance of their duties in relation to contract letting and management, and must ensure that all Officers comply with these CPR.

3.5 The duties of Strategic Directors are as follows:

3.5.1 To seek and obtain value for money and secure continuous improvement in all procurements;

3.5.2 To ensure no contract is entered into by their Directorate without there being adequate and agreed budget provision;

3.5.3 To ensure compliance with all applicable legislation, seeking advice from the Council's Procurement Officer at an early stage in the process as appropriate;

3.5.4 To ensure **all** staff (including any agents or consultants acting on their behalf) dealing with procurement for their directorate are fully aware of and comply with these CPR;

3.5.5 To declare to the Council any pecuniary interest whether direct or indirect they personally have in any contract to be let, and to make that declaration in writing to the Monitoring Officer and the Strategic Director for Resources;

3.5.6 In the event of any breach of these CPR, to take immediate action and report it to the Monitoring Officer and the Strategic Director for Resources, whilst carrying out corrective action and appropriate investigations where necessary;

3.5.7 To ensure every contract has a named officer with responsibility for it;

3.5.8 To keep securely proper records of all purchase orders, signed contracts and copies of all relevant documentation to provide a full audit trail of actions taken.

3.5.9 To ensure that the Council's Contracts Register is kept up-to-date for all contracts greater than £50,000 in value within their directorate.

3.5.10 To ensure the Council's 'Procurement Pipeline' is kept up to date with all procurements greater than £100,000 in value to be carried out in the next 18 months.

3.5.11 To comply with the Council's arrangements for the obtaining and opening of quotations and tenders as set out in these CPR;

3.5.12 To ensure that the Council's seal is affixed to any contract where this is

required in accordance with these CPR and to ensure that all other contracts are signed by a person authorised under these CPR;

3.5.13 To ensure that records are kept in a manner that ensures reviews of contracts are undertaken in good time and that appropriate action is taken to re-procure those contracts where necessary.

4 Consultation and Approvals Prior to Advertising a Procurement

4.1 Procurements of Band C and D contracts can only be published following approval of a procurement plan report by the relevant decision maker.

4.2 Officers must comply with the Council's Constitution in relation to all Executive Decisions and Key Decisions, where required. Planning of a procurement must take into account these procedures and Officers should consult with Democratic Services, as appropriate.

4.3 The procurement plan report will set out how the procurement will be managed to deliver the best outcomes for the Council. The level of detail in the report should be proportionate to the whole life value of the contract and the level of risk but should, where relevant, include:

- High level summary of contract purpose and outcomes, including the approach to reflecting these in the specification;

- Governance process, including the engagement of key stakeholders (including service users), approval of key documents during the procurement process and any delegations requested for contract award;

- Market analysis, including any work that needs to be done by the Council to market itself to potential bidders as an important customer;

- Review of potential performance issues of existing contractors and how they will be mitigated / managed through the procurement process;

- Key risks, including sustainability risks, and how they will be managed during the procurement process;

- The proposed lot structure to be adopted and how it will support achieving the Council's objectives, or otherwise the justification for not dividing into lots;

- Approach to evaluation, including evaluation criteria and weightings. Evaluation criteria shall include an assessment of the bids against the deliverables to be secured under the contract;

- Legal issues, including terms and conditions for the contract, contract length and extensions etc.;

- Commercial issues such as pricing strategy, management of change and performance management/incentives;

• Approach to Social Value, including performance obligations, main areas of potential benefit, VCSE and sustainability opportunities;

• Overall projected timescales and milestones;

• Approach to assessing and agreeing preferred route to market.

It is important that the Council's Procurement Officer is engaged at a sufficiently early stage to provide advice and when necessary to jointly produce the procurement plan report with the contract lead.

4.4 For all procurements, the Council is required to divide the complete requirement into lots to reduce barriers to SMEs or otherwise provide justification for not doing so.

4.5 Officers **must** consult the Council's Procurement Officer for any procurement 10 where the Total Contract Value is estimated to be more than £50,000. The procurement must be entered into the Council's 'Procurement Pipeline' a minimum of 18 months in advance of the procurement commencing.

4.6 Officers **must** consult and seek support from the Council's Procurement Officer for any procurement where the Total Contract Value is estimated to be Above Threshold. The route to market must be approved by the Strategic Director of Resources.

4.7 Subsidy Control rules **must** be considered by the contract lead in situations or circumstances where the proposed arrangement (as either a contract, grant or other award), may provide an advantage through public resources being given on a selective basis to any organisation(s) that could potentially distort competition and / or trade.

4.8 The Council has a legal duty to consider the application of the relevant Subsidy Control rules when making awards. This may require a bespoke assessment of each measure against the relevant legislative provisions. Advice from Legal Services should be sought where the contract lead considers that the subsidy control rules may be engaged.

5 Approvals and Procurement Procedures

5.1 Pre-procurement approval and the procurement procedure required will depend on the Total Contract Value.

Band A Contracts – Contracts valued at less than £10,000

5.2 For any single contract, not related to or part of any larger procurement, of a value that is less than £10,000 (inclusive of VAT), one written quotation shall be obtained.

5.3 The approval of any contract that is valued less than £10,000 shall be in accordance with the authorisations in the Financial Procedure Rules.

5.4 Any contract valued at less than £10,000 can be signed by the officer that approved it under rule 5.3.

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 £25,000 or more) and the Council's website;

5.8.2 Officers shall ensure that the selection process used is fair and equitable and in accordance with these Contract Procedure Rules;

5.8.3 Officers must select the quote which offers value for money for the Council;

5.8.4 The Head of Service shall be responsible for keeping a record for audit purposes of:

• all those contractors that were requested to provide a quotation;
• the reasons why those particular contractors were selected to provide a quotation; and
• the reason for selecting the winning quote.

Band C Contracts – Contracts valued at £50,000 and above but Below Threshold

5.9 For any single contract, not related to or part of any larger procurement, of a value of £50,000 or more but Below Threshold, the officer shall conduct a formal tender using the Council's template and accompanied by terms and conditions prepared by Legal Services.

5.10 Any contract that is valued at £50,000 or above and Below Threshold shall be approved by the relevant Strategic Director, provided that any contract that constitutes a Key Decision under the Constitution must be subject to approval by Cabinet.

5.11 Any contract valued at £50,000 or above and Below Threshold must be signed by the Monitoring Officer and any contract of a value of £250,000 and above must be

executed as a deed and sealed (unless the Monitoring Officer determines otherwise).

5.12 Where Officers conduct a formal tender:

5.12.1 The Council's standard templates and methodology should be used;

5.12.2 The evaluation of tenders and any pre-qualification of bidders should be carried out according to the procedures set out in these CPR and associated guidance from the Council's Procurement Officer, and clearly documented and recorded;

5.12.3 Bids which are received after the date and time stipulated in the invitation to tender document should not be considered;

5.12.4 Following the conclusion of a procurement process, prior to the award of contract, a contract award report should be prepared for the relevant Strategic Director;

5.12.5 The level of detail in the contract award report should be proportionate to the whole life value of the contract and the level of risk, but should where relevant include;

- The subject matter and the whole life value of the contract proposed to be made;
- The procurement process that has been followed;
- (Where applicable) The results of market analysis undertaken;
- Details of the evaluation criteria, the weightings, and the results of the evaluation process;
- The name of the successful bidder and the reasons why its tender was selected;
- The reasons for the rejection of the other bids received; 12
- (Where applicable) conflicts of interests detected, and subsequent measures taken;
- any risks associated with the award of the contract and measures taken to minimise that risk; and
- any additional or non-standard action required to support mobilisation.

5.12.6 Where the decision maker wishes to accept a tender other than the highest scoring acceptable tender, full supporting documentation must be kept to evidence why the highest scoring acceptable tender was not considered the most advantageous tender.

Band D Contracts – Above Threshold

5.13 For any contract of a value that is Above Threshold, tenders shall be sought in accordance with the relevant legislation.

5.14 The provisions of these CPR shall continue to apply to such a contract only to the extent that they do not conflict with the provisions of the legislation.

6 Contract Documentation and Standard Contract Conditions

6.1 The provisions of any statute or regulation take precedence over anything said in these CPR, and all contracts entered into by the Council must comply with all those requirements.

6.2 The Council's standard conditions of contract are to be employed for procurements unless:

(a) leasing arrangements are involved; or

(b) the requirement is particularly complex; and/or

(c) the use of standard conditions is considered inappropriate by Legal Services.

6.3 If a supplier requires the use of their terms and conditions in order to contract, the advice of Legal Services **must** be sought.

6.4 In all procurements where the Total Contract Value is expected to be above £50,000, the advice of Legal Services **must** be sought on the preparation of the terms and conditions for the contract.

6.5 Terms and conditions **must** be published and made available to bidders as part of the tender pack, therefore they **must** be completed before the publication of a procurement.

6.6 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.

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

7 Advertising

7.1 The Council uses the e-Sourcing Portal to advertise and run formal requests for quote, mini competitions, call offs and tenders, as well as to operate the Council's Contract Register. The Portal allows opportunities to either be openly advertised,

where any appropriately registered supplier may express interest (advertised), or for quotes / tenders to be sent to specifically nominated suppliers only (by invitation).

7.2 All opportunities with a total estimated whole life contract value Above Threshold **must** be openly advertised. Below this figure opportunities may be advertised at the discretion of the Officer, based upon market knowledge and the need to generate market interest. In such circumstances, any contracts advertised become a Covered Procurement despite being Below Threshold.

7.3 Whatever the value, where the Council advertises contracts using the Portal the opportunity **must** also be advertised on the government's Contracts Finder website if the opportunity will exceed £25,000 in value and release the relevant Notices as per section 6.

7.4 All suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions.
7.5 Where advertising is preferred, but not required by these CPR, if the Officer chooses not to advertise, they **must** record the reasons for their decision in the procurement plan report.

8 Evaluating Bids

8.1 Care should be taken to evaluate bids using the most advantageous tender rather than simply the unit price. The lowest priced tender may not offer the best value for money over the life of the contact, taking into account price, quality, social value and environmental considerations.

8.2 Procurement evaluation criteria and how the Council will apply them must be published to bidders as part of the procurement documents.

8.3 Should a submitted bid appear to be priced too low to deliver the required quality of service, this should be clarified. The bidder should be challenged as to how they can deliver the expected quality and requirements at that price. Should this show that the proposed service is indeed unsustainable, the tender may be rejected. Before any bid is rejected on this basis, Officers **must** take advice from the Council's Procurement Officer.

8.4 Where it has been identified that a bidder may have made a genuine error in their bid, the Council may afford that bidder an opportunity to correct their error. Such communications will be relayed by the Council's Procurement Officer.

8.5 The results of the tender evaluation process must be recorded in writing, including scores and rationales of individual evaluators, as well as final scores and rationales following moderation.

8.6 The Council is not obliged to accept any tender, however, if the Officer chooses not to award to any bidder, then they must publish a procurement termination notice.

9 CPR Suspension and Exemptions

9.1 Only Cabinet has the authority to fully suspend these CPR.

9.2 If there are special circumstances to waive or suspend any section or sections of CPR, the following exemptions may be granted, depending on contract value:

- for all contracts less than £50,000, a Head of Service or above may approve an exemption;

- for all contracts £50,000 and above that do not meet the Key Decision threshold, Statutory Officers may approve an exemption upon receipt of an exemption form; and

- for contracts that do meet the Key Decision threshold, Cabinet may approve an exemption.

9.3 In all cases where the exemption is for a contract valued at £50,000 or above, an exemption form must be completed, which must include advice from Legal Services and Finance.

9.4 Exemptions granted by Statutory Officers will be subsequently reported to Cabinet.

9.5 Acceptable reasons for an exemption for a Below Threshold Contract 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 the legislation.

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

10 Framework Agreements, Dynamic Markets & Open Frameworks

10.1 The intention behind a framework agreement is to streamline the competitive process by enabling Officers, at any time during the term of the framework, to buy works, services, or goods by placing an order (without reopening competition) or by holding a mini tender process (competed services), without having to tender each individual purchase. Multiple orders or call-off contracts can be made through the framework.

10.2 The following principles should be followed when deciding whether to buy works, services or goods under an existing framework agreement established by another body:

• There should be evidence that the framework can be accessed by the Council;

• For competed services, the framework must provide for the holding of a mini competition;

• For direct award, the framework must clearly identify the criteria for selecting, in order of priority, the contractor to be first, and subsequently, offered the order;

• The framework should offer value for money;

• The technical aspects and quality standards of the framework must meet the Council's requirements.

10.3 The use of a framework agreement **must** be approved as part of the procurement plan report.

11 Contracts

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.

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.

12 Contract Extensions and Modifications

12.1 If the original contract includes an option to extend the initial term and the authority to spend and enter into the contract was given for the whole life contract value, the Officer that approved entering into the contract may authorise the extension period.

12.2 If the authority to enter into the contract was not given for the extension period, authority to extend the initial term **must** be obtained before the contract is extended. The value of the extension period will determine who can authorise the extension based on the thresholds at rule 5.

12.3 Requests to modify or vary an Above Threshold contract **must** be made in writing to the Council's Procurement Officer **before** the modification is sent for approval by the relevant Strategic Director. Legal advice must be sought on all modifications or variations to Above Threshold contracts.

12.4 Where a modification or variation will result in a Below Threshold contract becoming Above Threshold due to additional scope or value, it **must** be treated as if Above Threshold for the purposes of this rule 16.

12.5 Requests to modify or vary a Below Threshold contract may be approved and signed in accordance with the thresholds at rule 5.

12.6 Where a modification or variation occurs during the life of the contract that cannot be met from within existing budgetary provision, the Officer follow the requirements of the Financial Procedure Rules.

12.7 If the variation or extension of the contract does not fall within the approved contract value authorised in the relevant Contract Award Report then officers should proceed as in the case of a **new procurement** and follow the procedures within these CPR and accompanying guidance, as determined by the total contract value inclusive of the modification or variation.

12.8 Following completion of a contract modification, the contract lead **must** update the Council's Contract Register and a contract modification notice should be published where required in accordance with legislative requirements.

12.9 Regardless of other factors, if a variation or extension takes the Total Contract Value above £100,000 then this will need to be recorded as a Key Decision, unless advised otherwise by the Monitoring Officer.

13 Contract Management

13.1 Each contract must have a named contract manager (the contract lead).

13.2 For each contract Above Threshold, the contract lead will work jointly with the Council's Procurement Officer or other designated procurement professional during the procurement process.

13.3 As part of the procurement process the contract lead and the Council's Procurement Officer will agree the contract management measures that are appropriate for the contract. This will include, but not be limited to:

- performance measurement / management;
- review meetings;
- risk management; and
- governance and escalation.

13.4 The approach to contract management shall be proportionate, with management activity linked to contract risk and value.

13.5 A contract performance notice will be published annually, where required to by legislation.

13.6 The contract lead must maintain a contract file containing all details, documentation, reports, records and decisions related to a procurement and the contract awarded.

13.7 In the event of an investigation by the Procurement Investigation Agency, officers **must** co-operate fully with investigators and provide any documents or records requested through the means defined by the investigators, as well as attending interviews as required.

DEFINITIONS

In these CPR, the following expressions have the following meanings:

1. Above Threshold: Means the contract value is above the value for which the Procurement Act 2023 and Procurement Regulations 2024 **fully** apply.

2. Below Threshold: Means the contract value is below the value for which the Procurement Act 2023 and Procurement Regulations 2024 **fully** apply.

   The Threshold values are updated every 2 years by the UK government; therefore, Officers should consult the Council's Procurement Officer if unsure which Threshold applies to the contract.

3. Covered Procurement: Any Above Threshold procurement where the full Procurement Act 2023 applies, or any Below Threshold procurement where the Council has made the Procurement Act 2023 apply by its actions, e.g., advertising a Below Threshold procurement.

4. E-Sourcing Portal: a web-based system which the Council currently uses to advertise and run requests for quotes and tenders and publish contracts.

5. Social Value: The Public Services (Social Value) Act 2012 imposes a duty on the Council to consider at the pre-procurement stage of any service contract how the services proposed to be procured may improve the economic, social, and environmental well-being of the District and how the Council may secure that improvement as part of the procurement process.

6. Subsidy Control: as set out in the Subsidy Control Act 2022, this is a set of legal conditions within which local authorities can legally provide subsidies, i.e., any form of financial assistance whether directly or indirectly to an organisation that is engaged in an economic activity. This could include, for example, a cash payment (grant), a loan with below market interest or the free use of equipment or office space. Outside of these conditions the Council may not provide subsidies to organisations without potentially triggering penalties or prejudicing contracts.

7. Total contract value: the cost of the contract over its full duration, inclusive of VAT, including the value of any extension periods. If the precise value isn't known an estimate can be made, but it must be the most accurate estimate possible that can be evidenced based upon data available at the time of the estimate.

8. VCSE: Voluntary Community and Social Enterprise, the voluntary or non-profit sector of the economy.

Value for money: the optimum combination of whole life costs and quality (or fitness for purpose) of the supplies, works or services to meet the Council's requirement.

SECTION H – OFFICER EMPLOYMENT PROCEDURE RULES

Rule

1. Introduction

2. Recruitment of Head of Paid Service and Chief Officers

3. Appointment of Head of Paid Service

4. Dismissal of Head of Paid Service, the Monitoring Officer and the S151 Officer

5 Appointment and Dismissal of Chief Officers

6. Other Officers

7. Consultation with Cabinet Members

8. Procedure for Dismissal of Head of Paid Service, the Monitoring Officer and the S151 Officer

9. Disciplinary Action – Head of Paid Service and Chief Officers

10. No Directions to be given to Persons Making Appointments or Taking Disciplinary Action

SECTION H – OFFICER EMPLOYMENT PROCEDURE RULES

1. Introduction

1.1 Subject to Rule 1.2 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council by the **Head of Paid Service** or by an Officer nominated by him/her.

1.2 Rule 1.1 shall not apply to the appointment or dismissal of the Statutory Officers or the appointment of Strategic Directors.

1.3 Permanent appointment shall be upon a contract which, unless terminated earlier by either party, would continue for a period of more than 18 months. Interim appointment shall be upon terms which will terminate before the expiry of a period of no more than 18 months, unless extended with the approval of an **Appointments Sub-Committee** (for Statutory Officers) or the **Chief Executive** (for all other Officers).

1.4 Appointment shall include designation as **Head of Paid Service**, **S151 Officer** and **Monitoring Officer**.

Declarations

1.5 Any candidate for any designation or appointment with the Council who knows that he/she is related to a **Councillor** or employee of the Council shall, when making an application, disclose, in writing, that relationship to the Head of Human Resources and Organisation Development. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.

1.6 Every **Councillor** and employee of the Council shall disclose to the Head of Human Resources and Organisation Development any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Council.

1.7 Persons shall be deemed to be related to a candidate or Officer if they are a spouse, civil partner, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, step-parent stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons. This list is indicative, and a judgement will be made based on the closeness of the relationship.

Seeking support for appointment

1.8 Any candidate for designation or appointment who directly or indirectly seeks the support of a **Councillor** or Officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any

designation or appointment with the Council and shall not give a reference (oral or written) for a candidate for employment by the Council.

1.9 No candidate so related to a Councillor or **Senior Officer** will be appointed without the authority of another **Senior Officer** without such connection.

1.10 No Councillor will seek or canvass support for any person for any appointment with the Council.

2. Recruitment of Officers

2.1 Where the Council proposes to appoint an **Officer**, the **Head of Paid Service** or an officer nominated by him/her will:

2.1.1 draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed;

2.1.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

2.1.3 make arrangements for a copy of the statement mentioned in 2.2.1 to be sent to any person on request.

2.2 Where the Council proposes to appoint the **Head of Paid Service** (other than on an acting basis) the Head of Human Resources and Organisational Development will make arrangements in connection with the appointment.

3. Appointment of Statutory Officers

3.1 Where the Council proposes to a **Statutory Officer** or a Strategic Director, the Head of Human Resources and Organisational Development will oversee the arrangements for filling the vacancy.

3.2 The **Full Council** will approve the appointment of the **Head of Paid Service** following the recommendation of an Appointments Sub-Committee, and the Full Council must approve the appointment before an offer of appointment is made.

3.3 The **Full Council** may only make or approve the appointment of the **Head of Paid Service** where no well-founded objection has been made by any **Cabinet Member**.

3.4 Where the **Full Council** does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

3.5 Statutory Officers other than the **Head of Paid Service** will be appointed by an Appointments Sub-Committee following a recommendation from the Head of Paid Service.

4. Dismissal of Statutory Officers

4.1 Dismissal of a **Statutory Officer** (the **Head of Paid Service**, the **Monitoring Officer** and the **s151 Officer**) will be dealt with in accordance with the Council's agreed policy. The requirements of the Local Authorities (**Standing Orders**) (England) Regulations 2001 (as amended) and the Model Disciplinary Procedure and Guidance as set out in the JNC Conditions of Service Handbook will be followed in this regard.

4.2 The dismissal of a **Statutory Officer** must be approved by Full Council, following the recommendation of such dismissal by an Investigatory and Disciplinary Sub-Committee.

4.3 The Council will consult with **Independent Persons** throughout the process.

4.4 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the **Full Council** must take into account, in particular;

4.4.1 any advice, views or recommendations of the **Independent Persons**;

4.4.2 the conclusions of any investigation into the proposed dismissal; and

4.4.3 any **Representations** from the relevant Officer.

4.5 **Full Council** must approve the dismissal before notice of dismissal is given.

5. Other Officers

5.1 The functions of dismissal and taking disciplinary action against any Officer other than a **Statutory Officer** are the responsibility of the **Head of Paid Service** or his/her nominee, and may not be discharged by **Councillors**. This is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001.

5.2 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as amended by local agreement and adopted from time to time.

6. Disciplinary Action - Head of Paid Service and Chief Officers

6.1 Subject to Rule 4 above, an Investigatory and Disciplinary Sub-Committee has delegated authority to take disciplinary action against a Statutory Officer and may recommend to Council dismissal of a Statutory Officer on disciplinary grounds

6.2 Any disciplinary action must be taken in accordance with the Model Disciplinary Procedure in the JNC Handbook for Chief Executives.

6.3 The Monitoring Officer in consultation with the Head of Human Resources and Organisational Development shall be responsible for determining what constitutes an

allegation for consideration by an Investigation and Disciplinary Sub-Committee under the Model Disciplinary Procedure. In reach such a determination the Monitoring Officer may conduct preliminary enquiries and the following may be considered:

- Whether the allegation is clearly unfounded, or trivial
- Whether the allegation is a complaint about a service rather than a Statutory Officer;
- Whether the allegation is a grievance that is best dealt with under the Council's grievance procedure, sickness absence procedure or performance management procedure;
- Whether the allegation is serious and may therefore warrant investigation.

6.4 Where allegations involve the Monitoring Officer, the Head of Paid Service, in consultation with the Head of Human Resources and Organisational Development, shall determine what constitutes an allegation for consideration by an Investigation and Disciplinary Sub-Committee under the Model Disciplinary Procedure.

6.5 **Investigations Committee** meetings shall be convened by the **Monitoring Officer** when required. The Council will keep records of all allegations and investigations.

7. No Directions to be Given to Persons Making Appointments or Taking Disciplinary Action

7.1 Save as specifically provided for elsewhere in these Procedure Rules, neither the Full Council nor the Cabinet or its Committees meeting, or an individual Councillor, nor any other person shall directly or indirectly:

7.1.1 give directions to any person taking any step in relation to an

appointment to a post in the paid service of the Council as to the identity of the person to be appointed;

7.1.2 give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or

7.1.3 otherwise interfere with the making of such an appointment or the taking of disciplinary action

SECTION I - COUNCILLORS' SUBSTITUTE SCHEME PROCEDURE RULES

Rule

1. Introduction

2. Application

3. Nomination and Appointment

4. Attendance

5. Voting

SECTION I - COUNCILLORS' SUBSTITUTE SCHEME PROCEDURE RULES

1. **Introduction**

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

2. **Application**

2.1. The scheme will apply to all **Committees**, **Sub-Committees** and working groups of the Council except:

2.1.1. the **Cabinet** and any **Sub-Committee** established by the Cabinet;

2.1.2. the **Audit and Governance Committee** and any **Sub-Committee** established by the Audit and Governance Committee;

2.1.3. **Licensing Sub-Committees** and **Hackney Carriage and Private Hire Sub-Committees**

3. **Nomination and Appointment**

3.1. The **Council**, when establishing appointments to **Committees** and working groups of the Council, will also appoint substitutes for **Councillors** to those bodies on the nomination of the political **Group Leaders**. Substitutes to other working groups will be appointed by the establishing body, as appropriate. The substitutes themselves must also be Councillors.

3.2. The number of substitutes appointed will relate to the number of seats that each **Political Group** or grouping has on the body concerned as follows:

3.2.1. more than five seats - six substitutes

3.2.2. two to five seats - four substitutes

3.2.3. one seat - two substitute.

3.3. On appointment, it shall be the responsibility of a substitute Councillor to keep up to date with the business of the body to which he/she has been appointed to ensure effective decision making.

3.4. **Cabinet Members** may not substitute for **Scrutiny Committee** Members.

4. **Attendance**

4.1. It is the responsibility of the **Councillor** who cannot attend the relevant meeting or take part in the relevant part of the **Planning Committee** ("the Appointor") to arrange for an appointed substitute to attend when he/she is unable to do so, and inform their party Group Leader, **Chair** and officers of the substitute Councillor and date of the meeting.

4.2. Only the appointed substitute **Councillor** of a body may serve as a member of that body.

4.3. A **Councillor** who is acting as a substitute for a usual Councillor who is the **Chair** or **Deputy Chair** of the Committee will not, by virtue of that substitution, be entitled to act in that capacity.

4.4. A substitute may only serve as a **Councillor** at any meeting at which the appointor has nominated them, and (with the exception of the **Planning Committee**) where the appointor intends to be absent for the entire meeting. A substitute may not be appointed for specific items and no substitutions may be made during the course of the meeting, except at Planning Committee.

4.5. In the case of Boards, **Committees** and **Sub-Committees**, written notice of the substitution must be received by the Democratic and Support Services Team Manager no later than 5pm before the last clear day before the meeting. (For example, if a meeting is held on a Thursday, notice must be given by 5pm on Tuesday, thus allowing one clear day between.) In the case of other bodies, e.g. working groups, similar notice is helpful but not obligatory. A form is available from Democratic Services for this purpose.

4.6. In the event of illness or other circumstances beyond the Councillor's control, he/she may appoint a substitute at short notice at the discretion of the **Chair** of the relevant Committee. It is the responsibility of the appointing Councillor to seek the Chair's approval in such an instance.

4.7. Notice of the substitution must include the name of the appointer, the substitute, details of the meeting and, where the substitution is only occurring for specific items at **Planning Committee**, details of those items.

4.8. Where there is sufficient time, a copy of the **Agenda** and papers for the meeting concerned, and details of any pre-briefs and site visit arrangements, will be sent to the substitute Councillor upon receipt of the notice, otherwise they will be passed over on the day of the meeting. Councillors are reminded that where they are able to pass on their own papers to the substitute, it is preferable to do so in the case of short notice.

4.9. At the commencement of a meeting, the relevant item at **Planning Committee** or, if appropriate, on his/her arrival if the meeting has started, the appointed substitute will advise the **Chair** and those present that he/she is attending as a substitute **Councillor**.

4.10. If the appointor attends a meeting after arranging for a substitute **Councillor** to attend, the substitute Councillor will continue as the voting Councillor of the Committee. If a substitute, however, has not arrived by the commencement of the meeting and the original appointed Councillor is present, then the appointed Councillor will continue as the voting Councillor of the Committee unless otherwise prohibited from taking part in a meeting or an item at **Planning Committee**. Both parties must not vote at the same meeting.

4.11. Where a substitute **Councillor** has attended a meeting which is adjourned to a subsequent date, the appointor may attend the reconvened meeting as the voting Councillor, provided that

4.11.1. the meeting is not part way through the consideration of an item or issue; and

4.11.2. The appointor is not otherwise prohibited from taking part in the meeting or an item at **Planning Committee**.

4.12. Any **Councillor** attending as the appointed substitute will be entitled to travelling and subsistence allowance in accordance with the scheme approved by the Council.

4.13. When a **Councillor** attends a meeting as a substitute for a usual Councillor, the **Minutes** and any report of that meeting will include the name of the substitute, in alphabetical order, amongst those attending the meeting, followed by "(substitute for …….)" indicating the name of the usual Councillor.

5. **Voting**

5.1. The substitute **Councillor** will be entitled to speak and vote in his/her own capacity and is not constrained by the views of the Councillor for whom he/she is substituting.

5.2. No substitute **Councillor** for the **Licensing Committee**, **Planning Committee** or the Appeals Committee may vote unless he/she has been present for the entire consideration of the item under discussion at that meeting.

5.3. The substitute Councillor of the **Licensing Committee** and **Planning Committee** must comply with the Local Licensing and Planning codes of conduct and the substitute Councillors of these Committees must have had the necessary training before first acting as a substitute.

Part 4
Codes and Protocols

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SECTION A – COUNCILLORS' CODE OF CONDUCT

BACKGROUND TO THIS CODE OF CONDUCT

This section sets out general interpretation and background to the **Code of Conduct**, including definitions used within the code, the purpose of the code, the principles the code is based on and when the code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All councils are required to have a local **Councillors' Code of Conduct**.

Definitions

For the purposes of this **Code of Conduct**, a "Councillor" means a person elected to represent their Ward on the Council or a co-opted member of the Council.

A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

a) is a member of any Committee or **Sub-Committee** of the authority, or;
b) is a member of, and represents the authority on, any **Joint Committee** or joint Sub-Committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee".

Purpose of the Code of Conduct

The purpose of this **Code of Conduct** is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Officers and the reputation of the council and local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillors and local government.

General principles of Councillor conduct

Everyone in public office at all levels; i.e. all who serve the public or deliver public services, including ministers, civil servants, Councillors and Officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles, which are set out in Appendix A.

Building on these principles, the following general principles have been developed specifically for the role of Councillor and these principles underpin the obligations in the **Code of Conduct** that follows.

In accordance with the public trust placed in you, you should:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking your role you should:

- impartially exercise your responsibilities in the interests of the local community
- do not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence;
- ensure that public resources are used prudently in accordance with your Council's requirements and in the public interest; and
- uphold high standards of conduct, show leadership at all times and not misuse your position when acting as a Councillor.

Application of the Code of Conduct

This **Code of Conduct** applies to you as a Councillor. It applies as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This **Code of Conduct** applies to you when you:

- act in your capacity as a Councillor; and
- conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council:

- on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- on any other body, you must, when acting for that other body, comply with this **Code of Conduct**, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication

- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Your **Monitoring Officer** has statutory responsibility for the implementation of the **Code of Conduct**. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct which you are unsure of.

THE CODE OF CONDUCT

Standards of Councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct be perceived to fall short of these standards or the Nolan Principles, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

1.1 I will treat other Councillors and members of the public with respect.

1.2 I will treat council Officers, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. **Debate** and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and notify them to the Council, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the **Councillors' Code of Conduct**, and Officers where concerns should be raised in line with the Council's **Protocol on Councillor / Officer Relations**.

2. Bullying, harassment and discrimination

As a Councillor:

2.1 I will not bully any person.

2.2 I will not harass any person.

2.3 I will promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of Officers of the Council

As a Councillor:

3.1 I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the council.

Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question Officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and Access to Information

As a Councillor:

4.1 I will not disclose information:

- **a. given to me in confidence by anyone**
- **b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - **i. I have received the consent of a person authorised to give it;**
  - **ii. I am required by law to do so;**

iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**

iv. **the disclosure is:**

1. **reasonable and in the public interest; and**
2. **made in good faith and in compliance with the reasonable requirements of the Council; and**
3. **I have consulted the Monitoring Officer prior to its release.**

4.2 I will not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I will not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor:

5.1 I will not bring my role or Council into disrepute or conduct myself in a manner which could reasonably be regarded as bringing my role or Council into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or the Council and may lower the public's confidence in your or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the Council and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this **Code of Conduct**.

6. Use of position

As a Councillor:

6.1 I will not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

6.2 I will not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

Your position as a Councillor provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

As a Councillor you need to be able to act impartially in the exercise of your responsibilities and ensure that you make decisions in the interests of the local community. You should therefore avoid any financial or other obligations to outside individuals or organisations whose influence may prevent you from acting impartially.

7. Use of Council resources and facilities

As a Councillor:

7.1 I will not misuse council resources.

7.2 I will, when using the resources of the Council or authorising their use by others:

a. act in accordance with the Council's requirements; and

b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, ipads, dongles computers etc.
- transport
- access and use of council buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the council's own policies regarding their use.

8. Making Decisions

As a Councillor:

8.1 When reaching decisions on any matter I will have regard to any relevant advice provided to me by Officers and professional third parties.

8.2 I will give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

8.3 I will make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit

8.4 I will be as open as possible about my decisions and actions and the decisions and actions of the authority and will be prepared to give reasons for those decisions and actions, notwithstanding my other obligations under this Code.

To assist Councillors in acting lawfully, Officers may give advice from time to time. It is important that as a Councillor you have due regard to any such advice given and consider it fully, even if (for good reason) you may choose not to follow that advice.

In making any decisions, giving reasons helps instil public confidence in the role of the Councillor and can be a legal requirement in certain situations. You should ensure that you always give reasons in accordance with any specific requirements and having regard to the benefits of transparency generally.

As a Councillor you must act impartially and not improperly seek to confer an advantage, or disadvantage, on any person. It is therefore important that when you are making decisions that involve choosing one party over another, that you do so based on independent merit. You should be open and transparent about the decisions that you have made and the actions of the authority.

9. Complying with the Code of Conduct

As a Councillor:

9.1 I will undertake Code of Conduct training provided by my Council.

9.2 I will cooperate with any Code of Conduct investigation and/or determination.

9.3 I will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

9.4 I will comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the council's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting Your reputation and the Reputation of the Council

10. Interests

As a Councillor:

10.1 I will register and disclose my interests in accordance with the provisions set out in Appendix B

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a **Register of Interests** of Councillors.

You need to register your interests so that the public, Council employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix B, is a criminal offence under the Localism Act 2011.

The provisions of this paragraph 10.1 shall be applied in such a manner as to recognise that this **Code of Conduct** 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 an interest which might lead to bias in exceptional circumstances.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer, or from the clerk in the case of town and parish councils.

11. Gifts and Hospitality

As a Councillor:

11.1 I will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

11.2 I will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

11.3 I will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.

In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact the Monitoring Officer or Clerk for guidance.

12. Dispensations

As a Councillor:

12.1 I may request a Dispensation from the Monitoring Officer for one meeting only.

12.2 I must make the request in writing detailing what my interest is, why the Dispensation is required and for what meeting.

12.3 I must make my request five days prior to the meeting at which the Dispensation is required.

12.4 If I wish to make a further request for Dispensation, this must be made to the Audit and Governance Committee.

12.5 I will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.

Appendix B sets out the situations where a Councillor's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Councillor to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a **Dispensation** from the Monitoring Officer.

Appendices

Appendix A – The Seven Principles of Public Life The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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**.

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**.

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**.

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;

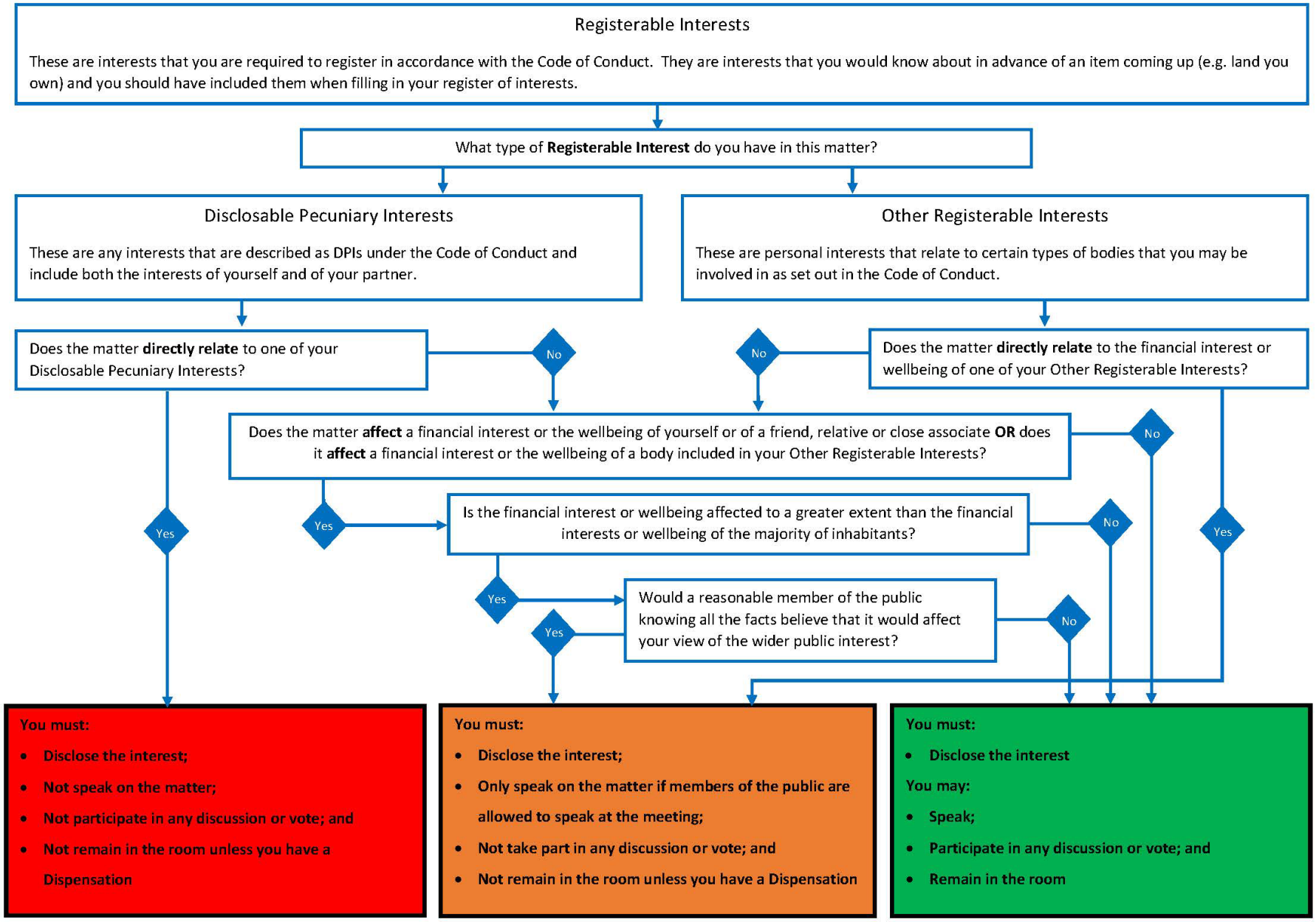
you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a **Dispensation**.

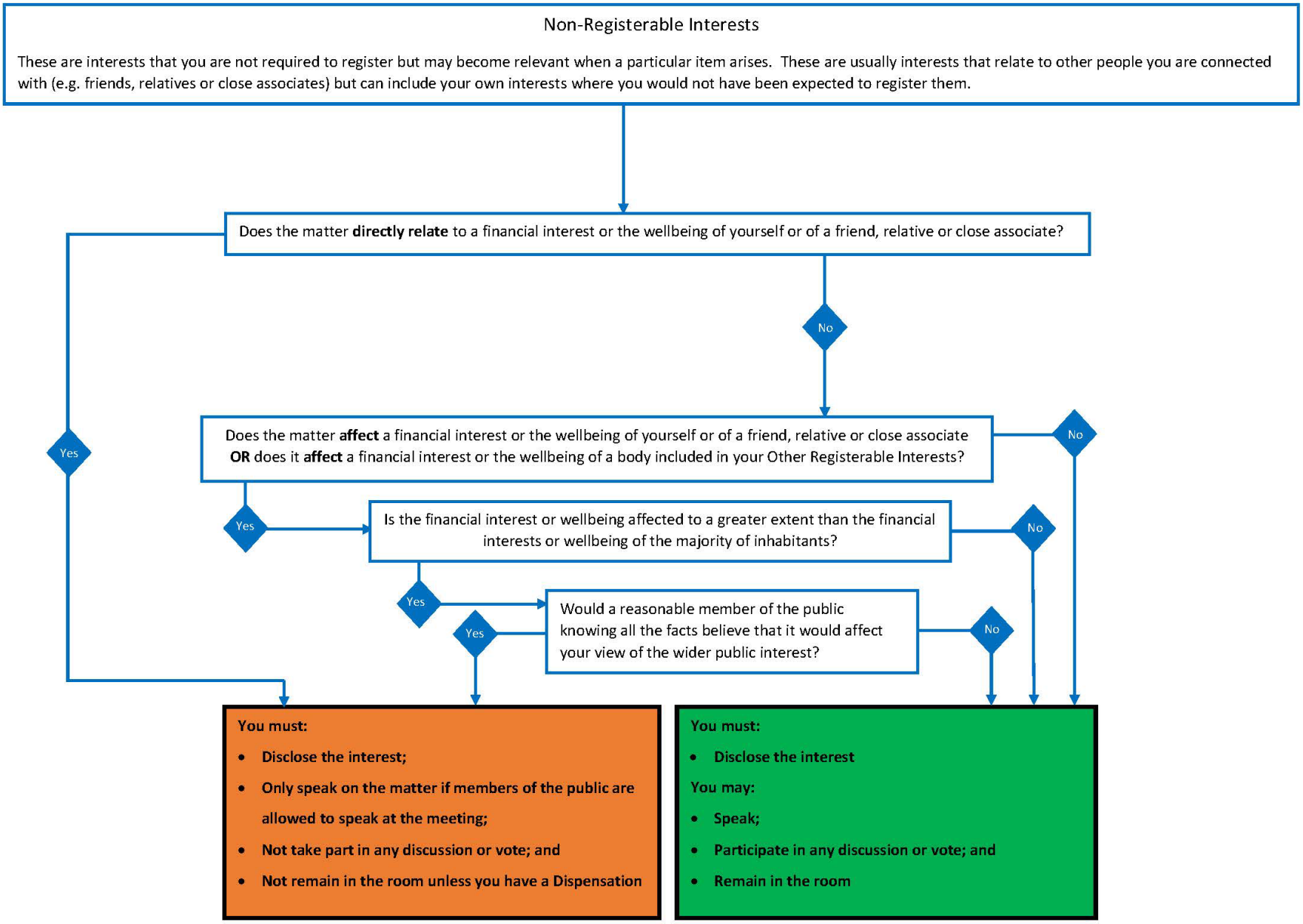
3.3.4. Where a matter under paragraph 3.3.2 does not **affect** the financial interest or wellbeing or body:

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.


Registerable Interests
These are interests that you are required to register in accordance with the Code of Conduct. They are interests that you would know about in advance of an item coming up (e.g. land you own) and you should have included them when filling in your register of interests.
What type of Registerable Interest do you have in this matter?
Disclosable Pecuniary Interests
These are any interests that are described as DPIs under the Code of Conduct and include both the interests of yourself and of your partner.
Other Registerable Interests
These are personal interests that relate to certain types of bodies that you may be involved in as set out in the Code of Conduct.
Does the matter directly relate to one of your Disclosable Pecuniary Interests?
No
No
Does the matter directly relate to the financial interest or wellbeing of one of your Other Registerable Interests?
Does the matter affect a financial interest or the wellbeing of yourself or of a friend, relative or close associate OR does it affect a financial interest or the wellbeing of a body included in your Other Registerable Interests?
No
Yes
Yes
Is the financial interest or wellbeing affected to a greater extent than the financial interests or wellbeing of the majority of inhabitants?
No
Yes
Yes
Would a reasonable member of the public knowing all the facts believe that it would affect your view of the wider public interest?
No
Yes
You must:
Disclose the interest;
Not speak on the matter;
Not participate in any discussion or vote; and
Not remain in the room unless you have a Dispensation
You must:
Disclose the interest;
Only speak on the matter if members of the public are allowed to speak at the meeting;
Not take part in any discussion or vote; and
Not remain in the room unless you have a Dispensation
You must:
Disclose the interest
You may:
Speak;
Participate in any discussion or vote; and
Remain in the room


Non-Registerable Interests
These are interests that you are not required to register but may become relevant when a particular item arises. These are usually interests that relate to other people you are connected with (e.g. friends, relatives or close associates) but can include your own interests where you would not have been expected to register them.
Does the matter directly relate to a financial interest or the wellbeing of yourself or of a friend, relative or close associate?
No
Yes
Does the matter affect a financial interest or the wellbeing of yourself or of a friend, relative or close associate OR does it affect a financial interest or the wellbeing of a body included in your Other Registerable Interests?
No
Yes
Is the financial interest or wellbeing affected to a greater extent than the financial interests or wellbeing of the majority of inhabitants?
No
Yes
Would a reasonable member of the public knowing all the facts believe that it would affect your view of the wider public interest?
Yes
No
You must:
Disclose the interest;
Only speak on the matter if members of the public are allowed to speak at the meeting;
Not take part in any discussion or vote; and
Not remain in the room unless you have a Dispensation
You must:
Disclose the interest
You may:
Speak;
Participate in any discussion or vote; and
Remain in the room

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the **Code of Conduct** applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the **Independent Person**
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both Councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two **Independent Persons**.

Best practice 8: An **Independent Person** should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible Officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a Local Authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the **Independent Person**, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A Local Authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish member towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: **Monitoring Officer**s' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A Local Authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the **Monitoring Officer** from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their **Annual Governance Statement** and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board **Agenda**s and **Minutes** and annual reports in an accessible place.

Best practice 15: **Senior Officers** should meet regularly with political **Group Leaders** or group whips to discuss standards issues.

The LGA has committed to reviewing its Model Code on an annual basis to ensure it is still fit for purpose.

SECTION B– PROTOCOL ON COUNCILLOR / OFFICER RELATIONS

1 - Introduction

2 - Role of Councillors

3 - Role of Officers

4 - Respect and Courtesy

5 - Provision of Advice and Information

6 - Confidentiality

7 - Provision of Support Services to Councillors

8 - Correspondence

9 - The Council's Role as Employer

10 – Political Activity

11 – Conclusion

12 - Unresolved Issues and Amendments to the Protocol

1. INTRODUCTION

1.1 The purpose of this Protocol is to guide **Councillors** and **Officers** of North West Leicestershire District Council ("the Council") in their relations with one another.

1.2 Given the variety and complexity of such relations, the Protocol does not seek to beprescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.

1.3 The Protocol is a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.

1.4 It also seeks to reflect the principles underlying the respective rules of conduct that apply to **Councillors** and Officer**s**. Its purpose, therefore, is to enhance and maintainthe integrity (real and perceived) of the Council by demanding very high standards ofpersonal conduct.

1.5 **Councillors** and **Officers** are servants of the public and they depend on each otherin carrying out the work of the Council. Councillors are responsible to the electorate and serve only so long as their term of office lasts, while Officers are responsible to the Council. Their job is to give advice to the Council, as well as to individual Councillors, and to carry out the Council's work under the direction and control of theCouncil and its various bodies.

1.6 Mutual respect between **Councillors** and **Officers** is essential to good local government. However, close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

1.7 The relationship has to function without compromising the ultimate responsibilities of **Officers** to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers legitimately provide to **Councillors**. The Protocol seeks to set a framework that assists the working relationships between Councillors and Officers.

1.8 The Protocol also sets out what should happen on the rare occasions when things go wrong. All **Councillors** and **Officers** should abide by this protocol. Political **Group Leaders** in respect of Councillors, and the **Chief Executive** and **Monitoring Officer** in respect of **Officers**, are responsible for ensuring the protocol is upheld.

1.9 This Protocol should be read and understood alongside relevant legislation and the respective Codes of Conduct. This would include the **Councillors' Code of Conduct**, the **Officers' Code of Conduct**, any social media policy etc. If any questions arise from this protocol, advice should be sought from the **Chief Executive** or **Monitoring Officer**.

1.10 The Council operates a zero tolerance policy to bullying and harassment.

1. ROLE OF COUNCILLORS

2.1 **Councillors** undertake many different roles in that they:

2.1.1 provide political leadership, expressing political values and supporting the policies of the political party to which they belong (if any);

2.1.2 represent their ward and are advocates for the residents who live in the area;

2.1.3 represent the Council externally, including being involved in active partnerships with other organisations, as community leaders;

2.1.4 contribute to the decisions taken in **Full Council** and in various bodies on which they serve, as well as **Committees**, outside bodies and organisations to which they are nominated by the Council;

2.1.5 determine and review policy and strategy;

2.1.6 monitor and review the performance of the Council in policy implementationand service quality;

2.1.7 are involved in quasi-judicial work through their membership of **Regulatory Committees.**

2.2 **Councillors** are not authorised to initiate certify or negotiate financial transactions or commercial arrangements. Neither are **Councillors** authorised to give assurances or promises to people or businesses save to the extent that they are informing suchpeople or businesses of formally agreed Council decisions.

2.3 It is not the responsibility of **Councillors** to involve themselves in the day-to-day management of the Council, its **Officers** or its services. They should not seek to giveinstructions outside their areas of responsibility or **Terms of Reference** of their respective Committee.

2.4 **Councillors** are elected to make decisions in the interests of the **District** and to represent their constituents. Under the Council's executive arrangements, Councillors perform roles on the **Cabinet**, the **Scrutiny Committees** and on other **Committees** and **Sub-Committees** in addition to being Councillors. Each **Cabinet Member** is a **Portfolio Holder**, responsible for particular areas of activity. Some Councillors represent the Council on outside bodies.

Cabinet Members and all Chairs and Deputy Chairs

2.5 **Cabinet Members** and all **Chair**s and **Deputy Chairs** have additional

responsibilities, entailing different relationships and more regular contact with Officers. They still must respect the impartiality of Officers, and must not ask them toundertake work of a party political nature or that could prejudice their impartiality.

2. ROLE OF OFFICERS

3.1 **Officers** are employed by and serve the whole Council. They advise the Council, its **Committees** and **Sub-Committees** and the **Cabinet**. They implement decisions of the Council, the Cabinet and decision making groups. Officers also make decisions under powers delegated to them.

3.2 **Officers** have the following main roles:

3.2.1 managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services;

3.2.2 providing advice to the Council and its various bodies and to individual **Councillors** in respect of the services provided;

3.2.3 initiating policy proposals; and

3.2.4 implementing agreed policy, whilst ensuring that the Council always acts in a lawful manner.

3.3 Some **Officers** are authorised to initiate, certify or negotiate financial transactions or commercial arrangements, subject in certain cases to the need to obtain formal Councillor approval.

3.4 Certain **Officers** have responsibilities in law over and above their obligations to the Council and Councillors. These are known as **Statutory Officers** and include the **Head of Paid Service**, **Monitoring Officer** and **S151 Officer**. **Councillors** must respect these responsibilities and not obstruct or victimise Officers in the discharge of them.

3.5 **Officers** are responsible to their line manager and, ultimately their **Team Manager**/**Head of Service**. Heads of Service and the **Strategic Directors** are accountable to the **Chief Executive**. The Chief Executive is accountable to the **Council**.

3.6 The **Strategic Directors**, **Heads of Service** and **Team Manager**s have responsibility for delivering their respective services in accordance with the Council's Policies and the provisions of the **Constitution**.

3. RESPECT AND COURTESY

4.1 For the effective conduct of Council business there must be mutual respect, trust andcourtesy in all meetings and contacts, both formal and informal,

between **Councillors** and **Officers**. This plays a very important part in the Council's reputationand how it is seen in public. It is very important that both **Councillors** and Officers remember their respective obligations to enhance the Council's reputation and to dowhat they can to avoid criticism of other **Councillors** or other **Officers**, in public places.

4.2 A **Councillor** who is unhappy about the actions taken by, or conduct of, an Officer should:

4.2.1 avoid personal attacks on, or abuse of, the **Officer** at all times;

4.2.2 ensure that any criticism is well founded and constructive;

4.2.3 never make a criticism in public, and

4.2.4 take up the concern with the **Strategic Director** to whom the **Officer** ultimatelyreports or with the **Chief Executive** where it involves a Strategic Director.

4.3 **Undue Pressure**

4.3.1 It is important in any dealings between **Councillors** and **Officers** that neithershould seek to take unfair advantage of their position.

4.3.2 In their dealings with **Officers** (especially junior Officers) **Councillors** need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Councillors hold seniorpositions on the Council.

4.3.3 A **Councillors** should not apply undue pressure on an **Officer** either to do anything that he/she is not empowered to do or to undertake work outside normal duties or outside normal hours. Neither should a Councillor lobby an Officer. Particular care needs to be taken in connection with the use ofCouncil property and services.

4.3.4 Similarly, an **Officer** must neither seek to use undue influence on an individual **Councillor** to make a decision in his/her favour or in favour of theservice within which he/she works, nor raise personal matters to do with theirjob, nor make claims or allegations about other Officers. Councillors who receive any such approach from an Officer should advise the **Chief Executive** and/or a **Strategic Director** immediately.

4.3.5 The Council has formal procedures for consultation, grievance and discipline,and **Officers** have the right to report possible wrongdoing under the Council’sprocedures

4.3.6 Heads of Service are responsible for organising their staff’s workloads and priorities. Councillors should not ask individual members of staff below **Team Manager** level to carry out work or research of a particular nature, which might involve staff spending time on matters that may not

necessarily form part of the priorities of that particular service. In addition, Councillors must not request individual members of staff to attend meetings or visit particular sites. All such requests must be made to the relevant Team Manager who will decide whether or not the work should be carried out.

4.3.7 Whilst **Senior Officers** endeavour to see **Councillors** without prior appointment this can cause difficulties. Generally speaking, Councillors should make appointments to speak to Officers. It can be disruptive to walk in unannounced, and this should be avoided wherever possible. Councillors should not turn up unannounced with members of the public and must not use their position to secure priority treatment for someone.

4.4 Familiarity

4.4.1 Close personal familiarity between individual **Councillors** and **Officers** can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

4.4.2 Such familiarity could also cause embarrassment to other **Councillors** and/orother Officers and even give rise to suspicions of favouritism.

4.4.3 For these reasons close personal familiarity must be avoided.

4.4.4 Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.

4.4.5 A **Councillor** must declare to the **Chief Executive** and his/her respective **Group Leader** any relationship with an Officer that might be seen as influencing his/her work as a Councillor. This includes a family or close personal relationship. Similarly, the Officer concerned should notify his/her **Team Manager** and a **Strategic Director** or Chief Executive as appropriate.

4.4.6 The **Constitution** contains rules of procedure for the appointment of staff. **Councillors** cannot appoint staff below **Team Manager** level. Where **Councillors** are involved in making appointments, they must not take any part in the appointment of anyone to whom they are:

Married;
A partner;
Otherwise related;
A close friend;
A business associate.

4.4.7 Councillors may be involved in interviewing internal candidates who

will be well known to them. On such occasions, Councillors must not allow that knowledge to influence their judgement one way or the other.

4.5 Declaration of Interest

4.5.1 All Councillors are required to abide by the **Code of Conduct**, which sets out standards governing their conduct. The **Monitoring Officer** will provide advice and information to Councillors on **Declarations of Interest**. It is the Councillor's responsibility to decide whether any interest should be declared. Councillors are normally expected to seek advice prior to a meeting. Raising such issues for the first time at a Council or public meeting can place **Officers** in a difficult position, and does not reflect well on the Council. Officers must, when requested to do so, respect **Councillor's** confidentiality when providing advice on Declarations of Interest but may otherwise draw to a Councillor's attention the need to declare a known interest.

4.6 The Officer relationship with the Leader and other Cabinet Members

4.6.1 The working relationship between the **Chief Executive**, **Strategic Directors**, Heads of Service and the **Leader/Cabinet Members** will be particularly close. **Cabinet** Members will have broad-ranging portfolio responsibilities. **Officers** may provide briefing notes, advice and information to the Cabinet/Cabinet Members in respect of reports or questions at formal Meetings. This relationship, however, must not:

Compromise **Officers'** duties to all **Councillors** of the Council;

Be so close as to give the appearance of partiality on the part of the Officer;

Undermine the confidentiality of any discussions with these **Senior Officers** and other **Councillors**;

Compromise **Officers'** professional responsibility to advise **Councillors** that a particular course of action should/should not be pursued;

Abrogate Officer responsibility for action taken under **Delegated Powers**.

4.7 Breach of Protocol Procedure for Councillors

4.7.1 If a **Councillor** considers that he/she has not been treated with proper respect or courtesy he/she may raise the issue with the **Officer's** linemanager. If direct discussion with the manager does not resolve the complaint it should be referred to the **Strategic Director** responsible for the Officer concerned. Breach of the Protocol may give rise to disciplinaryproceedings against an Officer if the circumstances warrant it.

4.7.2 Where the Officer concerned is a **Strategic Director** the matter should be raised with the **Chief Executive**. Where the Officer concerned is the Chief Executive the matter should be raised with the **Monitoring Officer**. If a Councillor is unsure how to proceed, or would wish to discuss the conduct of another Councillor toward Officers, they should discuss this with their **Group Leader.**

Procedure for Officers

4.7.3 If an Officer considers that a **Councillor** has contravened the protocol he/she should consult his/her line manager who will if necessary involve a **Strategic Director**. If conciliation via a senior manager is not possible, Officers can have recourse to the **Chief Executive**, as appropriate to the circumstances. **Officers** also have recourse to the Council's Whistleblowing Procedure.

4.7.4 In certain circumstances breach of the Protocol may also constitute a breach of the **Councillors' Code of Conduct**.

5. PROVISION OF ADVICE AND INFORMATION

5.1 **Officer** advice and support will be provided to:
Council Meetings;
Meetings of the **Cabinet** and any Committee or **Sub-Committee** established by the Council or Cabinet;
Cabinet Members (**Portfolio Holder**s);
Meetings of the **Scrutiny Committees**, **Audit and Governance Committee** and other **Committees**/**Sub-Committees**;
Task Groups/Working Parties, etc.;
Groups;
Councillors of the Council on Council business.

5.2 **Officers** will also provide advice and assistance to individual Councillors in respect of Council Business, including issues raised by constituents, where appropriate.

5.3 **Councillors** should not discuss matters relating to staffing, establishment or the organisational structure of the Council or its operational services, with Officers other than **Team Managers**, Heads of Service, the **Strategic Directors** or the **Chief Executive**. **Officers** must not discuss with or advise Councillors on such matters without the prior agreement of their Team Manager, a **Strategic Director** or the Chief Executive.

5.4 **Councillors** should be provided with adequate information about services or functions upon which they may be called upon to make or scrutinise decisions, or which affect their constituents. In the normal course of events, this information will bemade routinely available by **Officers** in the form of reports, departmental plans, updates etc. **Councillors** are encouraged to make use of existing sources of information wherever possible.

5.5 It is important to note that these rights only apply where **Councillors** are clearly carrying out their role as elected representatives. Where any **Councillor** has a **Registrable or Non-Registrable Interest** in a matter the Councillor will only be entitled to the same access as would be the case for a private individual, i.e. to inspect the reports, **Minutes** and **Background Papers** relating to the public part of the **Cabinet**, Committee or **Sub-Committee Agenda**. In these circumstances, the **Councillor** must make it clear that s/he is acting in his/her private capacity and not as a Councillor. More information can be found in the **Access to Information Procedure Rules** in **Part 3** of the **Constitution**.

5.6 The exercise of the common law right depends upon a **Councillor's** ability to demonstrate a "need to know". In this respect a Councillor has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient. Requests made for information should be made in the first instance to the **Monitoring Officer** responsible who may be give suitable directions as to how the request shall be dealt with.

5.7 The information sought by a **Councillor** should only be provided if this can be donewithout causing undue strain on the Council's resources. For their part, Councillor should seek to act reasonably in the number and content of the requests they make.

5.8 It is important for **Officers** to keep **Councillors** informed both about the major issuesconcerning the Council and, more specifically, about issues and events affecting thearea that they represent. Local Councillors should be informed about proposals thataffect their ward and should also be invited to attend Council initiated events within their ward.

5.9 If a **Councillor** asks for specific information about Council business and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate **Cabinet Member** or Committee **Chair** concerned should be advised about the information provided.

5.10 **Officers** have to advise **Councillors** from time to time that a certain course of action cannot be carried out. **Councillors** sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. **Officers** are employed to give unbiased professional advice even if it is not what Councillors want to hear. They do this as much for the protection of both **Councillors** and the Council as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how **Councillors** might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

5.11 **Officers** must not be requested to advise upon matters of party business or private matters.

5.12 **Councillors** may be entitled under the Freedom of Information Act 2000 ("FOI") to receive information which falls outside their common law rights based on the "need to know". **Strategic Directors** will seek to enable the supply documents to **Councillors** without the need for a formal FOI request if it is apparent from the **Councillor's** enquiry that any individual would be entitled to receive such documentation. The Council's **Head of Legal and Support Services** will be able to advise on whether any request would fall within FOI.

Cabinet Members, Chairs and Deputy Chairs

5.13 **Cabinet Members**, **Chairs** and **Deputy Chairs** have additional responsibilities, entailing different relationships and more regular contact with Officers

5.14 In order for them to discharge their responsibilities as **Cabinet Members**, **Portfolio Holders** will be briefed by **Strategic Directors** on service issues, proposals and policy development. Strategic Directors may from time to time nominate other Officers to attend thesemeetings. Strategic Directors may also brief Committee **Chairs** on matters relevant to the **Terms of Reference** of the Committee. These informal meetings may be on a one off or regular basis, in accordance with the requirements of the **Councillor** concerned.

Briefings to Political Groups

5.15 **Political Group** meetings fall outside the Council's decision making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such. The **Code of Conduct** for **Councillors** applies to Councillors attending Political Group meetings with respect to Council related matters.

5.16 The **Leader** or any **Group Leader** may request the **Chief Executive** or a **Strategic Director** to prepare a briefing or written report on any matter relating to the Council for consideration by the group. Such requests must be reasonable and should not seek confidential or personal information. In considering such a request, Officers should be mindful of the need to support Councillors by providing factual information. However if an Officer deems the nature of the request to be unreasonable the request will be referred to the Chief Executive for determination, were necessary in consultation with the Leader(s) of the **Political Group**(s).

5.17 **Officer** reports to **Political Groups** will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Council. Reports will not deal with any political implications of the matter or any option and Officers will not make any recommendation to a **Political Group**.

5.18 Any briefing offered to or requested by a party group will be offered to any other partygroups. Where possible such briefings should be to all or a combination of party groups.

Officer attendance at Political Group meetings

5.19 The **Leader** or any **Group Leader** may request the **Chief Executive** or a **Strategic Director** to attend a meeting of the group to advise on any matter relating to the **Council**. Where such an invitation is accepted, the same opportunity will be afforded to all other **Political Groups**.

5.20 Attendance at a meeting of a **Political Group** should be on the basis of equality of access, and Councillors and Officers should avoid Officers being exposed to political discussions when delivering a briefing. **Officers** may decline to attend or provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

5.21 Any briefing offered to or requested by a party group will be offered to any other partygroups. Where possible such briefings should be to all or a combination of party groups. No **Officer** of the Council shall attend any **Political Group** meeting which includes non- **Councillors**.

5.22 **Officers'** advice to **Political Groups** will be limited to a statement of material facts andidentification of options and the merits and demerits of such options for the Council. Advice will not deal with any political implications of the matter or any option and Officers will not make any recommendation to a Political Group.

5.23 **Officers** will request the confidentiality of any matter which they are privy to in the course of attending a **Political Group** meeting.

6 CONFIDENTIALITY

6.1 In accordance with the **Councillors' Code of Conduct** and the provisions of this **Constitution**, a Councillor must not disclose information given to him/her as Councillorin breach of any confidence.

6.2 Confidential information is information:

6.2.1 furnished to the Council by a Government Department on terms which forbidthe disclosure of the information to the public, or

6.2.2 which may not be disclosed by or under any enactment or by a court order.

6.3 **Exempt Information** is information to which the public may be excluded subject to certain qualifications. The categories of Exempt Information are set out in Schedule 12A to the Local Government Act 1972 and are reproduced in the **Access to Information Procedure Rules** in **Part 3**.

6.2 Confidential Part II Committee papers are to be treated as confidential

information unless the **Cabinet**, Committee or **Sub-Committee** has resolved not to exclude pressand public. **Councillors** are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential or exempt.The decision as to whether they remain confidential is for the **Cabinet**, Committee or Sub-Committee. Other information may be confidential because to disclose it wouldbe against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

6.3 Information and correspondence about an individual's private or business affairs willnormally be confidential.

6.4 **Officers** should make it clear to **Councillors** if they are giving them confidential information. If a **Councillor** is not sure whether information is confidential, he/she should ask the relevant **Officer**, but treat the information as confidential in the meantime.

6.5 Any Council information provided to a **Councillor** must only be used by the **Councillor** in connection with the proper performance of the **Councillor's** duties.

6.6 Confidential or **Exempt Information** provided to **Councillors** may be discussed in the private session of Committee meetings or in **Private Meeting**s of appropriate Councillors and Officers. However, it should not be discussed with, or released to, anyother persons. Any information that is provided should be clearly marked as confidential before it is released to Councillors.

6.7 Information disclosed privately or private discussions held during exempt Committee sessions, informal briefings or group meetings should not be disclosed by Councillors or Officers to any person not already privy to that information.

6.8 If a Councillor requires any advice regarding confidential information he/she should consult the **Head of Legal and Support Services**.

7. PROVISION OF SUPPORT SERVICES TO COUNCILLORS

7.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc.) to **Councillors** is to assist them in discharging their role as Councillors. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

7.2 Official letters on behalf of the Council should in the vast majority of cases be sent in the name of the appropriate **Officer**, rather than over the name of a **Councillor**. Thereare very limited circumstances where a letter sent in the name of a Councillor is perfectly appropriate, for example, **Representations** to a government minister in whichcase it is acceptable for letters to appear in the name of the **Chair of the Council**, **Leader** the **Deputy Leader** or other **Cabinet**

Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

7.3 Communication with the media can be an important part of a **Councillor's** workload. In general, **Councillors** provide comment and views while Officers provide factual information. If a Councillor is unsure about the circumstances of a particular issue he should contact the **Strategic Director** responsible. **Officers** can only assist in relation to a communications issue if it relates to a legitimate Council activity. The Council cannot assist in terms of communications issues in relation to ward activity of a **Councillor** or a party political matter.

8. CORRESPONDENCE

8.1 Unless a **Councillor** or **Officer** requests confidentiality, it may be assumed that correspondence (including e-mail) between a Councillor and an Officer is not confidential and may be shown to others. Where confidentiality is not requested, Councillors and Officers will exercise discretion in determining whether it is appropriate to disclose correspondence to others. The originator of the correspondence must accept that it may be disclosed to others unless confidentiality has been requested. However, both Officers and Councillors have a personal responsibility to maintain confidentiality in any matter which appears to be of a personal or confidential nature, whether or not this has been specifically stated. If, in an Officer's view, correspondence on a non-confidential matter between an individual Councillor and an Officer is of interest to other Councillors, to keep them fully informed, the original Councillor should be informed when copies are provided to other Councillors.

8.2 Where issues are raised by, or with, individual Councillors relating to a matter of general interest in a Council ward, copies of correspondence may be sent to all Councillors for the particular area and the appropriate **Cabinet Member**/Committee/Board **Chair** at the discretion of the relevant **Team Manager**. An exception will be made where the Councillor specifically requests that correspondence is not copied to other Councillors, or there is a political, or other reason, why this is not appropriate.

8.3 **Councillors** should ensure that any letters they send out in their own name, for example as individual ward members to members of the public, do not purport to be or give the impression that they are 'official' letters setting out the Council's position. Nor should Councillors say anything which appears to commit the Council to a course of action or a position without authority to do so.

9. THE COUNCIL'S ROLE AS EMPLOYER

9.1 In their dealings with Officers, **Councillors** should recognise and have regard to the Council's role as employer. **Councillors** should be aware that **Officers** could rely on inappropriate behaviour of a Councillor in an employment case against the Council.

10. POLITICAL ACTIVITY

10.1 **Officers** are employed by the Council as a whole. They serve the Council and are responsible to the **Chief Executive** and the **Strategic Directors** and not to individual **Councillors** whatever office they might hold. It is important that the political neutrality of Officers is preserved.

10.2 The importance of political neutrality is particularly the case with regard to **Officers** who occupy posts that are designated as "**Politically Restricted**" under the terms of the Local Government and Housing Act 1989.

11. CONCLUSION

11.1 Following good practice and securing sensible and practical working relationships between **Councillors** and **Officers** will enhance the delivery of high value quality services to the people of North West Leicestershire. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council and its **Councillors.**

12. UNRESOLVED ISSUES AND AMENDMENTS TO THE PROTOCOL

12.1 If there are any issues of concern, which are not dealt with by this protocol, then the relevant Councillor or Officer may discuss the matter with the **Chief Executive**, **Strategic Directors**, **Head of Legal and Support Services** or the Head of Human Resources and Organisational Development, as appropriate, with a view to advice being provided.

12.2 This protocol will be reviewed periodically by the **Audit and Governance Committee**, who will make recommendations to the **Council** on proposed amendments.

SECTION C– PROCEDURE ON THE RESOLUTION OF DISPUTE/CONFLICT BETWEEN OFFICERS AND COUNCILLORS

1 - Introduction

2 - The Procedure

SECTION C– PROCEDURE ON THE RESOLUTION OF DISPUTE/CONFLICT BETWEEN OFFICERS AND COUNCILLORS

1. Introduction

1.1. This procedure has been developed as a quick and largely informal way of resolving disputes or conflict between Officers and Councillors. This procedure does not preclude the existing rights of the parties to initiate the Council's grievance or disciplinary procedures. It aims to foster mutual respect and courtesy and to develop good working relationships between Officers and Councillors. It will be conducted in private and will examine under performance or mistakes in a developmental way without attributing blame.

2. The Procedure

2.1. Both Councillors and Officers shall have regard to the existing codes of conduct as setting clear ground rules on behaviour.

2.2. This procedure should be seen as additional to rather than as a substitute for the Council's existing grievance or disciplinary procedures. Any party may wish to be accompanied during part or the whole of the process.

2.3. In addition it does not preclude the involvement of external agencies in appropriate circumstances.

2.4. It will be expected that before the procedure is implemented that the parties to the dispute/conflict will have met to identify in writing specifically what the difference is and to discuss the matter in a meaningful way with a view to resolving the difference (where this is reasonably practical).

2.5. In the event that a difference cannot be resolved the **Chief Executive** shall be informed as soon as possible.

2.6. The **Chief Executive** shall notify the **Leader** and the appropriate **Head of Service** or **Team Manager** without delay.

2.7. The **Head of Service** or **Team Manager** shall convene a meeting ideally within 2 days between the two parties to the dispute and him/herself.

2.8. Where the dispute is between a **Head of Service** and a Councillor the meeting shall take place between the two parties together with a Strategic Director or the **Chief Executive** and the **Leader**.

2.9. Where there is a conflict between the **Chief Executive** and a Councillor, the **Leader** shall be involved.

2.10. Any meetings shall encourage a full and frank exchange of views in a professional manner in an endeavour to resolve the conflict.

2.11. In the unlikely event of the matter not being resolved as above it will be referred to the **Chief Executive** and the **Leader** to try and break the deadlock. Should the matter remain unresolved it shall be open to the parties to initiate the Council's formal grievance or disciplinary procedures as appropriate.

SECTION D - ROLES AND RESPONSIBILITIES FOR COUNCILLORS

Part A - All Councillors

Part B - The Executive Councillor

Part C - The Non-Executive Councillor

Part D - The Chair of the Council

Part E - The Deputy Chair of the Council

Part F - The Leader of the Council

Part G - Deputy Leader of the Council

Part H - Chair of the Cabinet

Part I - Chair of the Scrutiny Committees

Part J - Deputy Chair of the Scrutiny Committees

Part K - Chair of Committees

Part L - Deputy Chair of Committees

SECTION D- 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 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 - Chair 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 Chair of the Scrutiny Committees

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

Part L - Chair of Committees

To chair meetings of the Committee.

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

Part M - Deputy Chair of Committees

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

SECTION E - MONITORING OFFICER PROTOCOL

1 - General Introduction to Statutory Responsibilities and Functions

2 - Working Arrangements

3 - Monitoring Officer's Rights

4 - Proper Officer

5 - Conflicts of Interest

6 - Insurance and Indemnity Arrangements

7 - Breach of This Protocol

8 - Post of Monitoring Officer

Schedule - Summary of Monitoring Officer Functions

SECTION E- MONITORING OFFICER PROTOCOL

1. General Introduction to Statutory Responsibilities and Functions

1.1. The **Monitoring Officer** is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989 (LGHA 1989) and is accountable to the Council. That Act, the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 place personal obligations on the appointee in respect of the Council, which are summarised as a schedule annexed to this document.

1.2. This protocol provides some general information on how those statutory requirements will be discharged at this Council.

1.3. The duties of the **Monitoring Officer** under Section 5 of the LGHA 1989 are to report to the Council on any proposal, decision or omission by the Council (or a Committee or Sub-Committee, or a **Joint Committee** on which the Council is represented) or an Officer, which has given rise to, or is likely or would give rise to:

1.3.1. a contravention of law or any code of practice made or approved by or under any enactment; or

1.3.2. such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974, i.e. in connection with action taken by or on behalf of the Council, in exercise of the Council's administrative functions.

It is the **Monitoring Officer**'s duty to consult with both the Head of Paid Service and the S151 Officer during the preparation of a report and as soon as practicable after its preparation to arrange for a copy of it to be sent to each Councillor. The Monitoring Officer is bound to perform all of his/her duties personally, save that during absence or illness, a deputy nominated by him/her may undertake them.

1.4. Where there are town and parish councils within unitary and **District** authorities, other obligations are placed upon the **Monitoring Officer**. This protocol does not focus on these aspects.

1.5. In general terms, the **Monitoring Officer**'s ability to discharge his/her duties and responsibilities will depend, to a large extent, on Councillors and Officers:

1.5.1. complying with the law (including any relevant Codes of Conduct);

1.5.2. complying with any general guidance issued, from time to time, by the **Audit and Governance Committee** and the **Monitoring Officer**; making lawful and proportionate decisions; and generally, not taking action that would bring the Council, their Officers or professions into disrepute.

2. Working Arrangements

2.1. Having excellent working relations with Councillors and Officers will assist in the discharge of the statutory responsibilities of the **Monitoring Officer** and maintaining high standards of conduct, governance and legal compliance. Equally, a speedy flow of relevant information and access to **Debate** (particularly at the early stages of any decision making by the Council) will assist in fulfilling those responsibilities. Councillors and Officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.

2.2. Having effective working liaison and relationships with the **Audit and Governance Committee** (and its members), the External Auditor and the Local Government Ombudsman will also assist in the discharge of those statutory responsibilities. This will include having the authority to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate **Protocols**, if necessary.

3. Monitoring Officer's Rights

3.1. The following arrangements and understandings between the **Monitoring Officer**, Councillors and Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will have the right to:

3.1.1. be advised by Councillors and Officers of any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, policy, procedural or other constitutional issues that are likely to (or do) arise;

3.1.2. access to any meetings of Officers or Councillors (or both) of the Council, whether or not such meetings include any other persons (for the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council);

3.1.3. receive advance notice (including receiving **Agenda**s, **Minutes**, reports and related papers) of all relevant meetings of the Council at which a decision of the Council may be made formulated or briefed upon (including a failure to take a decision where one should have been taken) at or before the Council, **Cabinet**, **Cabinet Member**, Committee meetings and/or Corporate Leadership Team (or equivalent arrangements);

3.1.4. require when carrying out any investigation(s):

3.1.4.1. such advice and assistance from the Council that he/she considers is reasonably needed to assist him/her,

3.1.4.2. unqualified access to any Officer or Councillor who the **Monitoring Officer** wishes to make inquiries of or who he/she believes can assist in the discharge of his/her functions, and

3.1.4.3. any information and documents held by the Council;

3.1.5. disclose information and documents to the appropriate and relevant authority (even where such disclosure would otherwise be in breach of the **Monitoring Officer**'s duty of confidentiality to the Council);

3.1.6. ensure or facilitate that the other **Statutory Officers** (Head of Paid Service and S151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;

3.1.7. meet with the Head of Paid Service and the S151 Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;

3.1.8. report on ethical governance issues and on the **Constitution** following consultation, where appropriate, with the Head of Paid Service and S151 Officer;

3.1.9. report to the Council as necessary on the staff accommodation and resources he/she requires to discharge his/her statutory functions and to be provided with the same;

3.1.10. obtain legal advice on any matter which he/she believes may be a reportable incident, at the Council's expense;

3.1.11. **Defer** the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved, subject to any necessary consultation with all or any of Head of Paid Service, S151 Officer, the **Chair of the Council**, **Leader**, **Deputy Leader** and the **Audit and Governance Committee**;

3.1.12. notify (after consultation with the Head of Paid Service and the S151 Officer) the police, the Council's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;

3.1.13. seek to resolve potential reportable incidents by avoiding or rectifying the illegality, failure of process or breach of code, or by identifying alternative and legitimate methods to proceed whilst retaining the right to make a statutory report where, after consultation with the Head of Paid Service and the S151 Officer, he/she is of the opinion that such is necessary in order to respond properly to such an incident;

3.1.14. prepare any training programme for Councillors or Officers on ethical standards and **Code of Conduct** issues.

3.1.15. To make reports to and receive reports from the **Audit and Governance Committee**, subject (where appropriate) to consultation with the Head of Paid Service and the S151 Officer.

4. Proper Officer

4.1. Councils may place "**Proper Officer**" and other obligations on the **Monitoring Officer**, through the **Constitution** and elsewhere, but these are delegated functions of the Council rather than personal duties under statute. Whilst the exercise of these functions equally require good working arrangements, they differ slightly from authority to authority. For the sake of commonality and clarity of the protocol, they are not directly addressed here.

4.2. The **Proper Officer** list is contained at Part 2, Section G4 of the **Constitution**.

5. Conflicts of Interest

5.1. Where the **Monitoring Officer** is aware he/she has a potential conflict of interest he/she shall refer the matter to the Deputy Monitoring Officer or another appropriate party (and report to the Head of Paid Service and/or the Council as appropriate).

6. Insurance and Indemnity Arrangements

6.1. The S151 Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the **Monitoring Officer** role.

7. Breach of this Protocol

7.1. Complaints against any breach of this protocol by a Councillor may be:

7.1.1. dealt with informally by the **Monitoring Officer** or

7.1.2. referred to the **Audit and Governance Committee** as appropriate by the **Monitoring Officer** (or if the Monitoring Officer so requests, referred to the Head of Paid Service) or

7.1.3. referred to the relevant **Leader** and/or **Whip** of the **Political Group**.

7.2. Complaints against any breach of this protocol by an Officer may be referred to the Head of Paid Service for assessment.

8. Post of Monitoring Officer

8.1. For the purposes of this protocol, the term "**Monitoring Officer**" includes:

8.1.1. any person nominated by the **Monitoring Officer** as a Deputy Monitoring Officer for the purposes of Section 5(7) of the Local Government and Housing Act 1989; and

8.1.2. any person nominated under the provisions of Section 82A(2) or (3) of that Local Government Act 2000 to perform any function.

Schedule - Summary of Monitoring Officer Functions

	Description	**Source**
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
2	Report of any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on resources.	Section 5 Local Government and Housing Act 1989.
5	Investigate allegations of misconduct of Councillors under the Council's **Councillors' Code of Conduct** in compliance with the Council's adopted arrangements.	Localism Act 2011 Section 28 and associated regulations and guidance.
6	Establish and maintain registers of Councillors' interests and gifts and hospitality.	Section 29 of the Localism Act 2011 and **Councillors' Code of Conduct**.
7	Advice to Councillors on interpretation of the **Councillors' Code of Conduct**.	**Councillors' Code of Conduct**.
8	Key role in promoting and maintaining high standards of conduct through support to the **Audit and Governance Committee**.	New Council **Constitutions** Guidance paragraph 8.20.

9	Advising on appropriateness of compensation for maladministration.	Section 92 Local Government Act 2000.
10	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and **Budget** issues to all Councillors.	New Council **Constitutions** Guidance paragraph 8.21.
11	Refer relevant matters to the **Audit and Governance Committee** (or its **Sub-Committees**) for initial assessment, review and hearing.	Council's adopted arrangements under Section 28 of Localism Act 2011.
12	Advise on any indemnities and insurance issues for Councillors/Officers.	Regulations under Local Government Act 2000.
13	Advise on the introduction of Local Assessment arrangements.	Local Government and Public Involvement in Health Act 2007 (including amendments to the Local Government Act 2000).
14	Act as the qualified person.	S36 Freedom of Information Act 2000 and Information Commissioner's Office Awareness Guidance No. 25.

The Officer holding the designation **Monitoring Officer** also holds certain **Proper Officer** appointments as detailed in the **Constitution**.

SECTION F - PLANNING CODE OF CONDUCT

Rule

1. Introduction
2. The Role and Conduct of Councillors and Officers
3. Interests of Councillors
4. Dual-Hatted Councillors and Councillors on Other Bodies
5. Councillors Who Are Not Members of the Committee
6. Development Proposed by the Council or a Council Owned Company
7. Development Proposals Submitted by or Involving Councillors and Officials in Their Private Capacity
8. Statutory Duties
9. Lobbying Of and By Councillors
10. Pre and Post Application Discussions and Negotiations
11. Officer Reports to Committee
12. Planning Considerations
13. The Decision Making Process
14. Site Visits By the Committee
15. Planning Application Debates and Representations
16. Review of Decisions
17. Training

SECTION F- 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 Councillora 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

3.4.2 that is in the ward neighbouring their ward where the application materially impacts their ward,

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 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;

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 **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 **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 **Other Registrable Interest** in a matter may attend a meeting of the Planning Committee at which that application is considered in order to speak, make **Representations**, answer questions or give evidence in accordance with the **Code of Conduct**.

5.3 Any councillor who is not on the **Planning Committee** but who is at one of its meetings should sit separately from the Committee, so as to demonstrate clearly that they are not taking part in the discussion, consideration or vote.

5.4 They should not communicate in any way with members of the **Planning Committee** or pass papers or documents to them before or during the meeting.

6. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY

6.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council-owned companies can also submit proposals that are decided by the Council.

6.2 Proposals submitted by the Council or a Council-owned company shall be considered in the same way as those by private developers.

6.3 Members of the **Planning Committee** who sit on the board of a Council-owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local member when they may speak on matters of local concern but shall not vote.

6.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

7. DEVELOPMENT PROPOSALS SUBMITTED BY OR INVOLVING COUNCILLORS AND OFFICIALS IN THIER PRIVATE CAPACITY

7.1 Planning proposals submitted to their own authority by councillors and officials in their private capacity or in which they are involved can give rise to suspicions of impropriety. Such proposals can take a variety of forms including planning applications and **Development Plan** proposals. It is, of course, perfectly legitimate for such proposals to be submitted. However, it is vital that they are handled in a way, which gives no grounds for accusations of favouritism, bias, or maladministration.

7.2 Officers whether or not they are members of the Royal Town Planning Institute (RTPI), should also have regard to and be guided by the RTPI's Code of Professional Conduct.

7.3 Should a Councillor or Officer submit their own proposal to the Authority in their private capacity they serve they must take no part in its processing. While they may properly seek pre-application advice from Officers in exactly the same way as any other application, they must avoid all contact, whether direct or indirect, with members of the **Planning Committee** concerning the application. They can still represent their views to the Council, and seek to influence the decision in ways that are not improper. This could include:

(a) making written **Representations** in the Councillor's or Officer's private capacity;

(b) using a professional representative on their behalf;

(c) arranging for another Councillor to present the views of a Councillor's constituent subject to that Councillor's **Code of Conduct** obligations.

7.4 For the sake of transparency in decision making, all planning applications that are recommended for approval by Officers and are submitted by:

(a) a Councillor or Officer of the Council; or
(b) the close relative of a Councillor or Officer of the Council

shall be determined by the **Planning Committee** except for the approval of an application which in the opinion of the **Strategic Director** (or his nominated Officer) is unlikely to have any major impacts and to which no objections have been received.

The relevant Strategic Director will notify the **Monitoring Officer** as soon as such an application is received.

7.5 Members of the **Planning Committee** must consider whether the nature of any relationship with the Councillor (and/or Officer) submitting the planning application requires that they make a declaration of interest and if necessary also withdraw from taking part in the determination of the application where the interest is a Disclosable Pecuniary Interest or is likely to breach some other obligation under the **Code of Conduct**.

7.6 No planning Officer of the Council shall engage, other than on behalf of the Council, in any work on any town planning or related matter for which the Council is the local planning authority.

7.7 Members of **Planning Committee** should not act as agents or submit planning applications for other parties or voluntary bodies. To do so would give rise to the suspicion that the Councillor was not impartial or may influence other Councillor in the decision making process.

7.8 Any Councillor who is a planning or similar agent will not be appointed to the **Planning Committee**.

7.9 Non **Planning Committee** members who act as agents (or advisors) for people pursuing a planning matter within the Authority must play no part in the decision making process for that proposal and must not seek to otherwise improperly influence the decision making process.

7.10 There may be occasions where the Council is the applicant for planning permission. Any councillor who was a party to the decision to apply for planning permission or who has previously expressed a view on the application shall not participate in the determination of the application by the **Planning Committee**

8. STATUTORY DUTIES

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

8.1 <u>Equality Act 2010</u>

Section 149 provides that:

8.1.1 A council must, in the exercise of its functions, have due regard to the need to:-

(a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a protected characteristic and persons who do not share it.

8.1.2 The above powers relate to the following protected characteristics:-

(a) Ages;

(b) Disability;

(c) Gender reassignment;

(d) Marriage and civil partnership;

(e) Pregnancy and maternity;

(f) Race (including colour, nationality and ethnic or national origins);

(g) Religion or belief;

(h) Sex; or

(i) Sexual orientation.

8.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

"It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right."

8.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

8.4 **Crime and Order**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of a [Local Authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it

reasonably can to prevent, crime and disorder in its area."

9. LOBBYING OF AND BY COUNCILLORS

9.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a **Planning Committee**. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.

9.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning Officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide Officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

9.3 The time for individual Members of the **Planning Committee** to make a decision on a proposal is at the Committee meeting when all available information is to hand and has been duly considered.

9.4 A **Planning Committee** member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Planning Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:

9.4.1 make clear that they reserve their final decision on a proposal until the Committee meeting:

9.4.2 only give procedural advice;

9.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and

9.4.4 not seek to meet an applicant or potential applicant alone.

9.5 Members of the **Planning Committee** shall not, in general, organise support or opposition for a proposal, or lobby other Councillors (other than when addressing the Planning Committee). Councillors shall not put pressure on Officers for a particular recommendation.

9.6 The local Councillor who is not a member of the **Planning Committee** will be allowed to attend and speak at the decision-making meeting (either

presenting their own views if they are an affected party or representing the views of their ward members) but not vote. The member of an adjacent ward substantially affected by the proposal shall, at the discretion of the **Chair** of the Planning Committee, be allowed to attend and speak but not vote. A local member who has a personal or prejudicial interest in an application, within the meaning of the **Councillors' Code of Conduct** should seek prior advice from the **Monitoring Officer** about his/her position.

9.7 If a member of the **Planning Committee** identifies him/herself with group or individual campaigning for or against an application, he/she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, subject to the rules of Committee that Councillor shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.

9.8 Members of a **Planning Committee** must be free to vote as they consider appropriate on planning matters. A Councillor cannot be instructed how to exercise their vote on a planning matter.

9.9 Councillors should inform the **Monitoring Officer** where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

10. PRE- AND POST- APPLICATION DISCUSSION AND NEGOTIATIONS

10.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.

10.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.

10.3 Advice should be consistent and based upon the **Development Plan** and material considerations. There should be no significant difference of interpretation of planning policies by individual planning Officers.

10.4 A written note should be made of all potentially contentious meetings. Two or more Officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.

10.5 Councillors need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions

when Councillors are involved, it should be part of a structured arrangement with Officers, including a senior planning Officer. Councillors must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.

10.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the Officers dealing with the application. Councillors who are approached for planning, procedural or technical advice should refer the applicant to the relevant Officer.

11. OFFICER REPORTS TO COMMITTEE

11.1 The Head of Planning and Regeneration will submit written reports to the appropriate **Planning Committee** on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant **Development Plan** and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning and Regeneration shall include in his/her report a summary of the environmental statement, comments by bodies consulted and **Representations** from members of the public together with his/her own comments. The reports will include a summary of Representations made about the application. The Head of Planning and Regeneration in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

11.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

11.3 The Head of Planning and Regeneration will have available for inspection by Councillors the full planning application, environmental statement (where required) and **Representations** from bodies consulted and members of the public.

12. PLANNING CONSIDERATIONS

12.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.

12.2 Members of **Planning Committee** and any substitutes shall attend training sessions which may be organised from time to time. Councillors who have not attended all such training sessions shall not be allowed to sit on Planning Committee and a substitute who has attended the required training shall take their place. All other Councillors are encouraged to attend training sessions.

12.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.

12.4 Briefly, material planning considerations may include:-

12.4.1 Government Guidance (contained in such documents as Circulars, National Planning Policy Framework , National Planning Policy Guidance , Mineral Policy Guidance Notes, Planning Policy Statements and Ministerial announcements);

12.4.2 Supplementary Planning Documents adopted by any related Committee;

12.4.3 non-statutory planning policies adopted by the Council;

12.4.4 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;

12.4.5 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;

12.4.6 **Representations** made by statutory consultees and other persons making Representations in response to the publicity given to applications, to the extent that they relate to planning matters;

12.4.7 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990;

12.4.8 if deliberate unauthorised development has taken place.

12.5 It should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.

12.6 It is the responsibility of Officers in preparing reports and recommendations to Councillors to identify the material planning considerations and warn Councillors about those matters which are immaterial planning considerations.

12.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.

12.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

12.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.

12.10 It will be inevitable that all the considerations will not point whether to grant or refuse. Having identified all the material planning considerations and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

13. THE DECISION MAKING PROCESS

13.1 Councillors shall recognise that the law requires that where the **Development Plan** is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.

13.2 Where an environmental impact assessment is required, the **Planning Committee** shall take the information provided in the report into consideration when determining the application.

13.3 If the report's recommendation is contrary to the provisions of the **Development Plan**, the material considerations which justify this must be clearly stated.

13.4 Where the **Planning Committee** decide to adopt the recommendation of the Head of Planning and Regeneration, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.

13.5 Where the **Planning Committee** is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and Regeneration, (having first considered whether to **Defer** the application), agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted by the **Head of Legal and Support Services**.

13.6 The reasons for Committee's decision to **Defer** any proposal should also be recorded.

14. SITE VISITS BY THE COMMITTEE

14.1 A site visit may be held if the Head of Planning and Regeneration in consultation with the **Chair** of the relevant Committee considers it will assist Councillors in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material. Councillors should try to attend site visits organised by the Council where possible.

14.2 Site visits will be organised in accordance with the following procedures:

14.2.1 The **Head of Legal and Support Services** will invite the local member to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the **Chair** of the relevant **Planning Committee** the local member for the adjacent division will also be invited.

14.2.2 The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.

14.2.3 Objectors will not normally be invited to attend a site visit or participate in any discussions on site.

14.2.4 On assembling at the site, at the time specified, the **Chair** will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the Committee meeting. The Head of Planning and Regeneration or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning and Regeneration, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.

14.2.5 When a site visit is held prior to the meeting of the **Planning Committee** it is desirable that all Councillors attending the Planning Committee should also attend the site visit. Councillors voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to Committee so that all Councillors have the same information.

14.3 Councillors should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless you feel it is essential for you to visit the site other than through attending the official site visit and you have first spoken to

the Head of Planning and Regeneration about your intention to do so and why (which will be recorded on file) and you can ensure you will comply with these good practice rules on site visits.

15. PLANNING APPLICATION DEBATES AND REPRESENTATIONS

15.1 At **Planning Committee**, each application shall be debated as follows:

15.1.1 At the meeting the Head of Planning and Regeneration (or his nominated Officer) will present his/her report first.

15.1.2 Subject to paragraph 15.3, the objectors will make their **Representations**, subject to a time limit of three minutes (except at the discretion of the **Chair**)

15.1.3 Subject to paragraph 15.3, the applicant will then make his/her **Representations**, subject to a time limit of three minutes (except at the discretion of the **Chair**)

15.1.4 Subject to paragraph 15.3, the ward member (and any neighbouring ward members whose wards are materially impacted by the application) may make their **Representations**, subject to a time limit of
5 minutes. If the relevant ward member or neighbouring ward member has a Disclosable Pecuniary Interest that is affected by an application, they may not speak but may nominate an alternate Councillor to speak on behalf of their constituents.

15.1.5 Where the **Chair** exercises their discretion to extend the time limit for either the objectors or the applicant, then similar provision shall be made for the other parties (should they so wish) to ensure that all parties receive a fair hearing.

15.1.6 Members of the **Planning Committee** may seek points of factual clarification from applicants (or their agents), statutory consultees or people making **Representations** to the Planning Committee on matters relating to the application or any Representations that have been made. In such exceptional circumstances, questions should be raised through the **Chair** and in the event that the Chair feels a point of clarification is not appropriate then they will have the discretion not to allow the question to be put to the speaker.

15.1.7 Officers may comment on the **Representations** and the merits of the application and any points of clarification as necessary during the **Debate**.

15.1.8 The Committee will proceed to **Debate** the application. The Rules of Debate set out in Rule 16 (Rules of Debate) of Section B of the **Council and Committee Procedure Rules** in **Part 3** of this **Constitution**

shall apply except that Rule 16.1 shall not apply meaning that the **Debate** can proceed without a motion being moved and seconded.

15.1.9 Following the Committee's **Debate**, Officers may comment on the content and themes emerging from the Debate in order to assist in framing the Debate in a planning context.

15.1.10 The **Chair** will then ask for a motion in respect of the application to be moved and seconded and, subject to any of the motions listed in paragraphs 16.18.1 to 16.18.9 of Rule 16 (Rules of **Debate**) of Section B of the **Council and Committee Procedure Rules** in **Part 3** of this **Constitution** being moved, the **Committee** shall make a decision by simple majority. All votes of the **Planning Committee** shall be **Recorded Votes**. The minute will include the reasons for the decision.

15.2 Wherever possible, objections or **Representations** to planning applications should be made in writing. Written Representations received will be made available for public inspection and objections summarised and reported to the **Planning Committee** Members will be given the opportunity to inspect all letters received before the decision on the application is made.

15.3 There will be occasions when applicants, objectors and/or ward members whose ward is affected by the application, may wish to make **Representations** in person to the **Planning Committee**. In such circumstances the following procedure will apply:

15.3.1 The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written **Representations** will be taken into account. The ward members, applicant and the objectors will be informed that they have the right to attend the Committee and make Representations in person. They will be asked to indicate whether they wish to do this and, if so, they will be invited to the meeting at which the decision is to be made. They must register to speak at the meeting by 12.00 noon on the last working day prior to the meeting and if they fail to do so they will not be allowed to speak unless the **Chair** exercises his discretion to permit them to do so. People wishing to speak at **Planning Committee** cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 15 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting. Speakers can also use the Council's IT system to make electronic submissions to the Committee provided that the submission is delivered to the Council by 12.00 noon at the latest on the last working day prior to the meeting.

15.3.2 Each group of speakers (objectors and supporters) will be allowed a maximum of three minutes to address the Committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.

16. REVIEW OF DECISIONS

16.1 The Audit Commission's Report, 'Building in Quality', recommended that Councillors should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

16.2 Visits to application sites previously considered by the Council shall be organised by the Head of Planning and Regeneration and shall be open to all Councillors to attend.

17. TRAINING

17.1 Councillors shall not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council. Councillors so prevented from taking part shall be replaced by a substitute who has attended the mandatory training.

17.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice and the **Development Plans** beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

SECTION G– LICENSING CODE OF CONDUCT

Rule

1. Introduction

2. Relationship with the Councillors' Code of Conduct

3. Legal Background

4. Training of Councillors

5. Licensing Applications by Councillors, Officers and the Council

6. Lobbying

7. Discussions Before the Hearing

8. Declaration of Disclosable Non-Pecuniary and Pecuniary Interests

9. Pre-determination and Bias

10. Membership of a Parish/Town Council

11. Conduct at the Hearing

12. Councillors as Interested Parties under Licensing Act 2003

SECTION G– LICENSING CODE OF CONDUCT

1. **Introduction**

1.1. This **Code of Conduct** (the Licensing Code) gives advice to Councillors who:

1.1.1. Are members of the **Licensing Committee** and who sit on **Licensing Sub-Committee**.
1.1.2. Wish to address the Committee or a hearing panel on any licensing issue.
1.1.3. Are involved outside the Committee on licensing applications or other licensing matters - including informal occasions such as meetings with officers or public and consultative meetings.
1.1.4. Are involved in applications for licences under the Licensing Act 2003 and the Gambling Act 2005.

1.2. Most decisions taken by Councillors are administrative in nature. The work of the **Licensing Committee** and **Sub-Committees** are different in that its proceedings are **Quasi Judicial** and the rules of natural justice apply. This imposes a new and higher set of standards on those Councillors who are involved in the decision making process. Failure to abide by these standards may render the Council or individual Councillors open to challenge either through the courts or the **Audit and Governance Committee**.

1.3. This Code provides a set of guidelines for Councillors. It is part of the Council's ethical framework and should be read in conjunction with the **Councillors' Code of Conduct** and the **Protocol on Councillor / Officer Relations**.

1.4. A key aim of the Licensing Code is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or is not well founded in any way. Councillors must make these decisions openly, impartially with sound judgement and for justifiable reasons.

1.5. The Human Rights Act 1998 has implications for the licensing system and has created enhanced requirements for procedural fairness, transparency and accountability in decision making.

1.6. The Licensing Code is intended to minimise the prospect of legal or other challenge to decisions. Non-compliance without good reason could be taken into account in investigations into possible maladministration or may have implications for the standing of Councillors and the Council as a whole.

2. **Relationship with the Councillors' Code of Conduct**

2.1. Councillors must comply with the **Councillors' Code of Conduct** and the rules in that Code must be applied before considering the Licensing Code.

2.2. The Licensing Code is not intended to form a part of the adopted **Councillors' Code of Conduct** but is a separate document, which is complimentary and supportive of

the **Councillors' Code of Conduct** and also the source of expanded guidance in the particular area of licensing.

3. Legal Background

3.1. Human Rights Act

3.1.1. The Human Rights Act 1998, which came into full effect on 2 October 2000, incorporated the key articles of the European Convention on Human Rights into domestic law. The Convention guarantees certain basic human rights. As far as possible legislation (including the licensing laws) must be interpreted in such a way as to conform with Convention rights. Decisions on licensing issues are actions of a public authority and so must be compatible with Convention rights.

3.1.2. Members of the **Sub-Committee** need to be aware of the rights contained in the Convention when making decisions and in particular:

3.1.2.1. Article 6: Right to a fair trial

In the determination of a person's civil rights and obligations … everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

3.1.2.2. Article 8: Right to respect for family and private life

Everyone has a right to respect for his/her private life, and his/her home and correspondence.

3.1.2.3. Article 1 of the First Protocol: Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his/her possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

3.1.2.4. Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

3.1.3. Most Convention rights are not absolute and there are circumstances when an interference with a person's rights is permitted although any interference with the rights must be proportionate and go no further than is necessary.

3.2. Quasi-Judicial Hearings

3.2.1. A quasi-judicial hearing is one:

3.2.1.1. which affects a person's livelihood
3.2.1.2. which involves disciplinary action
3.2.1.3. which affects property.

3.2.2. These hearings are subject to the rules of natural justice. Properly applied, the rules of natural justice will ensure that the requirements of the Convention, that a hearing is both “fair” and presided over by an “independent and impartial tribunal”, are met.

3.2.3. There are two principles underlying the rules of natural justice. First, all parties must be given a chance to put their case under conditions which do not put one party at a substantial disadvantage to the other party. All parties should be given sufficient notice of the hearing, the applicant should have disclosure of the nature of the objections/**Representations** as well as knowing who is objecting/making a Representation and there should be a right to question witnesses.

3.2.4. Second, a person who has an interest in an application must be disqualified from considering it. The **Licensing Sub-Committee** must be impartial - not only must there be no actual bias but there must be no perception of bias.

3.2.5. The procedure rules which govern hearings of the **Licensing Sub-Committee** reflect the requirements of the Human Rights Act and the rules of natural justice. To avoid any allegations of bias or perceived bias, Councillors sitting on the Licensing Sub-Committee must strictly observe those procedure rules.

4. Training of Councillors

4.1. Because the technical and propriety issues associated with licensing are not straightforward, it is the Council’s policy to arrange training on the work of the **Licensing Sub-Committee** for all Councillors who sit on the Sub-Committee. Councillors must undertake the training before participating in a meeting of the Sub-Committee. Other Councillors are free to attend the training in order to gain an understanding of licensing issues.

5. Licensing Applications by Councillors, Officers and the Council

5.1. Proposals to the Council by serving and former Councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So can proposals for a Council’s own applications.

5.2. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.

5.3. Recent decisions by the adjudication panel on standards issues make it very difficult for Councillors who have a professional qualification to act in presenting cases in that capacity for applicants or to act as professional witnesses in hearings.

5.4. Councillors and officers who submit their own proposal should notify the **Monitoring Officer** of the proposal and play no part in its processing or determination and avoid

contact, whether direct or indirect with members of the **Sub-Committee** concerning the application.

6. **Lobbying**

6.1. Councillors may be approached or lobbied by an applicant, Councillor, agent or objector about a particular licensing application. Lobbying is a normal and perfectly proper part of the political process but it does not sit well with the **Quasi Judicial** nature of the **Licensing Sub-Committee** when a Councillor must enter the meeting with an open mind and make an impartial determination on the relative merits of all the evidence presented at the hearing. Being lobbied in advance of the meeting is incompatible with this high standard.

6.2. If a Councillor is approached, he/she should advise the lobbyist to address any comments or concerns to the relevant Strategic Director. In no circumstances should a Councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair. A Councillor who feels that he/she has been exposed to undue or persistent lobbying should advise the **Monitoring Officer**.

6.3. Other Councillors should not lobby members of the **Licensing Sub-Committee**, directly or indirectly, about issues which are due to be determined by the Licensing Sub-Committee.

6.4. When attending a public meeting at which a licensing issue is raised, a member of the **Licensing Sub-Committee s**hould take great care to maintain an impartial role and not express a conclusive view on any pre-application proposals or submitted application.

6.5. Correspondence received by any Councillor (whether on the **Licensing Sub-Committee** or not), should be passed without delay to the **Chief Executive** so that all relevant views can be made available to those Councillors or officers responsible for determining the application. A reply by a Councillor should, as a rule, simply note the contents of the correspondence and advise that it has been passed to officers.

7. **Discussions Before the Hearing**

7.1. Pre-application discussions - discussion between a potential applicant and representatives of the Council may be of considerable benefit to both parties. Similarly, a meeting between the Council and potential objectors may also be beneficial. However, it would be easy for such discussions to become or be seen (especially by objectors/persons making **Representations**) to become part of a lobbying process. In the circumstances, pre-application discussions should be avoided by members of the **Licensing Sub-Committee**.

7.2. Post-application discussions - a Councillor should not approach an applicant for a licence in an effort to securing changes to the application. Such an approach would inevitably give rise to allegations of partiality or bias.

7.3. Generally, any contact with applicants should be conducted with and through officers and should always be reported to the **Licensing Sub-Committee**. Requests to a Councillor for a meeting should be passed to the **Chief Executive**.

8. **Declaration of Disclosable Non-Pecuniary and Pecuniary Interests**

8.1. The **Councillors' Code of Conduct** and the Council's **Protocol on Councillor / Officer Relations** gives advice on the declaration of interests.

8.2. Where interests arise, the Councillor must declare these in accordance with this **Code of Conduct**.

8.3. It is important that all Councillors are familiar with the **Councillors' Code of Conduct**. Where in relation to any item any Councillor has a Disclosable Pecuniary Interest in an application (as defined in the Code), this must be declared at the earliest opportunity in the declaration of interests section of the **Agenda**, or at any time subsequently, or as soon as practicable when the interest becomes apparent. This is important as the **Quorum** of a **Licensing Sub-Committee** is its full complement of three Councillors and a late declaration of a Disclosable Pecuniary Interest may leave the meeting inquorate and unable to proceed.

8.4. Where a Councillor is in any doubt about whether they have an interest, they may always seek the advice of the Council's **Monitoring Officer** or legal advisor at the meeting, disclosing all material facts. Whenever possible, advice should be taken before meetings. Ultimately however, the duty to declare and the decision as to whether an interest should be disclosed rests with the Councillor concerned.

9. **Pre-Determination and Bias**

9.1. The right to a fair and unbiased hearing (particularly in the light of the Human Rights Act 1998) is a general legal requirement and applies to licensing decision making in addition to the **Councillors' Code of Conduct**.

9.2. Whilst the Localism Act 2011 provides for Councillors to take a more proactive stance in relation to local issues, Councillors must attend **Sub-Committee** meetings with an open mind and only determine applications on the basis of the evidence and **Representations** made to them at the hearing. If a Councillor fails to determine an application on this basis it may amount to bias and to a breach of their obligations under the **Code of Conduct**.

9.3. The suggestion of any bias may put the Council at risk of a finding of maladministration and it could also lead to legal proceedings for bias or a failure to take into account all factors enabling the proposal to be considered on its merits.

9.4. There is a general acceptance that a Councillor may consider matters in several capacities as different factors may apply to different decisions. However, given the size of **Licensing Sub-Committee** and the proportionately greater influence an individual Councillor will have, Councillors should exercise caution in such situations, as it may preclude them from taking part in a licensing hearing.

10. Membership of a Parish/Town Council

10.1. Where a parish/town council makes **Representations** on a licensing application they are an "interested party" under the Acts. A **District** Councillor who is also a Councillor of that parish/town council may have a Disclosable Interest and are advised to seek advice from the Council's **Monitoring Officer** before sitting on the **Licensing Committee**.

10.2. Councillors are also advised that in the interests of transparency they should not become involved at a **District** level in applications made by a parish council on which they serve. If they wish to do so they must make clear that they are acting in the capacity of parish councillor and not District.

11. Conduct at the Hearing

11.1. The essence of the rules of natural justice are that Councillors not only act fairly but are also seen to act fairly. Councillors must follow the agreed procedure at all times and should only ask questions at the appropriate points in the procedure. At no time should a Councillor express a view which could be seen as pre-judging the outcome. During the course of the hearing Councillors should not discuss (or appear to discuss) aspects of the case with the applicant, an objector, their respective advisors or any member of the public nor should they accept letters or documents from anyone other than the clerk.

11.2. Again, to ensure compliance with the rules of natural justice, Councillors on the **Sub-Committee** must ensure that they hear the evidence and arguments for and against the application and must be present for the entire hearing.

12. Councillors as Interested Parties Under the Licensing Act 2003

12.1. Since January 2010 Councillors are regarded as interested parties in their own right. They are entitled to make **Representations** or call for reviews in respect of any premises in any Ward licensed within the Councils area.

12.2. They do not have to await instructions from residents or other organisations, but can act on their own initiative. The **Representation** must be relevant. That is, it is made within the timescales allowed, relates to one or more of the Licensing Objectives and is not malicious or vexatious.

12.3. A Councillor can still represent another interested party/parties (provided that interested party is not a family member or close associate) who has made a **Representation**. The Councillor will still be subject to the **Code of Conduct** when

representing interested parties. The Councillor must demonstrate to the licensing authority that they have been requested to represent the interested party and only put forward the views of the interested party.

12.4. A member of the **Licensing Committee** can make **Representations**, call for a review and address the Committee as an interested party, but would not be able to sit as a member of the **Sub-Committee** when the application is considered.

12.5. The **Representation** made by the Councillor carries no less nor any more weight than the Representations made by other interested parties.

12.6. The Act and Hearing regulations govern the procedure and specify the rights for applicants, responsible authorities and interested parties. The Councillor will be bound by these procedure rules.

12.7. Councillors addressing the **Sub-Committee** should disclose any interests they may have and their standing at the hearing.

12.8. The **Councillors' Code of Conduct** states that a Councillor with a Disclosable Pecuniary Interest cannot act as a representor where that interest relates to him/herself, a member of his/her family or a close associate. A Councillor may, however, act in a private capacity in such circumstances provided that it is made clear to the Committee that the Councillor is exercising his/her private rights.

12.9. A Councillor who is not on the Committee but who is at one of its meetings in his/her professional capacity should sit apart from the Committee or Sub-Committee to demonstrate that he/she is not taking part in the discussion or determination unless his/her presence in that capacity would be a breach of the obligations of the **Code of Conduct**, for example, influencing a decision by presence. If the Councillor is attending in his/her private capacity as a member of the public, this should be made clear to the Committee and his/her rights are the same as those afforded to any member of the public.

12.10. Councillors who are opposed in principle to any category of application or alcoholic liquor, form of entertainment or gambling, either in their own Ward or **District** wide should not seek nomination to the Committee.

Part 5
Councillors' Allowance Scheme

COUNCILLORS' ALLOWANCES SCHEME

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SECTION A - NWLDC COUNCILLORS' ALLOWANCES SCHEME

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

The North West Leicestershire District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following scheme (a full copy can be made available on request):

1. **Citation**

   This scheme may be cited as the North West Leicestershire District Council **Councillors' Allowances Scheme**.

2. **Interpretation**

   In this scheme

   "**Councillor**" means a member of the North West Leicestershire District Council who is a Councillor.

   "**Year**" means the 12 months ending with 31 March.

3. **Basic Allowance**

   Subject to paragraphs 6 and 7, for each **Year** a basic allowance (2025/2026 £5,916.51) shall be paid to each Councillor.

4. **Special Responsibility Allowances**

   a. For each **Year** a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Council that are specified in Schedule 1 to this scheme.

   b. Subject to paragraphs 6 and 7, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

5. **Renunciation**

   A **Councillor** may by notice in writing given to the **Head of Legal and Support Services**, elect to forego any part of his/her entitlement to an allowance under this scheme.

6. **Part-Year Entitlements**

   a. The provisions of this paragraph shall have effect to regulate the entitlements of a **Councillor** to basic and special responsibility allowances where, in the course of a **Year**, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

   b. If an **Amendment** to this scheme changes the amount to which a **Councillor** is entitled, by way of a basic allowance or a special responsibility allowance,

then in relation to each of the periods:

i. Beginning with the Year and ending with the day before that on which the first **Amendment** in that Year takes effect, or

ii. Beginning with the day on which an **Amendment** takes effect and ending with the day before that on which the next Amendment takes effect, or (if none) with the Year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the Year.

c. Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a Year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that Year.

d. Where this scheme is amended as mentioned in sub paragraph (b), and the term of office of a Councillor does not subsist throughout the period mentioned in sub paragraph (b)(i), the entitlement of any such Councillor to a basic allowance referable to each such period (ascertained in accordance with that sub paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a Councillor subsists bears to the number of days in that period.

e. Where a Councillor has during part of, but not throughout, a Year such special responsibilities as entitle him/her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he/she has such special responsibilities bears to the number of days in that Year.

f. Where this scheme is amended as mentioned in sub paragraph (b), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub paragraph (b)(i) of that paragraph any such special responsibilities as entitle him/her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub paragraph) as bears to the whole the same proportion as the number of days in that period during which he/she has such special responsibilities bears to the number of days in that period.

7. **Withdrawing of allowances**

Where a **Councillor** is suspended or partially suspended from his/her responsibilities in accordance with Part 3 of the Local Government Act 2000 or regulations made thereunder, the part of the basic, special responsibility or co-optees allowance payable to him/her in respect of responsibilities or duties which he/she is suspended

or partially suspended may be withheld by the **Council**.

8. **Co-optees Allowance**

An annual allowance of £800 per annum is available to those Independent 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**.

9. **Payments shall be made**

a. In respect of basic allowances and special responsibility allowance, subject to sub paragraph (b), in instalments of one twelfth of the amount specified in this scheme on the 25th day of each month.

b. Where a payment of one twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 7, he/she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he/she is entitled.

10. **Annual Review of the Level of Allowances**

All allowances will be increased annually on 1 April by the same percentage as the National Joint Council staff pay award (scp 28).

SCHEDULE 312 - SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

	Multiple	**Amount payable 2025/26 (£)**
Chair of the Council	1	5,916.51
Deputy Chair of the Council	1/8 (12.5%)	739.56
Leader of the Council	4	23,666.02
Deputy Leader of the Council	2.5	14,791.26
Portfolio Holder	1.5	8, 874.76
Opposition Leader (*)	1	5,916.51
Chair (Scrutiny Committee) x2	0.5	2,958.25
Chair (Local Plan Committee)	0.5	2,958.25
Chair (Planning Committee)	1.5	8,874.76
Chair (Licensing)	0.5	2,958.25
Chair (Audit and Governance Committee)	0.5	2,958.25

* An opposition group must consist of at least five Councillors to qualify for the Special Responsibility Allowance.

Normally only one special responsibility allowance will be paid per Councillor, being the highest of the allowances available to him/her. However, where the Council requires a Councillor to undertake additional duties that attract a Special Responsibility Allowance the Councillor will receive 100% of the higher allowance and 50% of the other allowance.

SCHEDULE 2 - APPROVED DUTIES

The following are specified as approved duties for the payment of travelling and subsistence allowances.

(a) Any meeting (not being a meeting of a board, sub-group or working party of this Council or a planning site visit) the holding of which is authorised by the Council or any of its boards, provided that it is a meeting to which Councillors of at least two **Political Groups** on the Council have been invited.

(b) A meeting of any other body to which the Council makes appointments or nominations, or of any group or sub group of such a body.

(c) A meeting of any association of authorities of which the Council is a member.

(d) Carrying out by a Councillor any duty in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.

(e) As an appointed representative of the Council at any visit to obtain any advice or information as a consequence of a report to, or decision of, any council, board, group, sub group, working party, etc.

(f) Attendance at training courses funded by the Council.

Note: The bodies covered by paragraph (b) are those listed as "Outside Bodies" in the **Minutes** of the **Annual Meeting** of the Council each Year, together with any meetings of outside bodies specified by the Council or a board from time to time. Any other meetings authorised by the Council involving Councillors of more than one political party automatically become "Approved duties" under (a).

SECTION B - NWLDC CARERS' ALLOWANCES SCHEME

Childcare

The scheme to provide for the reimbursement of expenditure incurred by Councillors in providing childcare arrangements to facilitate their attendance at approved duties of the Council in accordance with the following requirements:

- That payment is made to someone other than a close relation.

- That payments for the care of under 8s are restricted to payments to registered childminders and other statutory approved childcare providers.

- That payments be restricted to the care of children up to their 14th birthday who normally reside with the Councillor.

Care of Dependants

The reimbursement of expenditure on professional care for an elderly, sick or disabled dependent relative normally residing with the Councillor and requiring constant care subject to payments being restricted to agencies or persons qualified to provide the care other than close relations.

General Conditions

The following conditions will apply to both types of allowance:

- That payments are made on the basis of the reimbursement of actual expenditure incurred providing it does not exceed £10 (2025/26) per hour for each hour of absence from home and are subject to the production of satisfactory receipts by the Councillor. This hourly rate will be increased annually on 1 April by the same percentage as the National Joint Council staff pay award (SCP 28).

- That Councillors self-certify claims confirming that they have incurred expenditure in accordance with the scheme.

- That qualifying meetings be restricted to those regarded as approved duties in the Council's scheme.

SECTION C - GUIDANCE FOR COUNCILLORS ON THE ALLOWANCE SCHEME

COUNCILLORS' ALLOWANCES – FROM 1 APRIL 2025

Councillors' allowances are paid through the monthly payroll on the 25th day of each month (unless this falls at the weekend when payment will be made on the Friday before) by credit transfer to personal accounts in a bank or building society. A computer pay slip is provided containing details of all payments and deductions. Payments are subject to PAYE and National Insurance deductions (where applicable).

1. BASIC ALLOWANCE

This allowance is £5,916.51 per Councillor per Year. Payment is made automatically and, therefore, no claim is required.

This allowance is intended to recognise the time devoted by Councillors to their work, including such inevitable calls on their time as meetings with constituents etc. and also to cover incidental costs for which other provision is not made. The basic allowance also covers attendance at the following meetings:

Council, board meetings, groups, sub groups, strategy groups, steering groups, working parties, panels, review boards, outside bodies, etc. and site visits.

2. SPECIAL RESPONSIBILITY ALLOWANCE

The special responsibility allowances are paid to the following:

Chair of the Council..... £5,916.51 per annum

Deputy Chair of the Council ..... £739.56 per annum

Leader of the Council ..... £23,666.02 per annum

Deputy Leader of the Council..... £14,791.26 per annum

Cabinet Member/Portfolio Holder ..... £8,874.76 per annum

Opposition Leader..... £5,916.51 per annum

Chair of the Corporate Scrutiny Committee ..... £2,958.25 per annum

Chair of the Community Scrutiny Committee ..... £2,958.25 per annum

Chair of the Local Plan Committee…….. £2,958.25 per annum

Chair of Planning Committee ..... £8,874.76 per annum

Chair of Licensing Committee..... £2,958.25 per annum

Chair of Audit and Governance Committee..... £2,958.25 per annum

Normally only one special responsibility allowance will be paid per Councillor, being the highest of the allowances available to him/her. However, where the Council requires a Councillor to undertake additional duties that attract a special responsibility allowance the Councillor will receive 100% of the higher allowance and 50% of the other allowance.

3. **RENUNCIATION**

Any Councillor not wishing to claim the basic allowance or special responsibility allowance **MUST NOTIFY THE HEAD OF LEGAL AND SUPPORT SERVICES IN WRITING.**

4. **TRAVELLING ALLOWANCES**

Mileage rates are determined and set annually by the National Employers' Organisation for Local Government Services.

(a) Public transport

The rate for travel by public transport is limited to the amount of the ordinary fare or any available cheap fare.

(b) Motor cycles

The rates for travel by a Councillor's own solo motor cycle are as follows:

(i) Not exceeding 150 cc ..... 9.2p per mile

(ii) Exceeding 150 cc but not exceeding 500 cc ..... 13.4p per mile

(iii) Over 500 cc ..... 18p per mile

(c) Motor vehicles

The rate for travel by a Councillor's own private motor vehicle, or one belonging to a member of his/her family or otherwise provided for his/her use, other than a solo motor cycle shall not exceed:

For the use of a motor vehicle of cylinder capacity:

(i) Not exceeding 999 cc ..... 46.9p per mile

(ii) Exceeding 999 cc but not exceeding 1199 cc..... 52.2p per mile

The cylinder capacity is that entered in the vehicle registration book or document by the Secretary of State under the Vehicles (Excise) Act 1971.

These rates may be increased in respect of the carriage of each passenger, not exceeding 4, to whom a travelling allowance would otherwise be payable under any enactment by not more than 3.0p per mile for the first passenger and 2.0p per mile for the second and subsequent passengers.

The following is also specified as an approved duty for the purposes of payment of travelling expenses and subsistence allowances:

As an appointed representative of the Council at any visit to obtain any advice or information as a consequence of a report to, or decision of, any council, board, sub group or working party etc.

(d) Taxis

The rate of travel by taxi-cab or cab shall not exceed:

(i) in cases of urgency or where no public transport is reasonably available, as determined on an individual Councillor's needs basis, the amount of the actual fare and any reasonable gratuity paid;

(ii) in any other case, the amount of the fare for travel by appropriate public transport.

(e) Rail

Unless a Councillor is travelling with an officer, request forms for rail tickets should be completed and at least five working days' notice given in order for arrangements to be made for the tickets to be obtained from the travel agents. Completed forms should be forwarded to your Democratic Services Officer.

(f) Air

The rate for travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in attendance allowance and subsistence allowance consequent on travel by air.

Provided that where the body resolves, either generally or specifically, that the saving in time is so substantial as to justify payment of the fare for travel by air, there may be paid an amount not exceeding:

(i) The ordinary fare of any available cheap fare for travel by regular air service, or

(ii) Where no such service is available or in case of urgency, the fare actually paid by the Councillor.

The Council has resolved that in all cases where, in the opinion of the S151 Officer, the above criteria have been met, the appropriate air travel costs be paid.

(g) Tolls, ferries, parking fees

The actual amount of any expenditure incurred on tolls, ferries or parking fees may also be claimed.

Travelling expenses are limited to the actual journey from home or one's regular place of work which are necessarily incurred for the purpose of enabling you to perform an approved duty as a Councillor.

(h) Tax implications on travelling expenses

Councillors who use their own car in the performance of their duties are paid a mileage allowance to cover the costs incurred, based on an amount per mile for the mileage covered on Council business. An element of these payments may be taxable where the amount paid per mile exceeds the Inland Revenue permitted allowance. If any tax liability arises this is likely to be very minimal (further information can be obtained from the Senior Collections Officer on 01530 454820).

Travel between home and the Council Offices (or any other place) on Council business is not taxable provided that such payment does no more than reimburse the cost of such travel.

Taxi, rail or air fares, tolls, ferries and parking expenses **are taxable** unless accompanied by a receipt or invoice. **Councillors are requested to provide the appropriate receipts in order to reduce the possibility of any tax liability.**

IT IS NECESSARY TO SUBMIT CLAIM FORMS FOR TRAVELLING EXPENSES IN RESPECT OF ALL APPROVED MEETINGS ATTENDED (INCLUDING THOSE COVERED BY THE BASIC ALLOWANCE).

6. COUNCILLORS - "IN ATTENDANCE" AT MEETINGS

A Councillor who is “in attendance" at a meeting, i.e., is not a member of the board, group or sub group, etc. is not eligible to claim travelling expenses.

Counsel's opinion was sought by the Association of **District** Councils, (now the Local Government Association) when the Councillors' allowances system was first introduced in 1974, regarding Councillors who attended meetings but who were not members of a particular Committee.

Counsel's opinion was that:

"A Councillor attending the Committee meeting of which he/she is not a member is not attending as a member of the Committee and his/her attendance is not an approved duty within Section 177(2)(b) of the Local Government Act 1972.

The attendance of a non-member of a Committee would not, in his opinion, be within Section 177(2)(b) unless he were there at the Committee meeting by special invitation to assist the Committee. The mere attendance and chance assistance of the Committee would not be enough to enable the attendance to be an approved duty."

7. SUBSISTENCE ALLOWANCES

The amount of subsistence payable is on a meals basis, with clarification of eligibility based on the time of day the meal is taken and time away from home.

(a) Absence from the usual place of residence:

(i) Breakfast allowance (more than four hours away from normal place of residence before 11.00am) £6.50

(ii) Lunch allowance (more than four hours away from normal place of residence including the lunchtime period between 12 noon and 2.00pm) £8.00

(iv) Evening meal allowance (more than four hours away from the normal place of residence ending after 7.00pm) £11.00

Points to remember:

You must have more than four hours before 11.00am to claim the breakfast allowance.

You must have four hours which include 12.00 noon to 2.00pm to claim the lunch allowance.

You must have four hours which include 3.00pm to 6.00pm to claim the tea allowance.

You must have four hours ending after 7.00pm to claim the dinner allowance.

i.e,, if you finish your duty, including travel home, at 1.50pm, you cannot claim the lunch allowance even if you started at 8.00am.

Examples:

Day & times	Amounts to be claimed		Total
Monday			
06.45 - 13.00	Breakfast allowance	£6.50	£6.50
Tuesday			
06.50 - 17.00	Breakfast allowance	£6.50	
	Lunch allowance	£8.00	£14.50
Wednesday			
10.30 - 18.15	Lunch allowance	£8.00	£8.00
Thursday			
06.00 - 21.00	Breakfast allowance	£6.50	
	Lunch allowance	£8.00	
	Dinner allowance	£11.00	£25.50

(b) **Overnight subsistence from the usual place of residence**.....£90.00

For such an absence overnight in London, or for the purposes of attendance at an annual conference (including or not including an **Annual Meeting**) of the Local Government Association - £100.00

(For the purposes of this paragraph, London means the City of London and the London boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.) When Councillors are required to spend a night away from home or work place on Council business the normal rate for subsistence will not be taxable provided the expenses claimed are accompanied by a receipt or invoice.

(c) **Meals provided free of charge**

The rates specified in paragraphs (a) and (b) above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

(d) **Meals on trains**

Where main meals are taken on trains during a period for which there is an entitlement for a day subsistence allowance, the reasonable cost of the meals (including VAT) may be reimbursed in full, within the limits specified below. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

The limitations on reimbursement are:

(i) for breakfast, an absence of more than four hours before 11.00am;

(ii) for lunch, an absence of more than four hours including the period between 12noon and 2.00pm;

(iii) for dinner, an absence of more than four hours ending after 7.00pm.

(e) **Taxation of subsistence allowances**

Subsistence allowances paid in respect of expenses incurred as a consequence of travel on Council business away from the Council Offices, will not be taxable provided they merely reimburse costs incurred by the Councillor and claims for payment are accompanied by the relevant receipts. **If receipts are not submitted, income tax will have to be deducted from the expenses claimed.** Councillors are, therefore, requested to provide receipts to reduce the possibility of any tax liability.

Allowances claimed for meals taken at the Council Offices, e.g. where a Councillor comes to the Offices for a briefing meeting, at say, 4.00pm and stays at the offices for an evening meeting that ends at 9.00pm, **expenses claimed are subject to tax.**

8. SCHOOL GOVERNORS

The Council is not able to pay attendance allowances, travelling expenses or subsistence allowances to Councillors serving as school governors when attending meetings of school governing bodies, as education is not a function of this authority.

9. TELEPHONE RENTALS

The Council has agreed to pay £75 per annum towards the home telephone rental (e.g. rental of line and equipment) of any Councillor **except where the number is ex-directory**. Before payment can be made, you will need to supply an original invoice from your provider, to evidence that a telephone line is in use. Please send this to Democratic Services.

10. BROADBAND CONNECTION

The Council has agreed to pay £75 per annum towards the rental of a home broadband connection. Payment is made automatically, thus no claim is required. However, before payment can be made you will need to supply an original invoice from your provider, to evidence that a broadband connection is in use. Please send this to Democratic Services.

11. NATIONAL INSURANCE CONTRIBUTIONS

The Social Security Act 1973 provides that both the Councillor and the Council will become liable for Class 1 national insurance contributions in respect of allowances

provided the amounts involved reach the lower earnings limit in any earnings period.

Councillors who are retired for National Insurance purposes (state pension age) will not be liable to pay any contribution, and the DWP will, on application, issue a certificate of earner's non-liability. A person who has more than one job must obtain a separate certificate for each employer since each office or employment is considered separately for contribution purposes. **It is emphasised**, that unless such a certificate is obtained, should any liability for contributions arise, deductions will be made from the allowance at the full rate applicable, since any employer may be held liable for any deficiency in contributions. Contact your local tax office for further information.

12. ANNUAL PUBLICATION OF AMOUNTS OF COUNCILLORS' ALLOWANCES PAID

The Council is required by the Local Authorities (Members' Allowances) (Amendment) Regulations, 2003, "to make arrangements for the publication within the Authority's area, of the total sum paid by it in that (financial) year under the Members' Allowances Scheme, to each member in respect of the following, namely Basic, Special Responsibility and Attendance Allowances".

This requirement is made by publishing a list, of the total sums paid to each Councillor in the previous financial year, in the press around May/June each year.

13. CLAIMING PROCEDURE

To claim payment of any of the allowances you must use the standard claim form. Blank copies of the form can be obtained from Democratic Services and it is essential that these be completed **fully**.

Here are a few tips about completing the claim form:

- Make sure your writing is clear – if you have any doubts use block capitals!
- Try to avoid using abbreviations for meetings; complete the title of the meeting in full.
- Show the time and place of departure and return, and location of meetings.
- Obtain receipts (when applicable) and attach these to your claim forms.
- Submit claims on a monthly basis **by the 6th of the month.** This will ensure payment by the 25th day of the month.

COUNCILLORS ARE REQUESTED TO SUBMIT CLAIM FORMS REGULARLY EACH MONTH

If you have any further questions or concerns about completing the claim forms, or Councillors' allowances in general, please contact Democratic Services.

SECTION D - EXAMPLES OF FORMS

1. **Attendance, travel and subsistence**
2. **Carers' allowance**
3. **Rail ticket requests**
4. **Vehicle information**

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

APPLICATION FOR TRAVELLING AND SUBSISTENCE ALLOWANCES

Name of Councillor .....

Address .....

.....

Make and Model of Vehicle .....

Car Registration Number .....

Cylinder Capacity (as per log book) .....

Date (1)	Place & Time of Departure (2)	Place & Time of Return (3)	Description of Approved Duties (4)	Attendance Allowance (5) £	p	Bus/Taxi/Rail, Tube, Parking etc. (6) £	p	No. of Miles (7)	Subsistence Allowance Claimed (8) £	p
			TOTALS NOW CLAIMED							

I DECLARE that:-

(a) I have necessarily incurred expenditure on travelling and subsistence for the purpose of enabling me to perform approved duties.
(b) I have actually paid the fares and made the other payments shown in column 6 above.
(c) The amounts claimed are strictly in accordance with the approved rates.
(d) Any items claimed for are strictly in accordance with the Councillors' Allowance Scheme.
(e) Receipts are attached, where applicable.
(f) If mileage allowance is being claimed please attach a VAT receipt dated prior to the incidence of the mileage claimed.

I DECLARE that the statements above are correct and I have not made, and will not make, any other claim in connection with the duties indicated above.

Signed ..... Date .....

For office use only:

Checked by:

_____

Signature:

_____

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

APPLICATION FOR PAYMENT OF CARERS'ALLOWANCES

Name Of Councillor ……..

Address……..
……..

Date	Place & Time of Departure	Place & Time of Return	Meeting Attended	Name of Carer Paid	Childcare Expenses				Care of Dependants			
					No. Of Hours	Rate Per Hour	Amount Claimed		No. of Hours	Rate per Hour	Amount Claimed	
AMOUNTS NOW CLAIMED												

I DECLARE that:-
(a) I have necessarily incurred expenditure on Childcare or Care of a Dependant (see guidance overleaf) for the purpose of enabling me to perform approved duties.
(b) I have actually paid the amounts shown above and attach receipts to this effect.
(c) The amounts claimed are strictly in accordance with the approved rates.

I DECLARE that the statements above are correct and I have not made, and will not make, any other claim in connection with the duties indicated above.

Signed ..... Date .....

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCILLORS' ALLOWANCES

REQUEST FOR RAIL TICKETS

FROM: COUNCILLOR ……

Date of Meeting	Times of Trains (If known)	Destination	Title and Times of Meeting
Date ticket required by _____			

(It would be appreciated if five working days' notice could be given in order for arrangements to be made for the tickets to be obtained from the Travel Agents)

Signed …….. Date ……..

When completed, please return the form to your Democratic Services Officer in Member Services.

WOULD COUNCILLORS PLEASE NOTE:

IN ACCORDANCE WITH INLAND REVENUE TAX REGULATIONS, RECEIPTS ARE REQUIRED WHEN CLAIMING TRAVELLING EXPENSES, AND <u>COUNCILLORS ARE REQUESTED TO RETURN THE RAIL TICKET WITH THEIR EXPENSES FORMS</u> TO DEMOCRATIC SERVICES

If for any reason you are unable to attend the meeting, or the meeting is cancelled, would you please return the ticket, as soon as possible, in order for a refund to be obtained.

For Office Use Only	
Cost of Ticket £ p	**Date Purchased/ Code**

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCILLORS' ALLOWANCES

TRAVELLING EXPENSES
INFORMATION REQUIRED IN CONNECTION WITH COUNCILLORS' VEHICLES

COUNCILLOR ……

ADDRESS ……

……

Make of Vehicle	
Model of Vehicle	
Cylinder Capacity (Exact c.c. as quoted on the log book)	
Registration Number	

I confirm that the above is a true record.

Signed …….. Date ……

PLEASE RETURN THE FORM TO DEMOCRATIC SERVICES

Part 6
Petitions Scheme

1. Introduction and Background

The Council has an extensive programme to engage its local communities and it recognises that petitions are another method of local people raising an issue which requires a Council response.

This Scheme sets out how we will respond to your petition. The Council will treat something as a petition only if it meets the requirements within this scheme.

Paper petitions should be sent to:

The Petitions Officer
North West Leicestershire District Council
PO Box 11051
Coalville
LE67 0FW

or be created, signed and submitted on-line by following this link

http://minutes-1.nwleics.gov.uk/mgEpetitionListDisplay.aspx

If a petition is delivered direct to the Council Offices it should be handed direct to the Reception Staff at Whitwick Business Centre, Stenson Road, Coalville, Leicestershire LE67 4JP.

In order to ensure the neutrality of Officers no petition should be handed directly to an officer, other than the Reception Staff, and no photographic or video recording of the delivery of the petition is permitted within the Council Offices.

If you would like advice on this Scheme please contact Member Services on 01530 454512

2. What are the Requirements for Submitting a Petition?

Petitions submitted must:

(a) include a clear and concise statement covering the subject of the petition and what specific action the petitioners wish the Council to take;

(b) be a Valid Petition as set out in section 3 of this Petition Scheme;

(c) include the name, address and signature of every person supporting the petition; and

(d) include an address and telephone number for the petition organiser. This is the person the Council will contact to explain how it will respond to the petition. The petition organiser must be able to present the petition at any relevant meeting.

The Council's Petition Officer will not accept any petitions that in his/her opinion do not meet these requirements.

3. Valid Petitions

To be a Valid Petition, the petition must:

- Be about a matter for which the Council has a responsibility or which affects the District;

- Not be vexatious, derogatory, defamatory, frivolous or offensive;
- Not concern a Council employment or staffing matter or sensitive personal information about a Councillor;
- Not require the disclosure of confidential or Exempt Information;
- Not be substantially the same issue/subject as a petition which has been received by the Council in the past 12 months;
- Not relate to a specific licensing or planning decision and/or a matter which already has a specific legal right of appeal;
- Not relate to a matter or issue that the public has already been consulted on in the past 12 months, or is due to be consulted on within the next 12 months;
- Not request Council to do something which conflicts with Council policy;
- Not relate to issues in relation to possible misconduct of District or Parish Councillors;

If the Petitions Officer rejects a petition for not being a Valid Petition, then he/she will notify you of the rejection and tell you the reasons why. The Petitions Officer will also notify the Chief Executive and the relevant Strategic Director if appropriate.

4. Who can Sign a Petition?

In order to sign a petition you must be living, working or studying in the District. When signing a petition, the address you submit must be that at which you live, work or study in the District. A blank petitioning form is available for use from the Council's website.

5. How will the Council Respond to Petitions?

The Council will always adopt a pragmatic approach to dealing with petitions and will endeavour to resolve issues raised by a petition directly, where appropriate. How the Council responds to a petition will depend on what the petition asks for and how many people have signed it, but may include one or more of the following:

(a) the relevant Strategic Director dealing with the issue directly;
(b) taking the action requested in the petition;
(c) considering the petition at a Council / Cabinet meeting;
(d) holding an inquiry into the matter;
(e) undertaking research into the matter at Scrutiny;
(f) holding a public meeting;
(g) holding a consultation;
(h) holding a meeting with petitioners;
(i) referring the petition for consideration by one of the Council's Scrutiny Committees
(j) calling a referendum; and
(k) writing to the petition organiser setting out the Council's views about the request in the petition, which may include taking no action.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in the petition.

6. Types of Petition

There are a number of types of petition. They are set out below. How the Council will deal with them is explained later in this document.

Petitions for Officers – 15 – 1,000 signatories

Petitions for Cabinet – 1,001 to 2,000 signatories

Petitions for Council – More than 2,000 signatories

7. What Happens When a Petition is Received

In respect of a petition of any sort:

- It will be acknowledged to the petition organiser within 2 working days of receipt.

- We will aim to provide you with details about what the Council plans to do with your petition or action which the Council will take within 10 working days of receipt of your petition

Petitions for Officers

- The Petitions Officer will ask the relevant Strategic Director to take some action. For example, if the petition relates to fly tipping the Strategic Director for Communities can arrange for it to be cleared up directly. The Petitions Officer will notify the relevant portfolio holder and ward councillors of receipt of the petition.

Petitions for Cabinet

- Cabinet will, where possible, decide, by resolution, how to respond to the petition at the meeting. Cabinet could:
  - take the action requested by the petition (if it has the power to do so);
  - not to take the action requested for reasons put forward in the debate;
  - commission further investigation into the matter by a Committee / officers;
  - refer to Council. The relevant Strategic Director / Chief Executive will be responsible for producing a report in consultation with the portfolio holder to give effect to the referral to Council.

Petitions for Council

- Council will, where possible, decide, by resolution, how to respond to the petition at the meeting. Council could:

  - take the action requested by the petition (if it has the power to do so);
  - not to take the action requested for reasons put forward in the debate;
  - commission further investigation into the matter by a Committee / officers;
  - refer to Cabinet (if it falls within Cabinet's decision-making powers) with or without Council's recommendations for Cabinet consideration. The relevant Strategic Director / Chief Executive will be responsible for producing a Cabinet report in consultation with the portfolio holder to give effect to Council's referral to Cabinet.

General rules on how petitions will be dealt with at Council / relevant Scrutiny Committee meetings:

- A maximum of two petitions only will be permitted at any meeting. Only one petition will be permitted if the Head of Legal and Support Services receives notice of a deputation under Council Procedure Rule 18.

- Petitions that do not relate to an item of business already on the agenda will be considered before the normal business of the meeting.

- Petitions will be considered in the order they were received by the Petitions Officer.

- A maximum of 30 minutes in total will be allowed for considering petitions at any meeting. Any petitions not dealt with within the time allowed will be deferred to the next available meeting.

- The Chair may invite an officer or portfolio holder to set out the process which will be followed at the meeting before inviting the petition organiser to address the meeting as set out above.

8. E-petitions

The Council welcomes e-petitions which are created and submitted through its website http://minutes-1.nwleics.gov.uk/mgEpetitionListDisplay.aspx. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide the Council with their name, postal address and e-mail address. You will also need to decide how long you would like your petition to be open for signatures. The maximum time that a petition may remain open is six months.

When you create an e-petition, it may take five working days before it is published on-line. This is because the Council has to check that the content of your petition is suitable before it is made available for signature. If the Council feels it cannot publish your petition for some reason, you will be contacted within this time to explain why not. You will be able to change and resubmit your petition if your wish. If you do not do this within ten working days, a summary of the petition and the reason why it has not been accepted will be published on the website.

When an e-petition has closed for signature, it will automatically be submitted to the Petitions Officer. In the same way as a paper petition, you will receive an acknowledgement within ten working days. If you would like to present your e-petition to a meeting of the Council, please contact Member Services on 01530 454512 within ten working days of receipt of the acknowledgement.

A petition acknowledgement and response will be e-mailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.

9. How do I "Sign" an E-petition

When you sign an e-petition you will be asked to provide your name, your postcode and a valid e-mail address. When you have submitted this information, you will be sent an e-mail to the e-mail address you have provided. This e-mail will include a link which you must click on in order to confirm the e-mail address is valid. Once this step is complete, your "signature" will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

10. What can I do if I feel my Petition has not been Dealt with Properly

There is no right of appeal about the outcome of a petition, but if you feel that the Council has not properly followed the procedure within this Scheme, you may contact the Petitions Officer.

If you remain dissatisfied, you can make a complaint to the Local Government and Social Care Ombudsman.

Part 7
Glossary of Terms

Access to Information	By law the public must be given reasonable notice of matters to be discussed at a Council, Committee or Sub-Committee meeting.
Access to Information Procedure Rules	Rules which determine how the public can be given **Access to Information** – see **Part 3**.
Adjourn	When a meeting is briefly suspended.
Affirmation of the Meeting	When something is agreed by general consensus of the Councillors present.
Agenda	A document containing reports which sets out the business to be considered at a meeting. The **Agenda** is published at least five **Clear Days** before the meeting subject to special requirements for **Executive Decision Notices**.
Amendment	A change to a motion.
Annual Meeting	The yearly ceremonial meeting of the **Council** at which the **Leader** and **Chair of the Council** are elected.
Annual Governance Statement	The **Annual Governance Statement** is a statutory document which explains the processes and procedures in place to enable the Council to carry out its functions effectively. The statement is produced following an annual review of the Council's governance arrangements and the effectiveness of its system of internal control. The statement includes an action plan to address any significant governance issues identified.
Appointments Committee	Determines matters relating to the appointment of the Councils' **Statutory Officers**, **Chief Officers,** Deputy Chief Officers and Heads of Service – see **Part 2**.
Arrangements for Dealing with Code of Conduct Complaints	The arrangements adopted by the Council under section 28 of the Localism Act 2011 to investigate and decide on allegations made in relation to failures to comply with the Councillor Code of Conduct.
Assessment Sub-Committee	A **Sub-Committee** of the **Audit and Governance Committee** that assesses complaints in relation to breaches of the **Councillors' Code of Conduct**.

Audit and Governance Committee	The **Committee** responsible for promoting and maintaining high standards of governance by the Council and its Councillors. It considers such matters as the Council's internal governance arrangements, the financial affairs of the Council and standards of conduct by Councillors including written allegations that a Councillor has failed to comply with their **Code of Conduct**.
Background Papers	Documents on which reports are primarily based. The law says that report authors must list any papers used in compiling a report for decision, and these papers must be available for four years to anyone wishing to inspect them.
Best Value	The '**Best Value** Duty' is a legal duty on the Council, in accordance with section 3 of the Local Government Act 1999. This general duty of Best Value requires the Council to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. When reviewing service provision the Council should consider overall value, including economic, environmental and social value.
Budget	All the financial resources allocated to different services. With regards to the Council's budget, that means the allocation of financial resources to different services and projects, proposed contingency funds, the **Council Tax** base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and setting **Virement** limits, as a whole.
Budget and Policy Framework	The plans and strategies adopted by the Council within which the Executive must operate – see Section C of **Part 2**.
Budget and Policy Framework Procedure Rules	The rules which govern the process by which the **Budget and Policy Framework** is developed and how decisions can be made outside the Budget and Policy Framework – see **Part 3**.
Budget Council Meeting	The meeting of the **Full Council** that takes place each year in order to calculate the **Budget** requirement and set the **Council Tax**.
Cabinet	The **Leader** and a minimum of two and a maximum of nineother Councillors appointed by the Leader who are

	responsible for making **Executive Decisions**.
Cabinet (Executive) Procedure Rules	The rules which govern how meetings of the **Cabinet** (and any **Committees** of the Cabinet) are run – see **Part 3**.
Cabinet Member	A member of the **Cabinet**, with specific responsibilities (a '**portfolio'**) delegated by the **Leader** of the Council. Also known as '**Portfolio Holders'** and **Executive members**.
Call-in	A mechanism which allows Scrutiny to examine and challenge an Executive decision before it is implemented.
Carried	When a motion is **Carried**, it is agreed.
Casting Vote	The **Chair** has a **Casting Vote** which decides the matter when votes are equally divided.
Chair	The person appointed to oversee meetings.
Chair of the Council	The person elected annually to oversee meetings of the **Full Council**. They perform a civic and ceremonial role that is non-political.
Chief Executive	The most **senior Officer**, with overall responsibility for the management and operation of the Council. Also known as the Head of Paid Service.
Chief Officer	The most senior Council staff who are responsible for managing each of the Council's departments, as defined in section 2 of the Local Government and Housing Act 1989. It means the Council's **S151 Officer**, **Monitoring Officer** as well as any Officers whom report directly to the **Chief Executive** (but does not include secretarial, clerical or support staff). The Council's **Strategic Directors** are **Chief Officer**s.
CIPFA	The Chartered Institute of Public Finance and Accountancy.
Clear Calendar Days	**Clear Calendar Days** will include weekends and bank holidays, but it does not include the date of the notice or the date of the meeting. So, if an **Executive Decision Notice** is to be published (which must be published 28 Clear Calendar Days before a meeting) and the meeting is on 21 June the last day the EDN can be published is 23 May.
Clear Days	Saturdays, Sundays, Bank holidays, the day stated as the deadline for receipt and the day of the meeting shall be excluded from the calculation of **Clear Days**. For

	example, questions from the public to members are required to be submitted by midday three Clear Days before the meeting. If the meeting is held on Tuesday, the question would need to be submitted by noon on the Wednesday before.
Closure Motion	When a Councillor moves that a vote is taken to decide a question under consideration immediately, without further **Debate**.
Code of Conduct	A set of rules to guide behaviour.
Committee	A group of people appointed for a specific function by a larger group and typically consisting of members of that larger group. **Committees** may be established by the **Council** or **Cabinet** to deal with specific matters.
Confidential Information	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by court order. See also '**Exempt Information**' below.
Constitution	A document setting out how the Council operates, how decisions are made and all the procedures which have to be followed.
Co-Optee / Co-opted Member	A person who is not elected but is appointed to serve on a **Committee** or **Sub-Committee** in a participatory capacity.
Contract Procedure Rules	The Rules which set out how the Council procures goods, works and services and enters into contracts – see Section G of **Part 3**.
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 Procurement Strategy
Council	The 38 Councillors Elected for North West Leicestershire.
Council and	The rules which must be followed for all meetings of **Full**

Committee Procedure Rules	**Council** and any **Committees** of the Council – see **Part 3**.
Council Tax	A tax charged to households by local authorities, based on the estimated value of the property and the number of people living in it.
Councillor	A person elected to represent their Ward on the Council.
Councillors' Code of Conduct	There is a statuary requirement under the Localism Act 2011 to have a **Code of Conduct**. The **Code of Conduct** sets out the behaviour that is expected of Councillors, the seven principles of public life and provides for the disclosure of pecuniary and non pecuniary interests - see **Part 4**.
Councillors' Substitute Scheme Procedure Rules	The rules which govern how a Councillor who would normally sit on a **Committee** or board, can be replaced by another Councillor, if the first Councillor is unavailable – see **Part 3**.
Council's Commercial Portfolio	Industrial units we hold purely for letting out on a commercial basis.
Debate	A discussion on an issue in which different views are put forward.
Declarations of Interest	Councillors have to abide by a **Code of Conduct**, part of which requires them to declare any interests they have which could influence any decisions they make.
Defer	When an issue is put off or postponed until a future time.
Delegated Powers	Formal authorisation for a **Committee**, **Portfolio Holder** or Officer to take an action which is the ultimate responsibility of the Council or Executive.
Deputations	A person or group appointed to represent issues on behalf of others at Council meetings.
Deputy Chair	The person appointed to preside in the absence of the **Chair**.
Deputy Leader	The Councillor elected to the position of **Deputy Leader** of the Council.
Designated Officer	For the purposes of Officer **Delegated Powers** within this **Constitution**, the term "**Designated Officer**" shall include the following Officers:

	• **Chief Executive** • **Strategic Directors** • **Heads of Service**
Determination Sub-Committee	A **Sub-Committee** of the **Audit and Governance Committee** that determines complaints regarding breaches of the **Councillors' Code of Conduct**.
Development Plan	**Development Plan** and Development Plan documents include the local plan, neighbourhood plans, and other information contained in section 38 Planning and Compulsory Purchase Act 2004.
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.
District	The geographical area which the Council provides services for.
Employee Joint Consultative Committee	A **Committee** with representatives from the Council and from trade unions that meets to resolve matters that the Employee Consultation Group has been unable to resolve – see Part 2.
Exclusion of the Public	The public are excluded from meetings when exempt or confidential information is being considered.
Executive	The **Leader** and the **Cabinet**; responsible for carrying out almost all of the **Local Authority**'s functions.
Executive Decisions	Decisions which can be made by the **Cabinet**, a **Cabinet Member** or **Committee** of the Cabinet, or an Officer.
Executive Decision Notice	A public document of executive and **Key Decisions** to be taken by the Executive or Officers no earlier than 28 **Clear Calendar Days** after its publication.
Executive Function(s)	Functions which can be carried out by the **Cabinet**, a **Cabinet Member** or **Committee** of the Cabinet, or an Officer.
Exempt Information	Information falling into one of seven categories which usually cannot be publicly disclosed – see the **Access to Information Procedure Rules** in **Part 3**.
Extraordinary	A meeting convened for a specific purpose.

Meeting	
Financial Procedure Rules	The Rules which set out how the Council's financial procedures operate to safeguard public money – see Section F of **Part 3**.
Full Council	The meeting of all Councillors of the Council.
General Exception	A procedure which must be followed when items which are likely to be Executive/**Key Decisions** have not been included in the **Executive Decision Notice** before the decision will be taken.
General Fund	Used to pay for items of everyday expenditure such as salaries.
Global Internal Audit Standards in the UK Public Sector	The **Global Internal Audit Standards in the UK Public Sector** (GIAS) have been developed to apply across the whole of the public sector in all sectors of government. The GIAS are based on standards issued by the Institute of Internal Auditors (IIA), with additional requirements and interpretations that make them directly applicable to the UK public sector. The GIAS are developed jointly by the relevant internal audit standard setters (RIASS) for central government, local government, devolved government administration bodies and the National Health Service (NHS). The GIAS set out requirements which apply generally to all UK public sector engagements, but do not include any sector requirements or guidance for specific parts of government.
Group Leader	**Leader** of a **Political Group**.
Head of Legal and Support Services	See **Monitoring Officer** below.
Head of Service	An Officer with responsibility for a specific service area who reports to a **Strategic Director**.
Independent Member	A Councillor who is not a member of a recognised political party. In the context of the **Audit and Governance Committee**, this also refers to the non-elected members.
Independent Person	A person that is independent from the Council and who is appointed for the purpose of the Localism Act 2011.
Independent Remuneration Panel	A **Committee** that makes recommendations to Council about Councillor allowances – see **Part 2**.
Investigatory	A **Committee** that considers investigations into the

Committee	conduct of the Head of Paid Service, S.151 Officer, **Monitoring Officer**, Strategic Director and Heads of Service and makes recommendations on the dismissal of **Statutory Officers**.
Joint Arrangements	Services provided in partnership with other Councils or by or on behalf of those Councils.
Joint Committee	A **Committee** appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.
Key Decision	(i) A "key decision" means a decision taken by the Cabinet, a committee of the Cabinet, an area or joint committee in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely: (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Authority's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District. (ii) For the purposes of (a) above: (a) £100,000 shall be regarded as significant in terms of expenditure and (b) £100,000 shall be regarded as significant in terms of savings. (iii) For the purposes of (b) above any issue which, in the opinion of the Leader, is likely to have an impact on people shall be regarded as significant in terms of impact on communities. In deciding whether an issue is significant the Leader shall have regard: to whether the decision may incur a significant social, economic or environmental risk to the likely extent of the impact of the decision both within and outside the District to whether the decision is likely to be a matter of political controversy

	to the extent to which the decision is likely to result in substantial public interest A decision taker when making a decision may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 3 of this Constitution. .
Leader	Usually the Councillor who heads the largest **Political Group**, and is elected by the **Full Council** to the position of **Leader** of the Council. The Leader chairs the **Cabinet**.
Licensing Code of Conduct	The code which provides guidance to gives advice to Councillors who: • Are members of the **Licensing Committee** and who sit on **Licensing Sub-Committees**; • Wish to address the **Committee** or Sub-**Committee** on any licensing issue; • Are involved outside the **Committee** on licensing applications or other licensing matters - including informal occasions such as meetings with Officers or public and consultative meetings; and/or • Are involved in applications for licences under the Licensing Act 2003 and the Gambling Act 2005 – see **Part 4**.
Licensing Committee	The **Committee** that carries out the Council's licensing responsibilities including under the Licensing Act 2003 Act and the Gambling Act 2005.
Licensing Sub-Committee	A sub-committee of the **Licensing Committee** that determines licensing matters as required under the Licensing Act 2003.
Local Authority	The Council.
Local Choice Functions	Activities which can be the responsibility of the Council or **Cabinet**.
Local Plan Committee	A **Committee** that considers and works on **Development Plan** Documents (which includes the Local Plan) and Supplementary Planning Documents – see **Part 2**.
Market Rent	A value confirmed by the Council's valuer as **Market Rent.**

Meeting	A meeting of the Council or of the **Cabinet**, a **Committee** or of a Sub-Committee.
Minister of the Crown	A government cabinet minister.
Minutes	A public record of decisions taken at meetings of the Council, its **Committees** and **Sub-Committees**.
Monitoring Officer	The Council Officer charged with ensuring that everything that the Council does is fair and lawful. The **Monitoring Officer** is currently the **Head of Legal and Support Services**.
Monitoring Officer Protocol	The **Monitoring Officer** is a statutory position created by s.5 of the Local Government and Housing Act 1989. This Act as well as the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 create obligations on the Monitoring Officer and the **Council**. The protocol in **Part 4** provides general information about how these obligations will be discharged by the Council.
Motions	A formal proposal made by a Councillor for the consideration of the meeting.
Move (a Motion)	A motion is moved when a formal proposal is made by a Councillor.
Negate (a Motion)	A motion is negated when it is made ineffective.
Non-Executive Function(s)	Functions which cannot be carried out by the **Cabinet**, a **Cabinet Member** or **Committee** of the Cabinet. These functions must be carried out by the **Full Council** or if delegated by Full Council by a **Committee**, **Sub-Committee** or an **Officer**.
Non-Executive Members	All Councillors that are not members of the **Cabinet**.
Notice of Meeting	The public notice stating the date, time and place of a meeting.
Officer	A person employed by the Council to carry out the work of the Council. Officers cannot be Councillors.
Officer Employment Procedure Rules	Rules which govern how Officers are employed by the Council – see **Part 3**.
Officer Scheme of	The way in which the Officers of the Council can make

Delegation	decisions and which decisions they have the power to make, as set out at Section G of **Part 2** of the **Constitution**.
Officers' Code of Conduct	A code which defines the responsibilities, standards and behaviour required of the Council's employees – see **Part 4**.
Outside Body	An external organisation which has invited the Council to nominate representative(s) to serve on its management body. Democratic Services keep a list of Outside Bodies which is reviewed on an annual basis, and will work with the Monitoring Officer to review the necessary forms and information requested to the Outside Bodies.
Petition	A formal written request, signed by more than fifteen people, appealing to the Council.
Planning Code of Conduct	The code which sets out the practices and procedures which must be followed by Councillors and Officers when involved in planning matters - see **Part 4**.
Planning Committee	The **Committee** of Councillors which makes planning decisions (not delegated to Officers) on behalf of the Council.
Point of Order	A question raised to clarify whether the procedural rules are being adhered to.
Political Balance	**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.
Political Group	Two or more Councillors who have joined together and asked to be recognised as a **Political Group** and have given requisite notice under s15 of the Local Government and Housing Act 1989 to the Proper Officer using the Council's standard form.

Politically Restricted Post	Employees in **Politically Restricted Posts** are prevented from having any active political role either in or outside of work.
Portfolio Holder	Responsible for ensuring the effective management and delivery of **Executive Functions**. Each **Portfolio Holder** has specific areas of responsibility.
Precept	A proportion of **Council Tax** which is paid to other authorities such as the County Council and Police.
Private Meeting	A '**Private Meeting**' means a meeting or part of a meeting of the **Cabinet** or a **Cabinet** Committee during which the public are excluded.
Procedure on the Resolution of Dispute/Conflict Between Officers and Councillors	The procedure for the informal resolution of disputes or conflict between Officers and Councillors – see **Part 4**.
Procedure Rules	Rules governing how the Council operates and how decisions are taken.
Proper Officer	An Officer at Team Manager level or above who is given a set of responsibilities by statute.
Proposal	Another term for a motion.
Protocol on Councillor / Officer Relations	Guidance for Councillors and Officers in their relations with one another – see **Part 4**.
Protocols	Codes of Practice, which set out how, for example, various elements of the Council, are expected to interact with each other.
Quasi Judicial	A process of decision-making which is similar to a court of law, in that each party with an interest in the matter under consideration has an opportunity to make their case, following which a decision on the facts and **Representations** is made.
Quorum	The minimum number of people who have to be present and entitled to vote before a meeting can take place.
Recorded Vote	A vote in which the names of those voting for and

	against are recorded.
Register of Interests	The record of all interests declared by Councillors.
Regulatory Committees	The **Committees** of the Council that are charged with regulatory functions, such as Planning and **Licensing Committee**.
Representation	A statement of reasons made when appealing or protesting.
Rescind (a Decision)	When a decision is revoked or withdrawn.
Resolution	A motion/decision agreed by a meeting is subsequently referred to as a **Resolution**.
Right of Reply	The mover of a motion has a right to reply at the close of **Debate** on a motion or **Amendment**.
Roles and Responsibilities for Councillors	The roles and responsibilities of Councillors – see **Part 4**.
Scrutiny Committee(s)	Provides support and advice to the Executive by contributing to the development and review of policy; also holds the Executive to account by questioning. Challenging and monitoring performance.
Scrutiny Procedure Rules	Rules which determine how meetings of the **Scrutiny Committees** are run – see **Part 3**.
Second	When a motion is endorsed by another Councillor, it is 'seconded', and can then be voted upon.
Secretary of State	The head of a major government department.
S151 Officer	The Officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972).
Senior Leadership Team	The meeting of **Chief Officers** – the **Chief Executive** and the **Strategic Directors**.
Senior Officer	The **Chief Executive** or a **Strategic Director**.
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.
Special Urgency	A procedure which must be followed when an Executive/ **Key Decision** needs to be taken urgently.
Stakeholder	A person or group that may be affected by a matter.
Standing Order	Means the Rules of Procedure contained in Part 3 of this **Constitution**.
Statutory	Required by law.
Statutory Officers	These are Officers that the Council must have in place, some of which may be combined and some of which cannot, but they all have additional personal responsibilities. In this council they are the **Chief Executive**, the **Monitoring Officer** and the **S151 Officer**.
Strategic Directors	The Officers in charge of the Council Directorates.
Sub-Committee	A formal decision-making body with functions referred or delegated to it by a Committee.
Substantive Motion	The term used to refer to a motion which has been amended by agreement of the meeting.
Summons to Meeting	The term used to describe the **Agenda** for meetings of the Council.
Task and Finish Group	Informal, small, and time-limited groups comprised of **Councillors** and where appropriate, co-optees brought in from outside the Council because of their specific skills and experiences, to assist the **Scrutiny Committee** with its work.
Hackney Carriage and Private Hire Sub-Committee	A sub-committee of the **Licensing Committee** that determines matters referred to it relating to the licensing of Hackney Carriages and Private Hire drivers, vehicles and operators.
Team Manager	An Officer with responsibility for a specific service area who reports to a **Head of Service**.
Tendering	The making of an offer by a contractor to carry out work.
Terms of Reference	The description of what a Committee, **Sub-Committee** or panel may concern itself with.
Treasury	**Treasury Management** functions are those functions

Management	carried out in accordance with the approved Treasury Management Strategy. The S151 Officer is responsible for the Treasury Management Strategy.
Valid Planning Grounds	**Valid Planning Grounds** on which a matter may be referred to the **Planning Committee** for determination include: (i) Overlooking/loss of privacy; (ii) Loss of light or overshadowing; (iii) Parking; (iv) Highway safety; (v) Traffic; Noise; (vi) Effect on listed building and conservation area; (vii) Layout and density of building; (viii) Design, appearance and materials; (ix) Government policy; (x) Disabled persons' access; (xi) Proposals in the **Development Plan**; (xii) Previous planning decisions (including appeal decisions); (xiii) Nature conservation.
Virement	Moving **Budget** funds from one area of expenditure to another within a financial year.
Ward	The defined area within the **District** which a Councillor represents. The Councillor is elected to represent the interests of the constituents in their Ward.
Whip	A member of a political party who gives instructions to Councillors regarding meetings and attendance.