

# PART 1

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## SUMMARY & EXPLANATION

## **PART 1**

### **SUMMARY & EXPLANATION**

The Constitution sets out how the Council operates how decisions are made and the procedures which are followed, to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 15 Articles, which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate Rules and Protocols at the end of the document.

### **Background to Oadby & Wigston Borough Council**

Oadby and Wigston Borough covers an area of just under 24 square km (9 square miles) and shares boundaries with Leicester City, Blaby District and Harborough District. The Borough is urban in its nature with most economic activity centred around the three settlements of Oadby, Wigston and South Wigston with a population of approximately 56,000.

### **What is in the Constitution?**

Article 1 of the Constitution commits the Council to leadership, efficient, effective and economic service delivery, responsibility, transparency in local democratic self- government.

Articles 2-15 explain the rights of Residents and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4).
- Chairing the Council. (Article 5).
- Committees and Working Groups appointed by the Council (Article 6)
- Outside Bodies Directly Facilitated by the Council (Article 7).
- Joint Arrangements and Partnerships (Article 8).
- Standing and Other Committees (Article 9).
- Member Conduct (Article 10).
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, contracts and legal matters (Article 13).
- Review and revision of Constitution (Article 14).
- Suspension, interpretation and publication of the Constitution (Article 15).

### **HOW THE COUNCIL OPERATES**

The Council is composed of 26 Councillors elected every four years.

Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to abide by this Constitution, which includes a Code of Conduct in order to ensure high standards in the way they undertake their duties. The Council promotes excellence, probity and transparency in public services and provides training and advice for Councillors governance matters including the Code of Conduct.

The Localism Act 2011(the Act) brought about a number of key changes to the Standards Regime operating in local authorities. Under the Act, local authorities remain under a statutory duty to promote and maintain high standards of conduct by their Councillors. In discharging this duty, the Council is still required to adopt it's own Code of Conduct (previously the content of the Code was prescribed by legislation). Oadby and Wigston Borough Council has adopted the common Code of Conduct for Leicestershire Authorities which is set out in Part 5 of this Constitution together with the procedure for dealing with complaints about a Councillor's conduct.

The Act repealed the statutory requirement for the Council to have a Standards Committee. At the Council meeting on 25 February 2014 the Council agreed to disband the existing Standards Committee in view of the fundamental changes to the national Standards Regime. The Policy Finance and Development Committee will take on the responsibility for promoting and maintaining high standards of conduct and where a panel of Councillors are required to hear a complaint this will be allocated from the membership of the Policy Finance and Development Committee on a rotational basis; the procedure for investigations will be carried out in accordance with the process set out in Part 5 of this Constitution.

All Councillors meet together as the Council. Meetings of the Council are normally open to the press and public except where exempt or confidential matters are being discussed. The Council is the forum for political debate on policy and strategy matters. Here Councillors agree the Council's overall policies and sets the budget each year. The Council retains certain powers and duties to itself, and delegates some to Committees and Officers.

## **HOW DECISIONS ARE MADE**

Most day-to-day decisions are made by two main committees; Policy, Finance and Development Committee which sets the overarching strategic direction for the Council and Service Delivery Committee which oversees the development and performance of services within that overarching strategic direction.

Committees also carry out a number of regulatory functions, including dealing with planning applications, licensing and most other regulatory business.

Working Groups may be convened by the Council from time to time to deal with specific business.

In addition in order to give residents a greater say in council affairs, three Resident Forums have been created. These cover Oadby, Wigston and South Wigston areas of the Borough and are responsible for a range of area-based decisions and advising the Council of local people's aspirations in order that they can help inform the decision making process

The Council's Committee Structure is set out in Part 7 of this Constitution.

The Calendar of Meetings for the current year is set at the Annual General Meeting, in May of each year and is published on the Council's website [www.oadby-wigston.gov.uk](http://www.oadby-wigston.gov.uk)

## **SCRUTINY AND IMPROVEMENT**

Oadby and Wigston Borough Council operates committee style arrangements and therefore is not required by law to have a separate Scrutiny Committee to support and monitor the work of the Committees and Council. At the Council meeting on 25 February 2014, it was agreed that each Committee will scrutinise its own decisions as they are being debated and made in the public arena. If necessary a Working Group may be convened by the Council to deal with any specific matter.

## **THE COUNCIL'S EMPLOYEES**

The Council has employees (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Code of Practice governs the relationship between Officers and Members of the Council as set out in Part 5 of this Constitution

## **RESIDENTS' RIGHTS**

Residents have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights whilst others depend on the Council's own processes. The local voluntary advice provision within the Borough can advise on an individual's 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 this Constitution.

Residents have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- access a copy of the Constitution
- inspect and take copies of reports, agendas and minutes of meetings of the Council and its standing committees, unless they are exempt from disclosure or confidential;
- attend meetings of the Council and its committees where they may speak and ask questions in accordance with the Council's scheme in Part 4 of this Constitution except where, for example, personal or confidential matters are being discussed;
- at the discretion of the Chair, ask questions of members at Council meetings
- petition to request a referendum on a mayoral form of executive or any other matter;
- request a deputation;

- complain to the Council about any matter concerning the delivery in accordance with complaints procedure of any service, what the Council has done or not done or the way any Resident has been treated
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- and inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its Residents in its work. For further information on rights as Residents, please contact Democratic Services at the Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR, Tel 0116 257 2775, e-mail [democratic.services@oadby-wigston.gov.uk](mailto:democratic.services@oadby-wigston.gov.uk) A copy of the Constitution is available on the Council's website at [www.oadby-wigston.gov.uk](http://www.oadby-wigston.gov.uk)

Details on Access to Information provisions are contained in Articles 3 and Part 4 – Access to Information Procedure Rules.

Reference to Legislation shall include any amending legislation

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# PART 2

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## ARTICLES OF THE CONSTITUTION

## **1. ARTICLE 1 - THE CONSTITUTION**

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### **1.1 Powers of the Council**

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

### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Borough Council of Oadby and Wigston.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- 1.3.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- 1.3.2 support the active involvement of citizens in the process of local authority decision-making;
- 1.3.3 help Councillors represent their constituents more effectively;
- 1.3.4 enable decisions to be taken efficiently and effectively;
- 1.3.5 create a powerful and effective means of holding decision-makers to public account;
- 1.3.6 ensure that no one will review or scrutinise a decision in which they were directly involved;
- 1.3.7 ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- 1.3.8 provide a means of improving the delivery of services to the community; and
- 1.3.9 stimulate a strategically-led organisation with appropriate delegation of power, effective performance management and the effective use of resources.

### **1.4 Interpretation and Review of the Constitution**

- 1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.
- 1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article **Error! Reference source not found..**

## **1.5 Interpretation of Terms**

Throughout this Constitution, references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

## **1.6 The Council's Corporate Priorities (2015 - 2019)**

### **1.6.1 Protect the Borough**

The Council will resist any attempt by either the City or County Councils to impose their control over the Borough.

### **1.6.2 Maintain Front Line Services**

The Council is committed to free shoppers' car parking and weekly collection of waste and recycling. No change would ever be made without consultation.

### **1.6.3 Offering Choice when Possible**

The Council will offer choice when possible.

### **1.6.4 Save Money through Service Redesign**

The Council will look at all our services and redesign those that can be improved and cheaper to run.

### **1.6.5 Involve Residents and Partners**

The Council is committed to continue with the town forums and to develop other community engagements systems. The Council will work with and continue to support partners.

### **1.6.6 Economic Development**

The Council recognises the need to develop both housing and the town centres. This will be done with the maximum of public involvement and at minimum cost to the green spaces in the Borough.

### **1.6.7 Greening the Borough**

The Council will continue to invest in and encourage activities which result in a greener Borough including prioritising the protection of trees.

### **1.6.8 Improving the Health of Residents**

The Council wants to ensure residents live a full and healthy life.

### 1.6.9 **Value for Money**

The Council will always accept any council tax freeze grant offered by the Government. The Council will endeavour to freeze council tax, but if it is raised, it will never rise more than by inflation.

## **2. ARTICLE 2 - MEMBERS OF THE COUNCIL**

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### **2.1 Composition and Eligibility**

#### **2.1.1 Composition**

The Council will comprise 26 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State and, or, the Electoral Commission.

#### **2.1.2 Eligibility**

The qualifications for election to and the holding of the office of Councillor will be those as prescribed under Section 79 of the Local Government Act 1972.

### **2.2 Election and Terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.3 Roles and Functions of all Councillors**

#### **2.3.1 Key Roles**

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interest of their ward and of individual constituents;
- (iv) respond to constituent's enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

### **2.4 Rights and Duties**

- 2.4.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- 2.4.2 Councillors should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer before making public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- 2.4.3 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

## **2.5 Political Groups**

- 2.5.1 The Members of an authority are to be treated as divided into different political groups when there is at least one properly constituted political group in existence.
- 2.5.2 A political group shall be treated as constituted when there is delivered to the Chief Executive a Notice in writing which is signed by two or more Members of the authority who wish to be treated as a political group and that Notice states
- (i) That the Members of the authority who have signed it wish to be treated as a political group;
  - (ii) The name of the group; and
  - (iii) The name of the member of the group who is to act as its leader.
- 2.5.3 Under Section 15 of the Local Government and Housing Act 1989, the Council has a duty to review the allocation of seats on committees to the political groups in the Council at the Annual General Meeting or as soon as possible thereafter.
- 2.5.4 The allocation of seats on the Council and its Committees is made in proportion to the seats on the Council held by each political group. The duty to allocate seats on a proportional basis does not apply to all committees and working groups of, or outside bodies facilitated by, the Council.
- 2.5.5 Councillors who are not members of a political group are allocated seats by the Council. Councillors elected as Independents may, if they wish, form an independent group that, for the purposes of the 1989 Act, shall be treated as a political group.

## **2.6 Cessation of Membership**

- 2.6.1 A Councillor will cease to be a Member if they:

- (i) Resign by giving notice in writing to the Chief Executive; or
- (ii) If they fail to observe the requirements to attend Council meetings as prescribed by Section 85 of the Local Government Act 1972; or
- (iii) If they are disqualified from holding office by virtue of Section 80 of the Local Government Act 1972 or any other statutory provision.

## **2.7 Conduct**

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

## **2.8 Allowances and Expenses**

Councillors will be entitled to receive allowances and expenses in accordance with the Members' Allowances Scheme as set out in Part 6 of this Constitution as amended from time-to-time.

## **2.9 Office Holders**

These are summarised below and are set out in more detail in Part 5 of this Constitution.

### **2.9.1 The Mayor and Deputy Mayor**

- (i) The Mayor and Deputy Mayor are elected each year at the Annual General Council meeting. Neither shall be eligible for re-election as Mayor or Deputy Mayor respectively for a third consecutive year.
- (ii) The Mayor chairs the Council's meetings.
- (iii) The Mayor is the First Citizen of the Borough and is the Council's civic and ceremonial head.
- (iv) The Mayor may nominate a Mayoress or Consort and a Chaplain or some other faith representative.
- (v) The Deputy Mayor may nominate a Deputy Mayoress or Consort.
- (vi) The Deputy Mayor may, if for any reason the Mayor is unable to act or the Office of Mayor is vacant, discharge all functions that the Mayor as such might discharge.

### **2.9.2 The Leader of the Council**

- (i) The Council will appoint a Leader each year at the Annual General Council meeting. The Leader who will provide clear leadership to the community.
- (ii) The Leader may present a regular report or statement to the Council on which questions or comments from other Councillors or members of the public will be taken in accordance with Part 4 of the Constitution.
- (iii) The Leader will hold office until:-
  - (a) He resigns from Office; or
  - (b) He ceases to be a Member in accordance with Article 2.6 above; or
  - (c) He is removed from Office by resolution of the Council or Annual General Meeting of the Council next following his appointment.

### 2.9.3 **Deputy Leader of the Council**

The Council may if it considers it appropriate to do so appoint a Deputy Leader. The Deputy Leader where such an appointment is made will hold Office on the terms listed at Article 2.9.3 above in respect of the Leader when the Leader is absent.

### 2.9.4 **Leader of the Opposition and Other Opposition Group Leaders**

- (i) The Council recognises majority and minority Opposition Group Leaders, if any.
- (ii) The designated leader of the majority opposition group will be appointed to the office of the Leader of the Opposition.
- (iii) Where there are two or more oppositions groups with an equal number of members in each, the designated group leaders of those groups shall be regarded as jointly being appointed to the office of the Lead of the Opposition.
- (iv) The designated leaders of any other minority opposition groups will be recognised as Opposition Group Leaders.
- (v) If it appropriate to do, The Leader of the Opposition and other Opposition Group Leaders may appoint or have recognised so a Deputy.
- (vi) The appointment of the Lead of the Opposition (and Deputy) and recognition other Opposition Groups Leaders (and Deputies) are noted at the Annual General Meeting of the Council.

### **3. ARTICLE 3 - CITIZENS AND THE COUNCIL**

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#### **3.1 Citizens' Rights**

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

##### **3.1.1 Voting and Petitions**

Citizens on the electoral role for the area have the right to:

- (i) Vote if they are registered to do so;
- (ii) Sign a petition to request a referendum for an Elected Mayor form of Constitution; and
- (iii) Sign and present any other petition they wish to support.

##### **3.1.2 Information**

Citizens have the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) see agendas, reports and background papers, and any records of decisions made by the Council except where confidential or exempt information is likely to be disclosed;
- (iii) inspect the Council's accounts and make their views known to the external auditor;
- (iv) obtain a copy of this Constitution;
- (v) ask questions at Council and Committee meetings on matters relevant to the agenda; and
- (vi) speak at meetings of the Development Control Committee and Licensing and Regulatory Committee (or its Sub-Committees) in favour of or against planning or licensing applications, subject to the procedures laid down by those bodies.
- (vii) such other information as may be entitled to by law.

##### **3.1.3 Complaint**

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) The Local Government and Social Care Ombudsman after using the Council's own complaints scheme; or
- (iii) The Policy, Finance and Development Committee via the Monitoring Officer about a breach of the Councillor's Code of Conduct.

3.1.4. **Citizens' Responsibilities**

- (i) Citizens must not harass or be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.
- (ii) When attending meeting, citizens must not behave improperly, offensively or interrupt the business of the meeting. If they do they, will be removed and excluded from the meeting.

## **4. ARTICLE 4 - THE FULL COUNCIL**

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### **4.1 Introduction**

4.1.1 The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework which are listed below at Article 4.3. The Full Council must also by law take decisions on a number of specific matters.

4.1.2 The full Council provides a central forum for debate and gives the opportunity for Councillors and, at designated meetings throughout the year, members of the public, to ask questions about the Council or matters affecting the Council.

### **4.2 The Full Council**

#### **4.2.1 Role**

A meeting of the Full Council is one which all 26 Members are entitled to attend and to speak and vote. The Full Council is responsible for the Budget and Policy Framework of the Council. It will carry out some functions itself but others will be delegated to Committees or named Officers.

### **4.3 Policy Framework and Budget**

4.3.1 The Council has responsibility for the Policy Framework and Budget.

#### **4.3.2 Meanings**

##### **(i) Policy Framework**

The Policy Framework means the following plans and strategies and such others as the Council shall determine to be included in the policy framework.

##### **(ii) Budget**

The Policy Finance and Development Committee recommend to the Council the proposals for the budget each year. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and Council house rents and decisions relating to, the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of budget virement limits.

(iii) **Housing Land Transfer**

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

**4.4 Functions of the Full Council**

Only the Full Council will exercise the following functions:

- 4.4.1 Adopting and amending the Constitution;
- 4.4.2 Approving or adopting the Policy Framework, the Budget and Council Tax;
- 4.4.3 Approving any application to the Secretary of State in respect of any Housing Land Transfer;
- 4.4.4 Agreeing and/or amending the terms of reference for Committees and Working Parties and deciding on their composition and making appointments to them;
- 4.4.5 Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- 4.4.6 Adopting an allowances scheme under Article 2.8 and all other matters which, by law, must be reserved to the decision of the Council as a whole;
- 4.4.7 Changing the name of the area; conferring the title of Honorary Alderman or Freemen of the Borough;
- 4.4.8 Confirming the appointment of the Chief Executive and their dismissal;
- 4.4.9 The appointments to the designations of "Head of Paid Service" or "Monitoring Officer" or "Chief Financial Officer" and their dismissal.
- 4.4.10 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- 4.4.11 Electing the Mayor and Deputy Mayor of the Council;
- 4.4.12 Receiving and adopting reports of committees, working groups and outside bodies as appropriate.
- 4.4.13 Any matter which is not in accordance with the Policy Framework; and

4.4.14 All other matters which, by law, must be reserved to Council.

#### **4.5 Full Council Meetings**

4.5.1 There are three types of Full Council meeting:

- (i) the annual general meeting (AGM);
- (ii) ordinary meetings; and
- (iii) extraordinary meetings.

4.5.2 Full Council meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.6 Responsibility for Functions**

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

## **5. ARTICLE 5 - CHAIRING THE COUNCIL**

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- 5.1** The Mayor and Deputy Mayor of the Council will be elected by the Council annually.
- 5.2** The Mayor and in his absence the Deputy Mayor, will have the following responsibilities:-
- 5.2.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - 5.2.2 to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
  - 5.2.3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
  - 5.2.4 to promote public involvement in the Council's activities;
  - 5.2.5 to be the conscience of the Council; and
  - 5.2.6 to attend or be represented at such civic and ceremonial functions as the Council and he determines appropriate.

## **6. ARTICLE 6 - COMMITTEES AND WORKING GROUPS APPOINTED BY THE COUNCIL**

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### **6.1 Committees**

- 6.1.1 The Council may delegate some of its functions to appointed Committees and Sub-Committees.
- 6.1.2 The Council will appoint the Committees and Sub-Committees set out in Part 3 of this Constitution to discharge the functions specified.

### **6.2 Working Groups**

- 6.2.1 Whilst the Council will operate predominantly through a committee system, it may from time to time create Working Groups in accordance with Part 3 of this Constitution.

## **7. ARTICLE 7 - OUTSIDE BODIES DIRECTLY FACILITATED BY THE COUNCIL**

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### **7.1 Outside Bodies**

7.1.1 In order to give members of the public, other organisations and stakeholders an opportunity to exchange views and ideas that may influence the Council's policies and its decision making-process, or jointly-undertake work to achieve common strategic objectives, to the Council will directly facilitate a number outside bodies as follows:

- (i) Residents' Forums for each of the town centres within the Borough being:
  - (a) Oadby,
  - (b) Wigston; and
  - (c) South Wigston

and whose purpose, key aims and finances are set out in Article 7.2 below;

- (ii) Health and Wellbeing Board;
- (iii) Community Engagement Forum;
- (iv) Children and Young Peoples' Forum;
- (v) Community Safety Partnership;
- (vi) Senior Citizens Forum.

7.1.2 Outsides Bodies facilitated by the Council will be non-decision making bodies acting in an advisory capacity to decision-making bodies of the Council.

7.1.3 Each Outside Body will operate in accordance with its own Terms of Reference.

### **7.2 General Role of the Residents' Forums**

The Residents' Forums will undertake the role as set out below.

#### **7.2.1 Purpose**

- (i) The Residents' Forums facilitate and enable a constructive relationship between the Council and the residents of the Borough. They provide an opportunity for the Council to consult the public on its policy decisions, service planning and Council consultations on areas of work that have the potential to impact on residents.

- (ii) The Residents' Forums ensure that issues important to residents are brought to the attention of the Council and vice versa, always acknowledging that a diversity of views may exist and always promoting better community cohesion.

#### 7.2.2 **Key Aims**

- (i) To provide a space for residents to come together and receive updates on current agendas and influence Council policy and decision-makers.
- (ii) To provide residents with the opportunity to meet and inform elected- Members about issues of concern.
- (iii) To ensure consultation and engagement on the Council's policies and provide constructive challenge and give feedback on the Council's performance.
- (iv) To advise and comment on grant applications submitted to the Forums for their specific consideration before final submission to the Policy, Finance and Development Committee.
- (v) To act as a key channel for distributing information, engaging with the community and answering questions.

#### 7.2.3 **Finances**

- (i) The Policy, Finance and Development Committee will have budgets delegated to it by Full Council to enable local groups, organisations and individuals to apply to their local Forum for funding of projects that seek to improve the quality of life for people who live or work in the Borough.
- (ii) Residents' Forums may make recommendations to the Policy, Finance and Development Committee about the benefits of such grants: however the final approval for the awarding of the grants is a decision to be taken by the Policy, Finance and Development Committee.

## **8. ARTICLE 8 - JOINT ARRANGEMENTS AND PARTNERSHIPS**

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### **8.1 Arrangements to Promote Well Being**

- 8.1.1 The Council, in order to promote the economic, social or environmental well-being of its area, may:
- (i) Enter into arrangements or agreements with any person or body;
  - (ii) Co-operate with, or facilitate or co-ordinate the activities of, any person or body;
  - (iii) Exercise on behalf of that person or body any functions of that person or body.

### **8.2 Joint Arrangements**

- 8.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 8.2.2 Except as set out below, the Council may only appoint Councillors to a joint committee and those Councillors shall where possible reflect the political composition of the local authority as a whole.
- 8.2.3 Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of delegations in Part 3 of this Constitution.

### **8.3 Delegation To and From Other Local Authorities**

The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.

### **8.4 Contracting Out**

- 8.4.1 The Council may contract out, to another body or organisation, functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994. These are Ministerial Orders allowing local authorities to contract out specific functions.
- 8.4.2 Those made so far deal with Tax Billing, Collection and Enforcement, Investment Functions, Allocation of Housing and Homelessness and certain County Council functions, or under contracting arrangements where the contractor acts as the

Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

#### **8.5 Joint Committees the Council Participates In**

The Council is party to a Joint Committee Agreement set up under the Traffic Management Act 2004 for the adjudication of parking appeals.

## **9. ARTICLE 9 - STANDING AND OTHER COMMITTEES**

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### **9.1 Introduction**

The Council will appoint committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the Full Council.

### **9.2 Standing Committees**

The Standing Committees are listed below and full details of their functions can be found in Part 3 of this Constitution:

9.2.1 Development Control Committee; and

9.2.2 Licensing and Regulatory Committee.

### **9.3 Other Committees and Sub-Committee**

9.3.1 The Council will appoint such other committees as it considers appropriate to exercise any of its functions.

9.3.2 Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the Appointing Committee's terms of reference.

9.3.3 The Council in the case of Standing Committees or the parent committee in the case of sub-committees or panels will, in the case of sub-committees or panels, appoint the Members to serve on the committee, sub-committee or panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

## **10. ARTICLE 10 - MEMBER CONDUCT**

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### **10.1 Introduction**

The Policy Finance and Development Committee will be responsible for promoting and maintaining high standards of conduct by Councillors.

### **10.2 The Composition of the Policy, Finance and Development Committee**

10.2.1 The Policy, Finance and Development Committee will consist of 15 Members.

10.2.2 The Council will appoint Members of the Policy, Finance and Development Committee at its Annual General Meeting.

### **10.3 The Role and Function of the Policy Finance and Development Committee**

10.3.1 The Policy Finance and Development Committee will have the following roles and functions as regards Member Conduct:-

- (i) promoting and maintaining high standards of conduct by Councillors;
- (ii) assisting the Councillors to observe the Code of Conduct;
- (iii) advising the Council on the adoption or revision of the Code of Conduct;
- (iv) monitoring the operation of the Code of Conduct;
- (v) advising, training or arranging to train Councillors and Independent Members on matters relating to the Code of Conduct;
- (vi) granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Code of Conduct so far as not delegated to the Monitoring Officer;
- (vii) the assessment, investigation and determination of allegations of misconduct on the part of a Councillor;
- (viii) dealing with any alleged breach by a Councillor of a Council Protocol, in accordance with the procedures approved by the Policy, Finance and Development Committee;
- (ix) overview of the Officers' Code of Conduct;
- (x) overview of the protocol on member/officer relations;
- (xi) overview of the Council's confidential reporting codes; and
- (xii) overview of complaints handling and ombudsman investigations.

## 11. ARTICLE 11 - OFFICERS

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### 11.1 General

The Council may engage such staff and referred to as Officers as it considers necessary to carry out its functions.

### 11.2 Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers. The Head of Paid Service shall have responsibility and power to amend the functions and areas of responsibility of the Chief Officers as s/he considers necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant HR policies.

#### Post Functions and Areas of Responsibility

Post	Duties
Chief Executive	<ul style="list-style-type: none"><li>• Overall corporate management and operational responsibility (including overall management and responsibility for all officers and relationships with Councillors)</li><li>• Business Transformation</li><li>• Reputation Management</li><li>• Provision of professional advice to all parties in the decision-making process</li><li>• Together with the Monitoring Officer responsibility for a system of record keeping for all the Council's decisions and maintaining the Constitution</li><li>• Representing the Council on partnership and external bodies (as required by statute or the Council)</li><li>• To act as Head of Paid Service.</li></ul>

### 11.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

<b>Designation</b>	<b>Post</b>
Head of Paid Service	Chief Executive
Monitoring Officer	Head of Law and Governance
Chief Finance Officer	Director of Finance and Transformation

Such posts will have the functions described in to 11.7below.

#### **11.4 Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

#### **11.5 Functions of the Head of Paid Service**

##### **11.5.1 Discharge of Functions by the Council**

The Head of Paid Service will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

##### **11.5.2 Restrictions on Functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

#### **11.6 Functions of the Monitoring Officer**

##### **11.6.1 Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

##### **11.6.2 Ensuring Lawfulness and Fairness of Decision Making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of

stopping the proposal or decision being implemented until the report has been considered.

### **11.6.3 Supporting the Policy Finance and Development Committee in respect of the Code of Conduct**

- (i) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Policy, Finance and Development.
- (ii) Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Policy finance and Development, for the purposes of investigation or determination of a complaint against a Member.
- (iii) The Monitoring Officer will maintain the Register of Interests for Councillors and the Register of Gifts and Hospitality.

### **11.6.4 Conducting Investigations**

The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Policy Finance and Development Committee and make reports or recommendations in respect of them to the Policy Finance and Development Committee.

### **11.6.5 Proper Officer for Access to Information**

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

### **11.6.6 Providing Advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors. Where the Monitoring Officer considers that a Member(s) has acted contrary to his/her advice it is open to him/her to issue a report to the Council under s.5 Local Government and Housing Act 1989, or seek judicial review, as he or she considers appropriate in the circumstances.

### **11.6.7 Restrictions on Posts**

The Monitoring Officer cannot be the Chief Finance Officer.

## **11.7 Functions of the Chief Finance Officer**

### **11.7.1 Ensuring Lawfulness and Financial Prudence of Decision Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

### **11.7.2 Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

### **11.7.3 Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

### **11.7.4 Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles,

### **11.7.5 Give Financial Information**

The Chief Finance Officer will provide financial information to the media, Members of the public and the community.

### **11.7.6 Restrictions on Posts**

The Chief Finance Officer cannot be the Monitoring Officer.

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

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

### **11.9 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 4 of this Constitution.

### **11.10 Employment**

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

## **12. ARTICLE 12 - DECISION MAKING**

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### **12.1 Responsibility for Decision-Making**

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

### **12.2 Principles of Decision-Making**

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

12.2.1 proportionality in that the action must be proportionate to the desired outcome;

12.2.2 due consultation and the taking of professional advice from Officers;

12.2.3 respect for human rights;

12.2.4 a presumption in favour of openness;

12.2.5 clarity of aims and desired outcomes;

12.2.6 consideration of any alternative options; and

12.2.7 the giving of reasons for the decision and the proper recording of those reasons.

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

Subject to Article 12.5, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **12.4 Decision Making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 12.5, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

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

## **13. ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

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### **13.1 Financial Management**

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

### **13.2 Contracts**

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

### **13.3 Legal Proceedings**

13.3.1 The Head of Law and Governance is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Law and Governance considers that such action is necessary to protect the Council's interests.

13.3.2 The Head of Law and Governance has delegated powers to authorise officers to appear in court on the Council's behalf.

### **13.4 Authentication of Documents**

13.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Law and Governance or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

13.4.2 Any contract with a value exceeding £50,000, entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two officers of the Council or made under common seal of the Council attested by the Head of Law and Governance if they exceed £50,000 in value.

13.4.3 In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- (i) The Chief Executive;
- (ii) The Head of Law and Governance;

- (iii) Any Chief Officer of the Council concerned with the matter to which the document relates; and
- (iv) Any Officer authorised in writing by the Chief Officer or by the Head of Law and Governance.

### **13.5 Common Seal of the Council**

#### **13.5.1 Common Seal of the Council**

- (i) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Law and Governance.
- (ii) A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

#### **13.5.2 Sealing and Execution of Documents**

- (i) The common seal of the Council shall be affixed to a document only on the authority of:
  - (a) a resolution of the Council;
  - (b) resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
  - (c) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.
- (ii) The affixing of the common seal shall be attested by the Mayor, the Deputy Mayor and, or, in exceptional circumstances, the Head of Law and Governance.

#### **13.5.3 Record of Sealing of Documents**

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by and consecutively numbered in a book to be provided for the purpose.

## **14. ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION**

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### **14.1 Duty to Monitor and Review the Constitution**

- 14.1.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 14.1.2 The Chief Finance Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Part 4 for the next available Council meeting for noting.

### **14.2 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

- 14.2.1 Observe meetings of different parts of the Member and officer structure;
- 14.2.2 Undertake an audit trail of a sample of decisions;
- 14.2.3 Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- 14.2.4 Compare practices in this Council with those in comparable authorities, or national examples of best practice.

### **14.3 Changes to the Constitution**

#### **14.3.1 Approval**

- (i) Subject to **Error! Reference source not found.** below, changes to the Constitution will only be approved by the full Council.
- (ii) Where the table of Chief Officers in Article 11 or the Management Structure section of the Constitution needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

#### **14.3.2 Minor Changes**

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (i) A minor variation; or
- (ii) Required to be made to remove any inconsistency or ambiguity or to reflect a change in fact or law; or
- (iii) Required to be made so as to put into effect any decision of the Council or its committees or the Executive,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect.

#### 14.3.3 **Legislative Change**

- (i) Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision.
- (ii) Such amendments shall take effect when the Monitoring Officer so decides or the legislation where relevant so provides. Such changes shall be reported to the next Council meeting.

## **15. ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

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### **15.1 Suspension of the Constitution**

#### **15.1.1 Limit to Suspension**

The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the Full Council and Committees to the extent permitted within those Rules and the law.

#### **15.1.2 Procedure to Suspend**

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### **15.1.3 Rules Capable of Suspension**

All of the Council Procedure Rules set out in Part 4, except Rule 16.6 (right to require individual vote to be recorded and recorded vote for budget setting) and Rule 22 (suspension), may be suspended in accordance with this Article but in every case only upon a request of two thirds of the Councillors present and voting.

### **15.2 Interpretation**

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

### **15.3 Publication**

15.3.1 The Monitoring will give a printed copy of this Constitution to each Member of the Council upon delivery to him of that individual's declaration of acceptance of office on the member first being elected to the Council.

15.3.2 The Head of Law and Governance will ensure that copies are available for inspection at Council Offices and other appropriate locations and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.

15.3.3 The Head of Law and Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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# PART 3

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## RESPONSIBILITY FOR FUNCTIONS

## 1. INTRODUCTION

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- 1.1.** This part of the Constitution sets out which bodies and individuals are responsible for particular functions of the Authority.
- 1.2.** These functions are described in more detail in this part of the Constitution.
- 1.3.** Also included in this part of the Constitution are details of the Committees and Working Groups, the Scheme of Delegation to Officers, and the list of Proper Officer designations.
- 1.4.** The list of Proper Officer designations sets out the officers responsible for certain functions under a particular piece of legislation.

## 2. COUNCIL FUNCTIONS

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In some instances, decision can only be taken at a meeting of the Full Council. In other cases, the responsibility for undertaking the function may be delegated by the Council to a Committee or an Officer - where this is the case, it is identified in this part of the Constitution.

<b>Function</b>	<b>Reservation or Delegation of Function</b>
All those functions for which the Council is responsible relating to town and country planning and development control	Development Control Committee Director of Finance and Transformation
All those functions for which the Council is responsible relating to the protection and treatment of hedgerows and the preservation of trees	Development Control Committee Director of Finance and Transformation
All those functions for which the Council is responsible relating to public rights of way	Development Control Committee Director of Services
All those functions for which the Council is responsible relating to licensing and registration and the grant of consents and refusals	Licensing and Regulatory Committee Director of Services

<b>Function</b>	<b>Reservation or Delegation of Function</b>
All those functions for which the Council is responsible governing health and safety at work (other than in the Authority's capacity as an employer)	Director of Services
All those functions relating to elections	Council Chief Executive Returning Officer Electoral Registration Officer
Functions relating to the name and status of areas and individuals	Council
Power to make, amend, revoke, re-enact or enforce byelaws or orders	Council
Power to promote or oppose local or personal bills	Council
Power to make and amend procedure rules	Council
Power to make contract standing orders	Council
Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council Chief Executive Director of Services
Duty to make arrangements for the proper administration of financial affairs	Council
Power to appoint officers for particular purposes (appointment of Proper Officers)	Council Monitoring Officer
Duty to designate an officer as the head of the Authority's paid service	Council
Duty to designate an officer as the monitoring officer and to provide staff	Council

<b>Function</b>	<b>Reservation or Delegation of Function</b>
Duty to approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts	Policy Finance and Development Committee
Power to make a closing order on a takeaway food shop	Licensing and Regulatory Committee Head of Law and Governance
Functions under local Acts	Council Heads of Service
The conduct of best value reviews under Local Government Act 1999	Policy Finance and Development Committee Chief Executive
The discharge of any function relating to the control of pollution or the management of air quality	Licensing and Regulatory Committee Director of Services
The service of an abatement notice for a statutory nuisance	Licensing and Regulatory Committee Director of Services
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Council
Inspections for statutory nuisance	Licensing and Regulatory Committee Director of Services
Investigation of any complaint as to the existence of a statutory nuisance	Licensing and Regulatory Committee Director of Services
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Policy Finance and Development Committee Director of Finance and Transformation
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Policy Finance and Development Committee Service Delivery Committee Heads of Service

<b>Function</b>	<b>Reservation or Delegation of Function</b>
The appointment or revocation of appointment of any individual to any office/body other than the Council	Council Chief Executive
The making of agreements with other local authorities and external agencies for the placing of staff and joint working arrangements	Council Chief Executive
All those functions for which the Council is responsible relating to Community Governance Reviews as set out in Chapter 3 of the Local Government and Public Involvement in Health Act 2007	Council Chief Executive
<b>Function</b>	<b>Reservation or Delegation of Function</b>
All those functions for which the Council is responsible relating to town and country planning and development control	Development Control Committee Director of Finance and Transformation
All those functions for which the Council is responsible relating to the protection and treatment of hedgerows and the preservation of trees	Development Control Committee Director of Finance and Transformation
All those functions for which the Council is responsible relating to public rights of way	Development Control Committee Head of Law and Governance
All those functions for which the Council is responsible relating to licensing and registration and the grant of consents and refusals	Licensing and Regulatory Committee Head of Law and Governance
All those functions for which the Council is responsible governing health and safety at work (other than in the Authority's capacity as an employer)	Director of Finance and Transformation

<b>Function</b>	<b>Reservation or Delegation of Function</b>
All those functions relating to elections	Full Council Chief Executive Returning Officer Electoral Registration Officer
Functions relating to the name and status of areas and individuals	Full Council
Power to make, amend, revoke, re-enact or enforce byelaws or orders	Full Council Head of Law and Governance
Power to promote or oppose local or personal bills	Full Council Head of Law and Governance
Power to make and amend procedure rules	Full Council
Power to make contract standing orders	Full Council
Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Full Council Chief Executive
Duty to make arrangements for the proper administration of financial affairs	Full Council Chief Executive Director of Finance and Transformation
Power to appoint officers for particular purposes (appointment of Proper Officers)	Full Council Head of Law and Governance
Duty to designate an officer as the head of the Authority's paid service	Full Council
Duty to designate an officer as the monitoring officer and to provide staff	Full Council
Duty to approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts	Policy Finance and Development Committee

<b>Function</b>	<b>Reservation or Delegation of Function</b>
Power to make a closing order on a takeaway food shop	Licensing and Regulatory Committee Head of Law and Governance
Functions under local Acts	Full Council Heads of Service
The conduct of best value reviews under Local Government Act 1999	Policy Finance and Development Committee Chief Executive
The discharge of any function relating to the control of pollution or the management of air quality	Licensing and Regulatory Committee Head of Law and Governance
The service of an abatement notice for a statutory nuisance	Licensing and Regulatory Committee Head of Law and Governance
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Full Council
Inspections for statutory nuisance	Licensing and Regulatory Committee Head of Law and Governance
Investigation of any complaint as to the existence of a statutory nuisance	Licensing and Regulatory Committee Head of Law and Governance
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Policy Finance and Development Committee Director of Finance and Transformation
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Policy Finance and Development Committee Service Delivery Committee Heads of Service
The appointment or revocation of appointment of any individual to any office/body other than the Council	Council Chief Executive

<b>Function</b>	<b>Reservation or Delegation of Function</b>
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 Chapter 3 of the Local Government and Public Involvement in Health Act 2007	Council Chief Executive

### **3. FULL COUNCIL**

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**Membership:** 26 Members

**Quorum:** 7 Members

**Functions:**

Only the Full Council will exercise the following functions:

- 3.1.** Subject to Article 14, adopting and changing the Constitution;
- 3.2.** Approving or adopting the Policy Framework, the Budget and any application to the Secretary of State for a Housing Land Transfer;
- 3.3.** Appointing the Leader of the Council annually;
- 3.4.** Agreeing and/or amending the responsibility for functions of any committees or other bodies appointed by the Full Council, deciding on their composition and making appointments to them;
- 3.5.** Appointing representatives to outside bodies unless has been delegated by the Council
- 3.6.** Adopting an allowances scheme or assessing, revoking or replacing any such scheme;
- 3.7.** Changing the name of the area and conferring the title of Honorary Alderman or Freeman;
- 3.8.** Confirming the appointment or dismissal of the Head of Paid Service;
- 3.9.** Making arrangements for the proper administration of financial affairs;
- 3.10.** Designating an officer as the Monitoring Officer;
- 3.11.** Appointing an Electoral Registration Officer;
- 3.12.** Appointing a Returning or Acting Returning Officer for Parliamentary, local, European and Police Commissioners elections and referenda
- 3.13.** Making, amending, revoking, re-enacting or adopting bylaws and orders and promoting or opposing the making of local legislation or personal Bills;
- 3.14.** Determining senior management structures of the organisation;
- 3.15.** Agreeing procedure rules, standing orders and financial regulations;
- 3.16.** Proposals relating to district boundaries, electoral wards and the number of Borough Councillors;
- 3.17.** Agreeing an Annual Schedule of Meetings;
- 3.18.** Adopting and amending the Authority's Code of Conduct for members and other codes and protocols comprising the ethical framework;

- 3.19.** Power to resolve not to issue casino licences;
- 3.20.** Subject to any matters delegated to Committees or other bodies or officers, determining all local choice functions set out in Part 3 of this Constitution;
- 3.21.** Accepting the delegation of a power or function from another local authority; and
- 3.22.** All matters which, by law, must be reserved to Council.

## **4. POLICY, FINANCE AND DEVELOPMENT COMMITTEE**

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**Membership:** 15 Members

**Quorum:** 4 Members

**Functions:**

- 4.1.** To be responsible for strategic and policy co-ordination;
- 4.2.** To recommend major new policies (and amendments or revisions of existing policies) to the Council for approval as a part of the Authority's Budget and Policy Framework (Article 4 of this Constitution);
- 4.3.** To prepare and agree other policies and strategies for implementation and to respond to consultation documents
- 4.4.** To recommend to the Council the annual budget, including the Capital and Revenue Budgets and the level of Council Tax and The Council Tax base;
- 4.5.** To consider, at least annually, the level of reserves, provisions, and balances held by the Authority and recommend any changes to the Council;
- 4.6.** To ensure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time. This will include recommending to Council any changes to policy that will materially reduce or increase the services of the Authority or create significant financial commitments in future years;
- 4.7.** To take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the full Council;
- 4.8.** To exercise the Authority's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder;
- 4.9.** To oversee the implementation of Value for Money;
- 4.10.** To consider and respond to recommendations and reports from other Council Committees and Bodies;
- 4.11.** To monitor expenditure on the capital programme;
- 4.12.** To receive and consider reports from the District Auditor (including the Management Letter) and agree any appropriate action
- 4.13.** To consider the reports of external review bodies on key aspects of overall service delivery;

- 4.14.** To ensure that the promotion of the rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services;
- 4.15.** To carry out the Authority's responsibilities for improving the economic, social and environmental well-being of the District and increasing the availability and equality of access to employment;
- 4.16.** To review and monitor the Authority's strategy and overall implementation on e-Government, telecommunications, information systems and information technology, making recommendations to the Council as required;
- 4.17.** To manage and maintain the Authority's other property portfolio;
- 4.18.** To collect the Council Tax, National Non-Domestic Rates, periodic income and sundry debts;
- 4.19.** To exercise the Authority's powers for planning and responding to civil emergencies;
- 4.20.** To exercise the Authority's functions as Local Planning Authority (except to the extent that those functions are by law the responsibility of the Council), including supplementary planning guidance, and designating conservation areas;
- 4.21.** To oversee the Authority's overall policy on the voluntary and community sector;
- 4.22.** To approve the purchase, sale or appropriation of land and buildings where the market value of the transaction exceeds £30,000 and to approve leasing (or otherwise) property where throughout the term the annual rental will exceed £20,000
- 4.23.** To authorise the making of compulsory purchase and control orders;
- 4.24.** To write off debts of more than £10,000;
- 4.25.** To write off stocks, stores and other assets and to write off any losses of money or stores or to settle claims;
- 4.26.** To write off as non-refundable credits on accounts of more than £10,000;
- 4.27.** To accept tenders and award contracts, including those which exceed budgetary provision and are within the Council's agreed budget (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework);
- 4.28.** To receive reports on contract overspends in accordance with limits set out in the Financial Procedure Rules and agree the action to be taken;
- 4.29.** To give grants or loans to charitable, voluntary bodies or other bodies where permitted by law;

- 4.30.** To promote and develop international exchanges and links with towns and cities in other countries;
- 4.31.** To be the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs;
- 4.32.** To confer with other local authorities, government departments, statutory bodies, voluntary bodies, the police or other external agencies in order to discharge the responsibilities vested in the Committee;
- 4.33.** To make decisions where no other tier of government has responsibility or where a policy or strategy does not exist;
- 4.34.** To be responsible for all corporate and financial services including Finance, Human Resources, Legal, the major financial aspect of Revenues & Benefits such as subsidy ICT;
- 4.35.** To scrutinise and approve the policies of the Council;
- 4.36.** To be responsible for considering the views and recommendations of the Place Shaping Working Group, Residents' Forums, Community Engagement Forum, Children and Young Peoples' Forum and Senior Citizens' Forum;
- 4.37.** Fulfil the Council's need for a "client" role if the Council tenders a service/contact that the Council wished to bid for itself;
- 4.38.** Consider the effectiveness of the Authority's risk management arrangements, the control environment, and anti-fraud and corruption arrangements;
- 4.39.** Seek assurances that action is being taken on risk-related issues identified by auditors and inspectors;
- 4.40.** Be satisfied that the Authority's assurance statements properly reflect the risk environment and any actions required to improve it;
- 4.41.** Approve, but not direct, Internal Audit's strategy and plans and monitor performance;
- 4.42.** Review summary Internal Audit reports and the main issues arising, and seek assurance that action has been taken where necessary;
- 4.43.** Receive the annual report of Internal Audit;
- 4.44.** Consider plans of External Audit and inspection agencies;
- 4.45.** Monitoring of relevant reports and action plans;
- 4.46.** Ensure there are effective relationships between Internal and External Audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted;

- 4.47.** Approve the Council's statement of accounts, income and expenditure and balance sheet and receive the External Auditor's opinion and reports to members, and monitor management action in response to the issues raised by External Audit;
- 4.48.** To deal with the Annual Audit and Inspection letter and in particular to:
- a.** consider matters raised in the annual governance report;
  - b.** agree, if necessary, to adjust the financial statements;
  - c.** approve the representation letter on behalf of the Council;
  - d.** consider and agree, if considered appropriate, any actions proposed in the annual; governance report and statement;
- 4.49** To have delegated authority to deal with all matters relating to the Council's final accounts;
- 4.50** Promoting and maintaining high standards of conduct by councillors and co-optees;
- 4.51** Assisting the councillors and co-optees to observe the Members' Code of Conduct;
- 4.52** Advising the Council on the adoption or revision of the Members' Code of Conduct;
- 4.53** Monitoring the operation of the Members' Code of Conduct
- 4.54** Advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- 4.55** Granting dispensations to councillors who require such dispensations for more than one meeting or on more than one occasion from requirements relating to interests set out in the Members Code of Conduct as appropriate;
- 4.56** To establish sub-committees for the Assessment or Determination on matters concerning allegations of Members Conduct; and
- 4.57** Oversee the ethical framework of the Council including oversight of:
- a.** the Whistle Blowing Policy;
  - b.** Complaints Handling; and
  - c.** Ombudsman investigations.

## **5. LOCAL ASSESSMENT OF MEMBER COMPLAINTS**

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### **5.1. Sub-Committees of the Policy, Finance and Development Committee**

All Policy, Finance and Development 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.

#### **5.1.1 Assessment Sub-Committee**

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

- a.** Accept the Monitoring Officer's recommendation of no failure to comply with the Code of Conduct;
- b.** Refer the matter for full investigation; and
- c.** Refer the matter for other action.

#### **5.1.2. Review Sub-Committee**

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

#### **5.1.3. Determinations Sub-Committee**

To receive reports from the investigating officer and to decide either:

- a.** to determine finding of no failure to comply with the Code of Conduct;
- b.** to determine finding of failure to comply with the Code of Conduct and impose relevant sanctions; or
- c.** Refer the matter for other action in accordance with the Council's Guidance.

#### **5.1.4. Membership, Quorum and Other Matters**

- a.** The quorum is three Members.
- b.** The Sub-Committee may co-opt at least one independent member as appropriate who will not have any voting rights.
- c.** No Member who considered a complaint at the Initial Assessment/Determination Sub-Committee may consider the same complaint at the Review Sub-Committee.

## **6. SERVICE DELIVERY COMMITTEE**

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**Membership:** 14 Members

**Quorum:** 4 Members

### **Functions:**

- 6.1.** Responsible for the delivery and performance of services;
- 6.2.** Oversees the development and performance of services within the overarching strategic direction set by Policy, Finance and Development Committee;
- 6.3.** Responsible for all financial issues relating to its services within the budgets set by Council;
- 6.4.** To be responsible for the day to day operation of all services (except those that are the responsibility of the Policy, Finance and Development Committee);
- 6.5.** To manage and maintain the Authority's housing stock;
- 6.6.** To be responsible for all aspects of the Greening of the Borough initiative at a strategic and operational level;
- 6.7.** To be responsible for considering the views and recommendations of the Health and Wellbeing Board;
- 6.8.** To be responsible for all the policies relating to the above services;
- 6.9.** To be responsible for annual budget plans for recommendation to the Policy, Finance and Development Committee;
- 6.10.** To be responsible for the operation of Council buildings, Car Parks, Cemeteries, Parks and Open Spaces;
- 6.11.** Develop the Housing Business Plan in accordance with the strategic direction; and
- 6.12.** To fulfil the Council's need for a "contractor" role if the Council was to bid for itself.

## 7. DEVELOPMENT CONTROL COMMITTEE

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**Membership:** 13 Members

**Quorum:** 3 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<p><b>7.1.</b> The determination of all decisions under the Planning Acts including all planning applications and applications for advertisement consent, listed building consent and conservation area consent is delegated to the Director of Finance and Transformation except where:</p>	<p><b>(a)</b> The application is contrary to the provisions of an approved or draft development plan policy and is recommended for permission, and in the opinion of the Director of Finance and Transformation the application is likely to:</p> <ul style="list-style-type: none"> <li><b>(i)</b> be potentially controversial, or</li> <li><b>(ii)</b> be of significant public interest, or</li> <li><b>(iii)</b> have a significant impact on the environment, or</li> <li><b>(iv)</b> raise matters which should be referred to the Development Control Committee</li> </ul> <p><b>(b)</b> The application is submitted by or on behalf of the Council for its own development, except for the approval of development which is unlikely to have any major impacts and to which no objections have been received.</p> <p><b>(c)</b> A legal agreement (section 106 or similar) is required except in the case of minor non-contentious agreements or minor amendments to existing legal agreements.</p> <p><b>(d)</b> A Ward Member has notified the Director of Finance and Transformation in writing or by e-mail within 3 weeks of the publication of the weekly list that the application should be determined by the</p>

	<p>Development Control Committee, and</p> <ul style="list-style-type: none"> <li><b>(i)</b> the notification is supported by one or more planning grounds, and</li> <li><b>(ii)</b> where the item relates to a matter of local concern.</li> </ul> <p>Provided that this "call-in" shall not be exercised by any Member with a prejudicial interest.</p>
	<ul style="list-style-type: none"> <li><b>(e)</b> The application is submitted by: <ul style="list-style-type: none"> <li><b>(i)</b> a serving Member or Officer of the Council;</li> <li><b>(ii)</b> Reasonable steps will also be taken to ensure Development Control Committee considers applications submitted by: <ul style="list-style-type: none"> <li><b>(iii)</b> a person who has served as a Member or Officer of the Council in the five year period before the application was submitted, or</li> <li><b>(iv)</b> their respective co-habiting partners</li> </ul> </li> </ul> </li> </ul>
<p><b>7.2.</b> Making orders to revoke or modify planning permissions, to impose conditions to remove buildings or repair listed buildings.</p>	<p>All matters reserved.</p>
<p><b>7.3.</b> Making tree preservation orders.</p>	<p>To consider objections or other representations.</p>
<p><b>7.4.</b> Serving Building Preservation Notices or Listed Building Repair Notices.</p>	<p>All matters reserved except where necessary to serve a notice in an emergency.</p>
<p><b>7.5.</b> Public path orders under the Town and Country Act 1990.</p>	<p>To determine matters referred to it following the receipt of objections or other representations.</p>

**7.6.** No Member may sit on this committee until he or she has undergone basic training on the law and procedure relating to the functions of this Committee.

## 8. LICENSING AND REGULATORY COMMITTEE

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**Membership:** 13 Members

**Quorum:** 3 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<p><b>8.1.</b> To consider all outstanding licensing matters.</p> <p><b>8.2.</b> To recommend to Council to resolve not to issue a casino licence.</p>	<p>To determine all licensing matters referred to with the exception of:</p> <p><b>(i)</b> The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005;</p> <p><b>(ii)</b> The power to resolve not to issue a casino licence which shall be reserved to Council.</p>
<p><b>8.3.</b> To exercise the Council's regulatory and enforcement powers and duties in respect of all other licensing authorisations, licenses, permits, consents or similar under all statutory provisions</p>	<p>To determine any matters referred to it.</p>
<p><b>8.4.</b> To exercise the regulatory functions of Environmental Health, Building Control, and Car Parking enforcement</p>	<p>To determine any matters referred to it.</p>
<p><b>8.5.</b> To recommend the implementation or amendment to byelaws and orders on all licensing matters to Council for adoption.</p>	<p>To determine any matters referred to it.</p>
<p><b>8.6.</b> To adopt policies in relation to all Licensing &amp; Regulatory policies (except the Statement of Licensing Policy and Gambling Policy and budgets) and setting of fees and charges.</p>	<p>To determine any matters referred to it.</p>

<p><b>8.7.</b> To exercise the powers and duties of the Authority under Sections 13, 14 and 14A of the Public Order Act 1986.</p>	<p>To determine any matters referred to it.</p>
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## 9. LICENSING SUB-COMMITTEE

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**Membership:** 3 Members

**Quorum:** 3 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<p><b>9.1.</b> To consider matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003.</p>	<ul style="list-style-type: none"><li><b>(a)</b> application for a personal licence where there are relevant unspent convictions.</li><li><b>(b)</b> The review of a premises licence or club premises certificate;</li><li><b>(c)</b> Decision to object when the local authority is the consultee and not the relevant authority considering the application;</li><li><b>(d)</b> Determination of a police objection to a temporary event notice.</li><li><b>(e)</b> Where a relevant representation has been made, except where the relevant representation is made upon a minor variation application;</li><li><b>(f)</b> Application for a premises licence where representations have been received and not withdrawn.</li><li><b>(g)</b> Application for a provisional statement;</li><li><b>(h)</b> Application for variation to a premises licence or club premises certificate where representations have been received and not withdrawn.</li><li><b>(i)</b> Application to vary a designated premises supervisor where representations have been received and not withdrawn.</li><li><b>(j)</b> Application for transfer of a premises licence where representations have been received and not withdrawn.</li></ul>

	<b>(k)</b> Application for interim authority.
<b>9.2.</b> To consider matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005.	<p><b>(a)</b> Application for a premises licence where representations have been received and not withdrawn.</p> <p><b>(b)</b> Application for variation to licence where representations have been received and not withdrawn.</p> <p><b>(c)</b> Application for a transfer of a licence where representations have been received from the Gambling Commission.</p> <p><b>(d)</b> Application for a provisional statement where representations have been received and not withdrawn.</p> <p><b>(e)</b> Review of a premises licence.</p> <p><b>(f)</b> Application for club gaming/club machine permits where objections have been received and not withdrawn.</p> <p><b>(g)</b> Cancellation of club gaming/club machine permits.</p>

**9.3.** Members to be appointed as and when needed from the membership of the Licensing and Regulatory Committee.

**9.4.** No Member may sit on this committee until he or she has undergone basic training on the law and procedure relating to the functions of this Sub-Committee.

## 10. TAXI AND PRIVATE HIRE SUB-COMMITTEE

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**Membership:** 3 Members

**Quorum:** 3 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<b>10.1.</b> To consider all outstanding hackney carriage and private hire licensing issues.	To determine any matters referred to it.

**10.2.** Members to be appointed as and when needed from the membership of the Licensing and Regulatory Committee.

**10.3.** No Member may sit on this committee until he or she has undergone basic training on the law and procedure relating to the functions of this Committee.

## **11. CHANGE MANAGEMENT COMMITTEE**

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**Membership:** 8 Members

**Quorum:** 3 Members

**Functions:**

- 11.1** To carry out the employment and staffing functions of the council which are not delegated to officers or reserved to Full Council. This includes the Local Authorities (Standing Orders) (England) Regulations of 2001 (as amended);
- 11.2** To provide oversight and scrutiny of any major change management projects being carried out in the organisation;
- 11.3** To provide oversight and scrutiny of any major staffing related issues that could affect the outcomes delivered by the Council;
- 11.4** To make any consequent recommendations arising out of the above to the appropriate Committee of the Council or to the Council; and
- 11.5** To provide overall guidance and direction on matters pertaining to the operation, review and amendment of the Council's Constitution.

## 12. INVESTIGATORY SUB-COMMITTEE

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**Membership:** 3 Members

**Quorum:** 3 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<b>12.1.</b> To determine disciplinary cases involving chief officers.	To determine any matters referred to it.

**12.2.** Members to be appointed as and when needed from the membership of the Change Management Committee.

### **13. INDEPENDENT REMUNERATION PANEL**

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**Membership:** 3 Independent Members

**Quorum:** 3 Independent Members

**Functions:**

- 13.1.** To make recommendations to the Authority as to the amount of basic allowance that should be payable to its elected members;
- 13.2.** To make recommendations to the Authority about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such an allowance;
- 13.3.** To make recommendations to the Authority about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance;
- 13.4.** To make recommendations as to the amount of co-optees' allowance;
- 13.5.** To make recommendations as to whether the Authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependents and if it does make such a recommendation, the amount of this allowance and the means by which it is determined;
- 13.6.** To make recommendations on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended;
- 13.7.** To make recommendations as to which members of an authority are to be entitled to pensions in accordance with a scheme made under Section 7 of the Superannuation Act 1972; and
- 13.8.** As to treating basic allowance and special responsibility allowance as amounts in respect of which such pensions are payable.

## 14. APPOINTMENTS COMMITTEE

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**Membership:** 5 Members to include:

The Leader (or appointed nominee)

The Deputy Leader (or appointed nominee)

The Leader of the Opposition (or appointed nominee)

The Chair of the Service Delivery Committee (or appointed nominee)

The Chair of the Policy Finance and Development Committee (or appointed nominee)

**Quorum:** 5 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<b>14.1.</b> To interview shortlisted candidates for Head of Paid Service, Chief Officer and Deputy Chief Officer posts.	To determine any matters referred to it.
<b>14.2.</b> Recommend to Full Council the appointment of the Head of Paid Service.	
<b>14.3.</b> Recommend to the Chief Executive (as Head of Paid Service) all permanent appointments to Chief Officer and Deputy Chief Officer posts.	
<b>14.4.</b> Undertake an annual appraisal of the performance of the Chief Executive.	

## 15. APPEALS PANEL

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**Membership:** 3 Members

**Quorum:** 3 Members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<b>15.1.</b> To determine appeals for internal personnel appeals	To determine any matters referred to it.
<b>15.2.</b> To determine other hearings and appeals that may be required	

**15.3.** 3 Members to be appointed as and when needed from the membership of the Full Council.

**15.4.** The decision of an Officer may first be reviewed by a Head of Service and thereafter the Panel.

**15.5.** No Member may sit on this committee until he or she has undergone basic training on the law and procedure relating to the functions of this Panel.

**15.6.** Where any appeal arises from a decision delegated to any Officer, Committee or any Sub-Committee, neither that Officer, Member, Committee or Sub-Committee nor any Member of that Committee or Sub-Committee nor any person previously having had any part in the relevant decision shall be involved in the appeal decision.

## **16. TERMS OF REFERENCE OF SUB-COMMITTEES APPOINTED OUTSIDE THE SCHEME OF DELEGATION WITHIN PART 3 OF THE CONSTITUTION**

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- 16.1** In the absence of any express statutory prohibition, all Committee appointed by the Council may appoint one or more sub-committees to undertake a specific function(s) and for duration to be specified by the Committee.
- 16.2** Prior to the establishment of a sub-committee, Terms of Reference will be drawn up by the Head of Law and Governance in consultation with the relevant Chair which will:
- 16.2.1 Detail the function/s that the sub-committee will consider;
  - 16.2.2 The size and composition of the sub-committee having regard to political proportionality;
  - 16.2.3 The duration of the sub-committee (whether time or function limited); and
  - 16.2.4 The extent of the delegation of authority by the parent committee to the sub-committee.
- 16.3** All sub-committees of the Council must operate within their Terms of Reference and delegated powers and in accordance with Part 3 of the Constitution as appropriate.
- 16.4** The delegated powers of sub-committee shall be exercised in conformity with any directive of the Council on any matters relating to the policy framework.
- 16.5** No sub-committee shall have the power to incur expenditure which has not been sanctioned by the Council or its parent committee.
- 16.6** Sub-committees shall be authorised to take any steps, including delegation to officers, which may be necessary to carry out the functions delegated to that sub-committee.
- 16.7** Sub -committees shall be authorised to carry into effect any of the duties, powers or functions delegated to that sub-committee.
- 16.8** Each committee is responsible for monitoring the performance of the services and functions delegated to its sub-committees.
- 16.9** Any reference to a statute within the Terms of Reference of a committee includes reference to any re-enactments thereof and subordinate legislation made thereunder.
- 16.10** The sub-committee may resolve to seek Council or Committee authority rather than to exercise delegated authority in any matter.

## **17. AD-HOC WORKING GROUPS APPOINTED OUTSIDE THE SCHEME OF DELEGATION WITHIN PART 3 OF THE CONSTITUTION**

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- 17.1 All Committees appointed by the Council may appoint one or more ad-hoc working groups which will consist of a small group of Members, with Officers in attendance at meetings to provide support and advice, with the remit to consider specific policies, matters or projects which need to be completed within a specified time period.
- 17.2 A working group will conduct its business on a less formal basis than that of a Committee, will not have any decision-making powers and can only make recommendations to the body from which it was formed, or to such other body as the parent body decides, or to an officer.
- 17.3 The term "working groups" refers to all informal bodies appointed by the Council, its Committees.

## **18. SCHEME OF DELEGATION TO OFFICERS**

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### **1. SCOPE OF THE SCHEME**

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

### **2. EXERCISE OF DELEGATED POWERS**

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



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

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- 3.1.** To take such action as may in his or her opinion be necessary or appropriate in connection with:
- 3.1.1. all operational management matters for these functions and service areas for which he or she has responsibility under this Constitution and the enforcement of all legislation relating to his/her functions and service areas;
  - 3.1.2. persons and/or property for which he or she and his or her service has responsibility;
  - 3.1.3. the implementation of decisions properly authorised by the Council or a board or committee of the Council or by an officer acting under delegated powers;
  - 3.1.4. the performance of any action for which he or she is specified as responsible in any policy, procedure or other document approved or adopted by the Council or a board or committee of the Council, or by an officer acting under delegated powers.
  - 3.1.5. The response to consultation documents following consultation with the relevant Committee Chair.
- 3.2.** To serve a requisition for information about an interest in land using powers relevant to the operation of the service area
- 3.3.** To authorise officers to conduct directed surveillance or the use of covert human intelligence sources and the accessing of communications data in accordance with the Regulation of Investigatory Powers Act 2000. The use of juveniles and vulnerable individuals as covert human intelligence sources shall only be authorised by the Chief Executive.
- 3.4.** To award contracts within budget up to the value of £100,000 unless the contract is in respect of a matter that has been previously approved by Full Council or Committee in which case the Director may award contracts of £100,000 or greater subject to it being within the approved budget for that scheme (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).
- 3.5.** To sign contracts of a value below £50,000 or some other officer authorised by him or her to do so.
- 3.6.** And arising from his/her respective functions the Chief Executive and Directors are authorised:

- 3.6.1. To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures
- 3.6.2. To co-ordinate and monitor work through approved plans and policies, ensuring compliance with targets and performance to the relevant Committee
- 3.6.3. To determine the level of charges for Council services in order to maximise income and in accordance with agreed charging policies.
- 3.6.4. To ensure compliance with and discharge of all relevant legislation, Acts of Parliament orders, regulations and directives and the Council's policies and procedures (including all enforcement matters).
- 3.6.5. To provide and submit a bid for resources in accordance with the approved budget process.
- 3.6.6. To support members in their monitoring and community governance roles.
- 3.6.7. To recommend to the Head of Law and Governance the prosecution or instigation of any legal proceedings on behalf of the Council.
- 3.6.8. To issue licences and registrations relating to any of the approved functions.
- 3.6.9. To support the Council in the development of the Council's policy framework.
- 3.6.10. In the absence of the Chief Executive and in accordance with the agreed rota, to undertake on his/her behalf such actions as are required to enable the Council to fulfil its functions.

## **4. CHIEF EXECUTIVE**

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- 4.1.** To exercise the functions of the Authority's Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 and in this role:
  - 4.1.1. to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
  - 4.1.2. to give professional advice to all parties in the decision making process (i.e. Monitoring Bodies, the Council, Committees and Working Groups);
  - 4.1.3. to ensure that the Authority achieves and delivers its objectives; and
  - 4.1.4. to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).
- 4.2.** To co-ordinate, direct and monitor the Authority's initiatives to achieve Best Value in the delivery of its functions.
- 4.3.** To be responsible for performance review issues.
- 4.4.** To lead the Senior Management Team
- 4.5.** After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.
- 4.6.** To suspend the Director of Services and Director of Finance and Transformation and Heads of Service where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct; the members of Policy Finance and Development Committee to be notified as soon as possible after the action is taken.
- 4.7.** To act as Returning Officer, Local, Acting or Deputy Returning Officer in:
  - 4.7.1. Local Elections
  - 4.7.2. Parliamentary Elections
  - 4.7.3. European Elections
  - 4.7.4. Police Commissioners' Elections
  - 4.7.5. Referenda
- 4.8.** To undertake the duties of Electoral Registration Officer.
- 4.9.** To consider and co-ordinate any investigation by the Local Government Ombudsman.
- 4.10.** To consider and report on any report of the Local Government Ombudsman and to decide on and implement the action to be taken.
- 4.11.** All activities in connection with the Council's Human Resources or civic/ceremonial function.
- 4.12.**

- 4.12.1. To determine all staffing matters in accordance with the Officer Employment Procedure Rules. This includes determining matters relating to structure (additions, reductions and other changes to the establishment) as she considers appropriate following consultation with the Leader and Deputy Leader.
- 4.12.2. The appointment, dismissal or discipline of staff, except in relation to those posts listed in paragraph 1.2 of the said Rules.
- 4.12.3. Where the decision of the Head of Paid Service taken under 4.12.1 above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the Policy Finance and Development Committee, provided that the remit of the body shall be limited to decisions on financial matters only.
- 4.12.4. The Head of Paid Service may delegate the discharge of this function to another officer.
- 4.13.** To make interim appointments to fill vacancies, and to make interim designations as Chief Finance Officer and Monitoring Officer where a vacancy arises in such position, the term of each such appointment or designation not to extend beyond 18 months without the confirmation of the Appointments Committee.
- 4.14.** To authorise the use of juveniles and vulnerable adults as covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.
- 4.15.** To take urgent action necessary to protect the interests of the Authority, some or all of the Authority's area or some or all of the inhabitants of the Authority's area.
- 4.16.** To make agreements with other local authorities and external agencies in compliance with the Council's CPRs for the placing of staff and joint working arrangements (including committing expenditure within authorised budgets).
  - 4.16.1 Performance management.
  - 4.16.2 Project management.
  - 4.16.3 Local strategic partnerships/LEPs.
  - 4.16.4 Risk management.
  - 4.16.5 Corporate complaints procedure.

## **5. DIRECTOR OF FINANCE AND TRANSFORMATION**

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- 5.1.** Accountancy services.
- 5.2.** National Land and Property Gazetteer.
- 5.3.** Finance, financial planning and procurement.
- 5.4.** Revenues and benefits:
  - 5.4.1. To administer all aspects of housing benefit and Council Tax benefit.
  - 5.4.2. To discharge the Authority's responsibilities for billing, collection and enforcement of Council Tax, non-domestic rates and all valuation matters
  - 5.4.3. To deal with demands and notices, liabilities, reliefs and exemptions, and for non-domestic rates to recommend to Policy Finance and Development Committee guidelines for the granting of discretionary rate relief, partially occupied properties and hardship relief and administer the scheme in accordance with the approved guidelines.
  - 5.4.4. In addition to the Head of Law and Governance to represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings involving the functions referred to cat 5.4.1. and 5.4.3 above.
- 5.5.** Property development.
- 5.6.** Property/facilities management and maintenance (non-housing).
- 5.7.** ICT.
- 5.8.** Street naming and numbering and replacement of street nameplates.
- 5.9.** Internal Audit.
- 5.10.** All activities in relation to the discharge of the Council's function as Local Planning Authority, including planning policy, development control, land reclamation and drainage.
- 5.11.** Subject to those matters reserved for decision by the Development Control Committee , to exercise all those functions for which the Council is responsible concerning town and country planning and development control set out in Regulation 2 and Schedule 1 of the Regulations and in particular:
  - 5.11.1. to agree non-material variations to conditions of permissions and consents where no objections have been received and no demonstrable harm would be caused to an interest of acknowledged importance;
  - 5.11.2. to decide details submitted in compliance with conditions on planning permissions;

- 5.11.3. to negotiate obligations under Section 106 of the Town and Country Planning Act 1990, including any obligations that may be required in connection with any appeal proceedings;
  - 5.11.4. to serve building preservation notices or listed building notices in an emergency.
- 5.12.** Subject to those matters reserved for decision by the Development Control Committee , to exercise all those functions for which the Council is responsible concerning the protection and treatment of hedgerows and the preservation of trees set out in Regulation 2 and Schedule 1 of the Regulations and in particular:
- 5.12.1. to give permission to cut down or lop trees protected by a tree preservation order or by virtue of their location in a conservation area;
  - 5.12.2. to determine complaints received under the provisions of the High Hedges Regulations 2005 and specify remedial action to resolve the complaint in accordance with the national guidance and initiate enforcement action as necessary.
- 5.13.** Subject to those matters reserved for decision by the Development Control Committee, to exercise all those functions for which the Council is responsible concerning public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.
- 5.14.** All activities in relation to the discharge of the Council's functions as the Local Building Regulation Authority and "Building Control Body" (excluding street naming and numbering and replacement of street nameplates).
- 5.15.** Economic development and regeneration.
- 5.16.** Engineering design.
- 5.17.** Town centre management including markets/fairs (including farmers' markets).
- 5.18.** Awarding schedule of rates contracts.
- 5.19.** External resources, grants and bids support.
- 5.20.** To make or revoke a direction under Article 4 of the General Development Order 1995.
- 5.21.** To recommend the Full Council or Committee about the designation or extension of an area as a conservation area.
- 5.22.** To administer the Building Regulations.

## **6. DIRECTOR OF SERVICES**

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- 6.1.** All functions in relation to waste, recycling and street cleansing and street scene.
- 6.2.** Enforcement of byelaws and orders of the Council including car parking and street trading.
- 6.3.** Health and safety (internal).
- 6.4.** To exercise all those functions for which the Council is responsible concerning health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.
- 6.5.** To exercise any function related to contaminated land.
- 6.6.** To inspect for a statutory nuisance and to investigate any complaint about the existence of a statutory nuisance.
- 6.7.** To serve an abatement notice for a statutory nuisance.
- 6.8.** To issue a closing order on a takeaway food shop.
- 6.9.** Communications and consultations.
- 6.10.** Media management, public relations and marketing.
- 6.11.** Corporate overview on diversity issues.
- 6.12.** Information management including Data Protection and Freedom Of Information.
- 6.13.** Elections and electoral registration.
- 6.14.** Legal services (without prejudice to the statutory role and function of the Monitoring Officer).
- 6.15.** Members' services and members' development.
- 6.16.** Strategic asset management including land sales.
- 6.17.** Administration of meetings of the Council, Boards, Committees and Sub-committees and typing and clerical services.
- 6.18.** All activities relating to the discharge of the function as a Licensing Authority under all relevant legislation.
- 6.19.** All activities in relation to the discharge of the environmental health function of the Council, including environmental protection/enforcement, occupational health and safety, food safety, animal welfare, environmental strategy, pest control, private sector housing (including affordable housing) and the appointment of Port Medical Officer(s) and/or Consultants for Communicable Disease Control.
- 6.20.** To grant and determine temporary lettings and licences of Council owned land and buildings.
- 6.21.** To enter into deeds of dedication on such terms as the Director sees fit.

- 6.22.** To agree perpetual and fixed term easements and wayleaves on such terms as the Director sees fit.
- 6.23.** To determine rent reviews and to instigate and participate in arbitrations.
- 6.24.** To agree terms for the surrender of leases.
- 6.25.** To authorise action to determine a lease in the event of rent arrears or other breach of covenant.
- 6.26.** To agree terms for waiving covenants, whether freehold or leasehold.
- 6.27.** To approve and issue consents for assignments, sub-lettings, alterations, additions and changes of use.
- 6.28.** To make and settle claims for dilapidation.
- 6.29.** To appropriate land belonging to the Authority at proper value.
- 6.30.** To agree the grant and renewal of leases of land and buildings where the annual rental does not exceed £20,000.
- 6.31.** To dispose of freehold land where the market value does not exceed £30,000.
- 6.32.** Following consultation with Asset Management Group, to approve the Asset Management Policy.
- 6.33.** Notwithstanding the above, to undertake acquisitions and disposals of land up to a value of £10,000 per site in accordance with and to give effect to the Council's policies and programmes (subject to provision of a monthly list of such acquisitions and disposals to the Chair of the Policy, Finance and Development Committee).
- 6.34.** Subject to those matters reserved for decision by the Licensing and Regulatory Committee, the Licensing Sub-Committee and the Taxi and Private Hire Sub-Committee, to exercise all those functions for which the Council is responsible concerning licensing and registration and the grant of consents and the grant of consents and refusals set out in Regulation 2 and Schedule 1 of the Regulations including the determination of applications for licences, permits and registrations
- 6.35.** Cemeteries and burials.
- 6.36.** Public conveniences.
- 6.37.** Fleet management.
- 6.38.** Green space including allotments.
- 6.39.** Sanitation including cesspools, septic tanks, etc.
- 6.40.** All activities in relation to the discharge of the Council's function as Local Housing Authority.
- 6.41.** Social inclusion.
- 6.42.** Community safety and CCTV.

- 6.43.** Community health, development and social regeneration.
- 6.44.** Leisure facilities - management and operation including sports and recreation facilities.
- 6.45.** Cultural services.
- 6.46.** Arts, entertainment, heritage and tourism and tourist information.
- 6.47.** Sports and leisure development.
- 6.48.** Gypsies and travellers.
- 6.49.** Community enterprise.
- 6.50.** To operate the housing allocations scheme, allocate properties and make nominations to registered social landlords or other approved providers.
- 6.51.** To determine whether people are homeless and whether they are in priority need.
- 6.52.** To allocate temporary accommodation.
- 6.53.** To collect rent, arrears of rent, charges and sundry debts.
- 6.54.** In addition to the Head of Law and Governance, to institute, defend or participate in any legal proceedings in the county court insofar as they relate to:
  - 6.54.1. former tenant rent arrears, and
  - 6.54.2. rent possession hearings

and in conjunction with this to designate nominated officers to carry out this function on his or her behalf, including the signing of any related document necessary to any legal procedure or proceedings.
- 6.55.** To represent the Authority and appear as an advocate on the Authority's behalf in any related legal proceedings.
- 6.56.** To serve notice of seeking possession, notice to quit and applying for possession orders.
- 6.57.** To determine applications by tenants to alter their homes.
- 6.58.** To reimburse tenants for tenants' improvements.
- 6.59.** To transfer tenancies into joint names and vice-versa.
- 6.60.** To agree mutual exchange.
- 6.61.** To take immediate action to secure the removal of trespassers from housing land and property.
- 6.62.** To determine the eligibility of applicants to right to buy.
- 6.63.** To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, subject to the approval by Full Council or Committee of such proposals.
- 6.64.** Enforcement of byelaws and orders of the Council.
- 6.65.** Land charges.

## **7. HEAD OF LAW AND GOVERNANCE**

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### **7.1. Monitoring Officer**

- 7.1.1. To exercise the functions of the Authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- 7.1.2. The Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Council.

### **7.2. Legal Proceedings**

- 7.2.1. Acting on the recommendations of the Chief Executive or a Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.
- 7.2.2. To negotiate and settle claims and disputes without recourse to court proceeding including the use of alternative dispute resolution.
- 7.2.3. To represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings.

### **7.3. Urgent Action**

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

### **7.4. Authority to Sign Documents in Legal Proceedings**

To sign the following on behalf of the Council:

- 7.4.1. Any document necessary in legal proceedings on behalf of the Council; and
- 7.4.2. Informations and complaints, and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless Statute provides otherwise.

### **7.5. Authority to Sign Contracts and Other Documents**

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

**7.6. Arbitration**

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

**7.7. Compensation**

After consultation with the Chair of the Policy Finance and Development Committee, to make compensation payments of up to £500 to victims of maladministration.

**7.8. Counsel**

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

**7.9. Proper Officers**

To designate "Proper Officers" for the purpose of particular statutory functions and to make any changes needed to the table at Section 11 of this Scheme.

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

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### **8.1. Chief Executive**

- 8.1.1. In consultation with the Director of Finance and Transformation, to negotiate and conclude agreements under Section 106 of the Town and Country Planning Act 1990 along lines previously approved by Development Control Committee.
- 8.1.2. Subject to consultation with the Highway Authority and the police and ward members, to make orders under Section 21 of the Town Police Clauses Act 1847 relating to the temporary closures of streets and temporary direction of traffic.
- 8.1.3. Subject to consultation with ward members, the Finance and Business Transformation to make public path orders under the Town and County Planning Act 1990 and to confirm unopposed orders.
- 8.1.4. Subject to consultation with ward members, the Finance and Business Transformation to respond to consultations made by Leicestershire County Council with regard to proposed public footpath orders where the orders are unopposed.
- 8.1.5. To determine applications for bonfires on Council land subject to consultation with ward members, the Finance and Business Transformation as appropriate and Fire Officer.
- 8.1.6. Subject to consultation with the Directors and relevant Heads of Service and ward members, to approve and issue licences for the temporary use of Council owned land.
- 8.1.7. Following consultation with the Finance and Business Transformation, to reject applications to purchase Council owned land.
- 8.1.8. The approval of lease cars to employees.

### **8.2. Director of Finance and Transformation**

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

## 9. DESIGNATED AUTHORISED OFFICERS

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### 9.1. Signatories to Financial Documents

- 9.1.1. Chief Executive
- 9.1.2. Director of Finance and Transformation
- 9.1.3. Head of Finance, Revenues and Benefits
- 9.1.4. Head of Law and Governance

## 10. JOINT ARRANGEMENTS

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The Council has entered joint arrangements with neighbouring District Councils for the enforcement of decriminalised parking.

## 11. PROPER OFFICER DESIGNATIONS

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

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
S.83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive
S.84(1)	Receipt of notice of resignation of elected member	Chief Executive
S.88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair	Chief Executive
S.89(1)	Notice of casual vacancy	Chief Executive
S.100 (except 100(D))	Admission of public (including press) to meetings	Head of Law and Governance

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
S.100(b)(2)	The officer also may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Head of Law and Governance
S.100(B)(7)	The officer to supply to newspapers copies of documents supplied to councillors	Head of Law and Governance
S.100(C)(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Head of Law and Governance
S.115(2)	Receipt of money due from officers	Director of Finance and Transformation
S.146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Director of Finance and Transformation
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs	Director of Finance and Transformation
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Head of Law and Governance
S.225	Deposit of documents	Head of Law and Governance
S.228(3)	Accounts for inspection by any member of the Council	Director of Finance and Transformation

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
S.229(5)	Certification of photographic copies of documents	Head of Law and Governance
S.236(9) and (10)	Sending of copies of byelaws County Council	Head of Law and Governance
S.238	Certification of byelaws	Head of Law and Governance
S.248	Officer who will keep the Roll of Freemen	Head of Law and Governance
<b>Schedule 12</b>		
<b>Local Government Act 1972</b>		
Para 4(2)(b)	Signing of summons to Council meeting	Chief Executive
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Head of Law and Governance
<b>Schedule 14</b>		
Para 25	Certification of resolution passed under this paragraph	Head of Law and Governance
<b>Schedule 16</b>		
Para 28	Deposits of lists of buildings of special architectural or historic interest	Director of Finance and Transformation
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Chief Executive
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Head of Law and Governance
<b>Local Authorities Cemeteries Order 1977</b>		
Regulation 10	To sign exclusive rights of burial	Director of Services
<b>Representations of the People Act 1983</b>		
S.9	Registration Officer	Chief Executive
S.24	Returning Officer for Local Elections	Chief Executive
S.28	Acting Returning Officer for a Parliamentary Election	Chief Executive
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive
<b>Local Elections (Principal Area) Rules 1986</b>		
Rule 46	Retention and public inspection of documents after an election	Chief Executive
<b>Local Elections (Parishes and Communities) Rules 1986</b>		
Rules 46, 47 and 48	Retention and public inspection of documents after an election	Chief Executive
<b>Local Government and Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	Head of Law and Governance

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
S.3	Employers certificate for exemption from politically restricted posts	Chief Executive
S.4	Head of the Paid Service	Chief Executive
S.5	The Monitoring Officer	Head of Law and Governance
S.15	Officers to receive notices relating to membership of political groups	Head of Law and Governance
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	For the purposes of the composition of committees and nominations to political groups	Head of Law and Governance
<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>		
	Officer who will give written notice of appointment or dismissal of officers listed in Schedule 1, Part II, paragraph 3	Chief Executive
<b>Local Government Act 2000</b>		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Chief Executive
<b>Housing Act 1985</b>		

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
S.606	Submission of reports on particular houses or areas by the Proper Officer	Director of Services

# PART 4

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## RULES OF PROCEDURE

PART 4: RULES OF PROCEDURE

## **RULES OF PROCEDURE**

### **CONTENTS**

**Council Procedure Rules**

**Access to Information Procedure Rules**

**Budget and Policy Framework Procedure Rules**

**Financial Procedure Rules**

**Contract Procedure Rules**

**Officer Employment Procedure Rules**

## **COUNCIL PROCEDURE RULES**

### **1. ANNUAL MEETING OF THE COUNCIL**

#### **1.1 Timing and business**

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

The annual meeting will:

- 1.1.1 elect a person to preside if the Mayor and Deputy Mayor of the Council is not present;
- 1.1.2 elect the Mayor of the Council;
- 1.1.3 elect the Deputy Mayor of the Council;
- 1.1.4 approve the minutes of the last meeting;
- 1.1.5 receive any announcements from the Mayor and/or the Head of Paid Service;
- 1.1.6 elect the Leader and Deputy Leader of the Council
- 1.1.7 appoint all such Committees and Sub-Committees as the Council considers appropriate to deal with matters which are not reserved to the Council. (as set out in Part 3 of this Constitution);
- 1.1.8 agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- 1.1.9 approve a programme of ordinary meetings of the Council for the year; and
- 1.1.10 consider any business set out in the notice convening the meeting.

#### **1.2 Appointment of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council meeting will:

- 1.2.1 decide which committees and sub-committees to establish for the municipal year;
- 1.2.2 decide the size and terms of reference for those committees;
- 1.2.3 decide the allocation of seats to political groups in accordance with the political balance rules;
- 1.2.4 make appointments to outside bodies except where appointment to those bodies has been delegated by the Council;

1.2.5 appoint the Chairs and Vice-Chairs of Committees.

## 2. **ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- 2.1 elect a person to preside if the Mayor and Deputy Mayor are not present;
- 2.2 approve the minutes of the last meeting;
- 2.3 receive any declarations of interest from Member;
  - 2.3.1 where such interests amount to a Disclosable Pecuniary Interest under the Localism Act 2011, the member must leave the meeting at the time the item arises and must not participate any further in the discussion or vote on that matter. Once the matter is concluded the member may return to continue the other business of the meeting;
- 2.4 receive any announcements from the Mayor, Leader or Chief Executive;
- 2.5 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Mayor are relevant to the Council's functions;
- 2.6 receive petitions from the public in relation to matters which in the opinion of the Mayor are relevant to the Council's functions;
- 2.7 receive reports from the Council's committees and receive questions and answers on those reports;
- 2.8 consider any other business specified in the summons to the meeting,
- 2.9 consider motions; and
- 2.10 deal with questions from Members in accordance with Rule 13.

## 3. **EXTRAORDINARY MEETINGS**

### 3.1 **Calling extraordinary meetings**

The Chief Executive may call Council meetings in addition to ordinary meetings and those listed below may request the Chief Executive to call additional Council meetings:

- 3.1.1 the Council by resolution;
- 3.1.2 the Mayor of the Council;
- 3.1.3 the Monitoring Officer; or
- 3.1.4 any five Members of the Council if they have signed a requisition presented to the Mayor of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### 3.2 **Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc. except that the Mayor may at his absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

## 4. **TIME, PLACE AND DURATION OF MEETINGS**

### 4.1 **Time and Place of Meetings**

The time and place of meetings will be determined by the Chief Executive and notified in the summons. Council meetings will ordinarily meet in the Council Offices.

### 4.2 **Duration of Meetings**

4.2.1 At an ordinary meeting of the Council, when 3 hours have elapsed after the commencement of the meeting, the Mayor shall, at the conclusion of the debate on the item of business then under consideration, put the matter to the vote.

4.2.2 If there are other motions or recommendations on the agenda that remain to be dealt with they will be deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

4.2.3 During the process set out in paragraphs 4.2.1 and 4.2.2 above the only other motions which may be moved are that a matter be withdrawn under Rule 16.8, that a particular Rule be suspended under Rule 24.1 or that a matter be delegated or referred to the Executive, a committee or sub-committee for decision or report under Rule 15.

4.2.4 When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

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

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## 6. **CHAIR OF MEETING**

6.1 The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to committee and sub-committee meetings, references to the Mayor also include the Chair of committees and sub-committees.

6.2 An item of business may not be considered by the Chair of a meeting unless:-

(a) a copy of the agenda including the item is open to inspection by members of the public for at least five clear working days (before the meeting or where the meeting is convened at shorter notice, from the time the meeting is convened); or  
(b) by reason of special circumstances (which shall be specified in the minutes), the Chair of the meeting is of the opinion that the item should be considered as a matter of urgency.

- 6.3 The order of business can be altered by the Chair, if agreed by all members present.
- 6.4 The Chair of any committee or sub-committee may withdraw any item or report from the Agenda.
- 6.5 The Leader, Deputy Leader or any other member present may propose a motion to withdraw any item or report on the Agenda at Council.

## 7. **QUORUM**

- 7.1 Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of Members who have the right to vote at that meeting, provided that no business shall be transacted at any meeting if less than three persons entitled to vote are present.
- 7.2 During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 8. **CANCELLATION OF MEETINGS**

The Chief Executive is authorised to cancel a meeting where the agenda has already been issued if it is considered expedient to do so. Before exercising this authority, the Chief Executive will consult with the Leader of the Council and the appropriate Chair. Any outstanding business will be held over to the next scheduled meeting or on a date to be arranged.

## 9. **RECORDED MEETINGS**

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

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

### 10.1 **General**

- 10.1.1 At the discretion of the Mayor, members of the public may ask questions of members at ordinary meetings of the Council.
- 10.1.2 The total time allocated for questions by the public should be limited to 30 minutes.

## 10.2 **Order of questions**

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.

## 10.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than mid-day 5 clear working days before the day of the meeting. Each question must give the name and address of the questioner.

## 10.4 **Number of questions**

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

10.4.2 One supplementary question may also be asked.

## 10.5 **Scope of questions**

The Head of Law and Governance may reject a question if it:

10.5.1 is not about a matter for which the Council has a responsibility or influence over or which directly affects the Borough ;

10.5.2 is defamatory, frivolous or offensive;

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

10.5.4 requires the disclosure of confidential or exempt information.

10.5.5 is about a planning or licensing matter.

## 10.6 **Record of questions**

10.6.1 The Head of Law and Governance will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put.

10.6.2 Rejected questions will include reasons for rejection.

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

## 10.7 **Asking the question at the meeting**

10.7.1 The Mayor will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.7.2 There will be a maximum of 5 minutes in which the questioner asks his/her question, receive a response, ask a supplementary question and receive a response subject to the Chair's discretion.

10.8 **Supplementary question**

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds set out in Rule 10.5 above.

10.9 **Written answers**

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

10.10 **Reference of question to the committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

11. **PETITIONS FROM THE PUBLIC**

11.1 The Council has formally adopted a Petition Scheme.

11.2 Without prejudice to the generality of the provisions below, the Scheme sets out in greater detail the process and the signature threshold for receipt of petitions and how petitions will be dealt with.

11.3 A copy of the Petition Scheme is available from the Head of Law and Governance. It is also available on the Council's website.

11.4 **Notice of Petition**

If a citizen wishes to present a petition to a Council meeting, notice must be given at least 5 clear working days before the meeting. Petitions to be debated at the Council Meeting will have been selected according to the Petitions Scheme.

11.5 **Presentation of Petitions**

The petition organiser will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition.

11.6 The Council will then debate the petition for a maximum of 20 minutes.

11.7 The Council will decide how to respond to the petition at the meeting. Such response may include:

11.7.1 take the action the petition requests;

- 11.7.2 not to take the action requested;
- 11.7.3 or commission further investigation into the matter, e.g. by the relevant Committee;
- 11.7.4 the petition organiser will receive written confirmation of this decision which will also be published on the Council website.

#### 11.8 **Number of Petitions**

At any one meeting no person or organisation may present more than one petition.

#### 11.9 **Scope of Petitions**

The Head of Law and Governance may reject a petition if it:

- 11.9.1 does not qualify under the Scheme;
- 11.9.2 it is vexatious, abusive or otherwise inappropriate;
- 11.9.3 it is a petition qualifying under another enactment;
- 11.9.4 it is excluded by order;
- 11.9.5 it relates to a planning decision;
- 11.9.6 it relates to a licensing decision;
- 11.9.7 it relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

#### 11.10 **Scope of Petitions**

### 12. **DEPUTATIONS BY THE PUBLIC**

- 12.1 Deputations may be received at any meeting of the Council following five clear days' written notice to the Head of Law and Governance.
- 12.2 They must be about matters for which the Council has a responsibility or influence over or which affect the Borough.
- 12.3 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 Borough.
- 12.4 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.
- 12.5 A person wishing to make a deputation must give written notice to the Head of Law and Governance no later than midday five clear days before the day of the meeting.

- 12.6 A maximum of two deputations only will be permitted at any meeting and they will be selected in the order notice is received. Only one deputation will be permitted if the Head of Law and Governance receives notice of a petition under Rule 11.
- 12.7 A deputation may consist of up to five people, of whom no more than two may speak, except to answer members' questions.
- 12.8 The deputation may address the meeting for no more than five minutes and members may then question the deputation for a further five minutes.

13. **QUESTIONS BY MEMBERS**

13.1 **On reports of Committees**

At a meeting of the Council, other than the Annual meeting, a Member of the Council may ask the Mayor, the Leader of the Council or the Chair of a Committee or Sub-Committee any question without notice upon an item of the report of a committee when that item is being received or under consideration by the Council.

13.2 **Questions on notice at full Council**

Subject to Rule 13.4, a Member of the Council may ask:

13.2.1 the Mayor;

13.2.2 The Leader of The Council; or

13.2.3 The chair of any committee or sub-committee,

a question on any matter in relation to which the Council has powers or duties or which affects the Borough .

13.3 **Questions on notice at Committees and Sub-Committees**

Subject to Rule 13.4, a member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which falls within the terms of reference of that committee or sub-committee.

13.4 **Notice of questions**

A member may ask a question under Rule 13.2 or 13.3 if either:

13.4.1 they have given notice of the question in writing or by electronic mail no later than mid-day 5 working days before the day of the meeting to the Head of Law and Governance; or

13.4.2 the question relates to urgent matters, they have the consent of the Mayor or member to whom the question is to be put and the content of the question is given to the Head of Law and Governance by mid-day on the day of the meeting.

13.5 **One Question per Member**

A Member may ask only one question under Rule 13.2 or 13.3 except with the consent of the Mayor of the Council, committee or sub-committee.

13.6 **Order of Questions**

Questions of which notice has been given under Rule 13.2 or 13.3 will be listed on the agenda in the order determined by the Mayor of the Council, committee or sub-committee.

13.7 **Content of Questions**

Questions under Rule 13.2 or 13.3 must, in the opinion of the Mayor:

- 13.7.1 contain no expressions of opinion;
- 13.7.2 relate to matters on which the Council has or may determine a policy;
- 13.7.3 not relate to questions of fact.

13.8 **Scope of Questions**

The Head of Law and Governance may reject a question if it:

- (i) is not about a matter for which the local authority has a responsibility or which directly affects the Borough;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (iv) requires the disclosure of confidential or exempt information;
- (v) about a planning or licensing matter.

13.9 **Response**

An answer may take the form of:

- 13.9.1 a direct oral answer at the meeting;
- 13.9.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- 13.9.3 where the reply cannot conveniently be given orally, a written answer circulated within 10 clear working days to the questioner.

13.10 **Supplementary question**

A Member asking a question under Rule 13.2 or 13.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

### 13.11 **Length of Speeches**

A Member asking a question under Rule 13.2 or 13.3 and a Member answering such a question may speak for no longer than 5 minutes unless the Mayor consents to a longer period.

### 13.12 **Time Allowed for Questions at Council Meetings**

13.12.1 The time allowed for consideration of questions submitted under Rule 13.2 shall not, without the consent of the Mayor, exceed 20 minutes.

13.12.2 At the conclusion of the answer to the question under consideration at the expiry of 20 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Mayor shall conclude that part of the meeting.

13.12.3 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

## 14. **MOTIONS ON NOTICE**

### 14.1 **Notice**

14.1.1 Except for motions which can be moved without notice under Rule 15, and any motion to remove the Leader from office as Leader, written notice of every motion, must be delivered to the Head of Law and Governance not later than mid-day on the fifth clear working day before the Council meeting at which it is to be considered.

14.1.2 In the case of any motion for the removal of the Leader from office, written notice signed by at least one quarter of the Councillors must be delivered to the Chief Executive not later than 10 clear working days before the date of the meeting. Any such motion shall be carried only if at least two thirds of the members present at the meeting are in favour.

14.1.3 Motions received will be entered in a book open to public inspection.

### 14.2 **Motion set out in agenda**

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

13.2.1 Subject to a written proposal by the Councillor to move it at a later meeting, any motion not moved at the relevant meeting shall be deemed to be withdrawn.

### 13.3 **Scope**

Motions must be about matters for which the Council has a responsibility or influence over or which directly affect the Borough.

### 14.3 **One Motion per Member**

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Mayor.

### 14.4 **Time Allowed for Motions**

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Mayor, exceed 20 minutes. At the conclusion of the speech being delivered at the expiry of 20 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Mayor shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- 14.4.1 if the speech to be concluded is a speech proposing a motion, the Mayor shall allow the motion to be formally seconded (without comment);
- 14.4.2 if the speech to be concluded is a speech moving an amendment, the Mayor shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise his right of reply; and
- 14.4.3 otherwise, the Mayor shall allow the mover of the motion to exercise his right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

## 15. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- 15.1 to appoint a Chair of the meeting at which the motion is moved;
- 15.2 in relation to the accuracy of the minutes;
- 15.3 to change the order of business in the agenda;
- 15.4 to refer something to an appropriate body or individual;
- 15.5 to appoint a committee or member arising from an item on the summons for the meeting;
- 15.6 to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- 15.7 to withdraw a motion;
- 15.8 to amend a motion,
- 15.9 to proceed to the next business;
- 15.10 that the question be now put;
- 15.11 to adjourn a debate;

- 15.12 to adjourn a meeting;
- 15.13 to suspend a particular Council Procedure Rule;
- 15.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 15.15 to not hear further a Member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4; and
- 15.16 to give the consent of the Council where its consent is required by this Constitution.

## 16. **RULES OF DEBATE**

### 16.1 **No speeches until motion seconded**

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

### 16.2 **Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him before it is discussed.

### 16.3 **Secunder's speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### 16.4 **Content and length of speeches**

- 16.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 16.4.2 A speech by the mover of a motion may not exceed five minutes without the consent of the Mayor.
- 16.4.3 Subject to paragraph 16.4.4 below, speeches by other Members may not exceed three minutes without the consent of the Mayor.
- 16.4.4 When the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to five minutes or such longer period as the Mayor shall allow.

### 16.5 **When a Member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- 16.5.1 to speak once on an amendment moved by another member;
- 16.5.2 to move a further amendment if the motion has been amended since he last spoke;

- 16.5.3 if his first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- 16.5.4 in exercise of a right of reply;
- 16.5.5 on a point of order; and
- 16.5.6 by way of personal explanation.

## 16.6 **Amendments to motions**

- 16.6.1 An amendment to a motion must be relevant to the motion and will either be:
  - (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words
  - (e) as long as the effect of (b) to (d) is not to negate the motion.
- 16.6.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 16.6.3 If an amendment is not carried, other amendments to the original motion may be moved.
- 16.6.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 16.6.5 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 16.7 **Alteration of motion**

- 16.7.1 A Member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 16.7.2 A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 16.7.3 Only alterations which could be made as an amendment may be made.

16.8 **Withdrawal of motion**

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

16.9 **Right of reply**

16.9.1 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.

16.9.2 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.

16.9.3 The mover of the amendment has no right of reply to the debate on his amendment.

16.10 **Motions which may be moved during debate**

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

16.10.1 to withdraw a motion;

16.10.2 to amend a motion;

16.10.3 to proceed to the next business;

16.10.4 that the question be now put;

16.10.5 to adjourn a debate;

16.10.6 to adjourn a meeting;

16.10.7 to exclude the public and press in accordance with the Access to Information Procedure Rules; and

16.10.8 to not hear further a Member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

16.11 **Closure motions**

16.11.1 A Member may move, without comment, the following motions at the end of a speech of another Member;

(a) to proceed to the next business;

(b) that the question be now put;

(c) to adjourn a debate; or

(d) to adjourn a meeting.

- 16.11.2 If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 16.11.3 If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.
- 16.11.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 16.12 **Point of order**

A point of order is a request from a member to the Mayor to rule on an alleged irregularity in the procedure of the meeting. A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Mayor on the matter will be final.

#### 16.13 **Personal explanation**

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

### 17. **PREVIOUS DECISIONS AND MOTIONS**

#### 17.1 **Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 5 members. This does not apply to the Development Control committee and Licensing sub-committees.

#### 17.2 **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 5 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### 18. **VOTING**

#### 18.1 **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

## 18.2 **Mayor's casting vote**

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

## 18.3 **Method of Voting**

18.3.1 Unless a recorded vote is demanded under Rule 18.4 the Mayor will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting except that;

18.3.2 Recorded votes must be taken at a budget decision meeting of the Council where it:

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

(ii) issues a precept under Chapter 4 of Part 1 of that Act.

## 18.4 **Recorded vote**

If at least one half of the whole number of members present at the meeting demand 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.

## 18.5 **Right to require individual vote to be recorded**

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

## 18.6 **Voting on appointments**

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

## 19. **MINUTES**

### 19.1 **Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor 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.

Officers will circulate to the Mayor the draft minutes within ten clear working days of the meeting.

19.2 **No requirement to sign minutes of previous meeting at extraordinary meeting**

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.

19.3 **Form of minutes**

Minutes will contain all motions and amendments in the form and order the Mayor put them.

20. **RECORD OF ATTENDANCE**

The attendance of all members and officers present during the whole or part of every meeting will be recorded. All 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.

21. **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 23 (Disturbance by Public).

22. **MEMBERS' CONDUCT**

22.1 **Speaking at meetings**

When a Member speaks at full Council he/she must address the meeting through the Mayor. If more than one member signifies their intention to speak, the Mayor will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

22.2 **Mayor speaking**

When the Mayor speaks during a debate, any member speaking at the time must stop.

22.3 **Member not to be heard further**

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

22.4 **Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

22.5 **General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

## **23. DISTURBANCE BY PUBLIC**

### **23.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

### **23.2 Clearance of part of meeting room**

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

### **23.3 Banners, placards, etc**

No member of the public shall be allowed to bring into or display at any Council meeting any banner, placard, poster or other similar item. The Chair may require any to be removed.

### **23.4 Recording of Meetings**

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

## **24. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **24.1 Suspension**

All of these Council Rules of Procedure except Rule 16.6 and this Rule may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### **24.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **25. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 4 - 7, 13 - 16, 17 - 25 (but not Rule 22.1) apply to meetings of committees and sub-committees.

The Council has adopted a Scheme for speaking at the Development Control Committee.

## **26. APPOINTMENT OF SUBSTITUTE MEMBERS ON COUNCIL BODIES**

26.1 The Council has formally adopted a Members' Substitute Scheme.

26.2 Without prejudice to the generality of the provisions below, the Scheme sets out in greater detail the application, nomination and appointment, attendance and voting procedures.

26.3 A copy of the Petition Scheme is available from the Head of Law and Governance. It is also available on the Council's website.

#### 26.4 **Application**

The scheme will apply to all committees, sub-committees and working groups of the Council except

- (i) the Assessment, Determination and Review Sub-Committees; and
- (ii) The Licensing Sub-Committee;
- (iii) Private Hire and Taxi Licensing Sub-Committee.

#### 26.5 **Nomination and Appointment**

The Council, when establishing appointments to committees and working groups of the Council, will also appoint substitutes for elected Members to those bodies on the nomination of the political group leaders. Substitutes to other working groups will be appointed by the establishing body, as appropriate. The substitutes themselves must also be elected members.

#### 26.6 **General Powers and Duties**

Appointed Substitutes will be permitted to attend any Council meeting or Panel and vote on behalf of the Member they are replacing.

26.6.1 A list of substitute Members will be agreed by the relevant Political Parties and forwarded to the Chief Executive and Head of Law and Governance.

26.6.2 Substitutes for the Development Control Committee and Licensing and Regulatory must have received training before they can sit as a substitute.

26.6.3 Substitute members will have the powers and duties of any ordinary member but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### 26.7 **Substitution**

Substitute members may attend meetings in that capacity only:

26.7.1 to take the place of the ordinary Member for whom they are the designated substitute

26.7.2 where the ordinary Member will be absent for the whole of the meeting, and

26.7.3 after notifying the Head of Law and Governance by 5.00pm before the last clear working day before the meeting, subject to limited exceptions;

26.7.4 If the ordinary Member is not absent for the whole meeting, the substitute Member may not attend in that capacity. This does not take away the Member's right to attend in any other capacity allowed as below.

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

- 1.1 Subject to paragraph 1.2 below, these rules apply to all meetings of the Council, its Committees and Sub-Committees.
- 1.2 Where the Policy, Finance and Development Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council's Code of Conduct for Members, the provisions set out in the Policy, Finance and Development Committee's Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public.

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

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998 (2018).

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

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Mayor may warn him. If he continues the interruption and a warning has been given, the Mayor may order his removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Mayor may order that part to be cleared.
- 3.4 If the Mayor considers the orderly dispatch of business impossible, he may without question adjourn the meeting.
- 3.5 The above powers of the Mayor are in addition to any other power vested in him/her.

### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at Council Offices Station Road Wigston Leics LE18 2DR and on its website.

### **5. 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 at the designated office and available on the website (if any) at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Head of Law and Governance shall make each such report available to the public as soon as the report is completed and sent to Councillors).

## 6. **SUPPLY OF COPIES**

### 6.1 **Supply of Copies at the Meeting**

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded)

### 6.2 **The Council will supply copies of:**

- 6.2.1 any agenda and reports which are open to public inspection;
- 6.2.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.2.3 if the Head of Law and Governance thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## 7. **ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- 7.1 the minutes of the meeting or records of decisions taken, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 7.2 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;
- 7.3 the agenda for the meeting; and
- 7.4 reports relating to items when the meeting was open to the public.

## 8. **BACKGROUND PAPERS**

### 8.1 **List of background papers**

The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:

- 8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and
- 8.1.2 which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### 8.2 **Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

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

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at Council Offices Station Road Wigston Leics LE18 2DR.

## 10. **EXCLUSION OF ACCESS OF THE PUBLIC TO MEETINGS**

### 10.1 **Extent of Exclusion**

The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

### 10.2 **Confidential information – requirement to exclude public**

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

### 10.3 **Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

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.

### 10.4 **Meaning of confidential information**

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

### 10.5 **Meaning of exempt information**

Exempt information means information falling within the following categories (subject to any qualification)

### 10.6 **Extent of Exclusion**

The public may only be excluded under 10.1 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

[NOTE Information falling within any of paragraphs 1 – 7 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.]

Category	Qualification	Interpretation
Information relating to any individual	The exemption applies only 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 (see note on public interest at the end of the table).	
Information which is likely to reveal the identity of an individual	The Public Interest Test Qualification applies, as in 1 above.	
Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The Public Interest Test Qualification applies, as in 1 above.</p> <p>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under -</p> <ul style="list-style-type: none"> <li>the Companies Act 2006;</li> <li>the Friendly Societies Act 1974;</li> <li>the Friendly Societies Act 1992;</li> <li>the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>the Building Societies Act 1986 ["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</li> </ul>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"person" includes any public authority, company, or other legally constituted organizations and the partners in a partnership or firm.</p>

Category	Qualification	Interpretation
	<p>the meaning of that Act).]; or</p> <p>the Charities Act 2011.</p>	
<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connect with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or document the question whether information is exempt or not falls to be determined.</p> <p>"labour relations matter" means-</p> <p>any of the matters specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>"employee" means a person employed under a contract of service;</p> <p>"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</p>

Category	Qualification	Interpretation
		authority;
Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	The Public Interest Test Qualification applies, as in 1 above.	
Information which reveals that the authority proposes-  to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  to make an order or direction under any enactment.	The Public Interest Test Qualification applies, as in 1 above.	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.  "person" includes any public authority, company, or other legally constituted organizations and the partners in a partnership or firm.
Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies, as in 1 above.	
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.		

NOTE -The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless *"in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information"*.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between the public interest and what merely interests the public.

- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

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

- 11.1 If the Head of Law and Governance thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, 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. If the information is exempt information, the category of the exempt information must also be marked on the report.
- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

## **12. Additional Rights of Access for Members**

### 12.1 Material relating to business to be transacted at a Public Meeting

12.1.1 All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which contain material relating to any business to be transacted at a public meeting unless (a), (b) or (c) applies:

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (c) it contains the advice of a mayoral/political assistant.

12.1.2 Any document which is required by Rule 12.1.1 to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 12.1.1 in relation to that time, must be available for inspection when the item is added to the agenda.

## 12.2 **Material relating to previous business**

12.2.1 All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless 12.1.1(a), 12.1.1(b) or 12.1.1(c) applies.

12.2.2 Any document required to be made available for inspection under 12.2 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

### Nature of rights

These rights of a member are additional to any other right he/she may have.

- PROCEDURE FOR WARD MEMBERS TO BE NOTIFIED OF SENSITIVE ISSUES IN THEIR WARDS
- Local ward members to be invited to public meetings on local issues
- Local ward members to be notified at the outset of a local consultation exercise eg parks and open spaces
- Officers to notify a local ward member of potentially controversial local issues within a report to Council or a committee and if requested, to supply a copy of the final report to the ward member, where they do not sit on the committee receiving the report. (other ward issues, the member may request a copy of the report after having seen a copy of the agenda)
- Local ward members to be notified of press releases relating to a specific ward issue

Unless considered urgent, when verbal notification will be given, members will be notified by email.

## 13. **MEMBERS OTHER RIGHTS TO INFORMATION**

13.1 A Member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Head of Law and Governance and, if available, copies will be supplied upon request.

13.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he:

13.2.1 is professionally interested; or

13.2.2 has a registerable or non-registerable personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

13.3 This shall not preclude the Head of Law and Governance from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

13.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

14. **CONFIDENTIAL AND EXEMPT INFORMATION.**

14.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

14.2 Nothing in these Rules:

14.2.1 authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Head of Law and Governance, that document or part of a document contains or may contain confidential information; or

14.2.2 requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. PROGRAMME SET BY COUNCIL**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Policy Finance and Development Committee 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:
- 2.2 Each year the Council will agree a process for the development of the annual budget and policy framework. The programme will be widely published.
- 2.3 The Policy Finance and Development and Committee will prepare the Council's budget, after full consideration of financial and policy matters arising from 2.2, and will make recommendations to the Council regarding development.

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

- 3.1 Subject to the provisions of paragraph 5 (virement) if any committee or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 3 below.
- 3.2 If committees and any officers want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 3 (urgent decisions outside the budget and policy framework) shall apply.

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

- 4.1 A Committee or Senior Officers 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 where:
  - 4.1.1 if it is not practical to convene a quorate meeting of the full Council; and
  - 4.1.2 if the Chair of the Policy Finance and Development Committee agrees that the decision is a matter of urgency.
- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the must be noted on the record of the decision. In the absence of the Chair of the Policy Finance and Development Committee the consent of the Leader and in the absence of both the Deputy Leader 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 a committee or officers, shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads subject to the following constraints.
- 5.2 Virement is permitted between budgets for revenue and capital expenditure in accordance with the Virement Authorisation Limits as set out at para. 6.3. of the Financial Procedure Rules. The transfer of revenue budgets will exclude those relating to employees, recharges, capital charges and income.

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

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions Policy Finance and Development Committee and officers must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- 6.1 which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- 6.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
- 6.3 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;
- 6.4 which will result in the settlement of costs awarded against the Council or tribunal or court action or threat of action in any matter which, if not settled, would put the council at real risk of greater prejudice.
- 6.5 for which provision is made within the relevant budget or policy.

## **FINANCIAL PROCEDURE RULES**

### **INTRODUCTION**

These Regulations have been adopted by the Council and form an essential part of the control framework within which the Council operates. Each section includes general guidelines to staff on the practical application of the Regulations. Useful contacts are also included in each section of this document.

These Regulations are designed to ensure that financial decisions are taken in a considered and informed manner by assuring that consistent, high quality financial information is available to Members and Officers. In this way we can be confident that financial management ensures that the Council's objectives are met in an economical, effective and efficient way whilst still maintaining the highest levels of accountability.

The Regulations should be used in conjunction with Contract Procedure Rules which document important rules concerning the conduct of Council staff and the procedures they must follow. The general principals contained in the Regulations may be supplemented by detailed procedures specified by or agreed with the Chief Financial Officer. Responsibility for approving and recommending changes to the financial control framework rests with the Chief Financial Officer who will be pleased to receive any comments on the operation of the Financial Regulations or Contract Procedure Rules.

All staff are bound by these Regulations and will be affected by them to some degree depending on their duties. Training will be provided for those staff who are regularly involved in the application of Financial Regulations or Contract Procedure Rules.

Management Team and Heads of Service will be responsible for ensuring that appropriate officers/employees:

- (a) Receive a full copy of these Regulations, where appropriate
- (b) Receive appropriate training in order that they understand and comply with the Regulations.

Every officer has a responsibility to read and be familiar with these Regulations.

### **1. STATUS**

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

- 1.1.1 Section 151 of the Local Government Act 1972 states that "every authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.
- 1.1.2 Financial Procedures provide the framework for managing the Council's financial affairs. Financial Procedures are supported by more detailed Financial Management Standards which set out how the procedures will be implemented. These are listed in Appendix A.

- 1.1.3 The procedures identify the financial responsibilities of the full Council, the Executive and officers.
- 1.1.4 To avoid the need for regular amendment due to changes in post
  - (a) titles generic terms are included for officers as follows:
  - (b) The term, "Chief Finance Officer," refers to the Section 151 Officer who is currently the Director of Corporate Resources.
  - (c) The term, "Chief Officers", refers to the Council's Chief Executive, the Corporate Directors and the Assistant Chief Executive.
  - (d) The term, "Monitoring Officer", is currently the Head of Law and Governance .
  - (e) The term, "Chief Internal Auditor", refers to the .

## 1.2 **Why are they important?**

- 1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice.. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.
- 1.2.2 Good, sound financial management is a key element of Corporate Governance which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.
- 1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.
- 1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

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

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

- 1.3.2 These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- 1.3.3 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

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

- 1.4.1 Chief Officers and Heads of Service are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by his/her staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.
- 1.4.2 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Executive Members.
- 1.4.3 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.
- 1.4.4 Any person charged with the use or care of the Council's resources and assets should inform him or herself of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice.
- 1.4.5 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, he/she shall raise the issue with the Chief Finance Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

## 2. **FINANCIAL MANAGEMENT – GENERAL ROLES AND RESPONSIBILITIES**

### 2.1 **The Role of the Full Council**

The Council is responsible for:

- 2.1.1 The adoption and revision of these Financial Procedure Rules;
- 2.1.2 The determination of the Policy Framework and Budget within which the Executive works;
- 2.1.3 Providing the Chief Finance Officer with sufficient staff, accommodation and other resources to carry out his or her duties; and
- 2.1.4 approving and monitoring compliance with the Council's overall framework of accountability and control.

## 2.2 **The Role of the Chief Finance Officer**

2.2.1 The Chief Finance Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972
- (b) The Local Government Finance Act 1988
- (c) The Local Government and Housing Act 1989
- (d) The Accounts and Audit Regulations 2011.

2.2.2 The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:

- (a) The proper administration of the Council's financial affairs.
- (b) Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the full Council for approval.
- (c) Annually reviewing and updating, and monitoring compliance with financial management standards.
- (d) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- (e) Providing training for Members and officers on Financial Procedures and Financial Management Standards.
- (f) Determining accounting policies and ensuring that they are applied consistently.
- (g) Determining accounting procedures and records of the Council.
- (h) Reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Executive.
- (i) Preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan.
- (j) Ensuring the provision of an effective Internal Audit Function.
- (k) Ensuring the provision of an effective Treasury Management Function.
- (l) Advising on risk management.
- (m) Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- (n) Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.

- (o) Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- (p) Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice (SORP).
- (q) Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- (r) Ensuring that proper professional practices, standards and ethics are adhered to.
- (s) Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.
- (t) The appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment.

2.2.3 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council and to the External Auditors if the Council or one of its officers:

- (a) Has made, or is about to make a decision which involves incurring expenditure which is unlawful.
- (b) Has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council.
- (c) Is about to make an unlawful entry in the Council's accounts.

2.2.4 Section 114 of the 1988 Act also requires:

- (a) The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- (b) The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.

2.2.5 The Chief Finance Officer,

- (a) is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures

necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.

- (b) shall be given access to any information as is necessary to comply with his/her statutory duties and with the requirements and instructions of the Council.
- (c) shall be entitled to attend and report on financial matters directly to the Council, the Executive, and any committees or working groups the Council may establish.
- (d) shall be sent prior notice of all meetings of the Executive and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if he/she so desires

### 2.3 **The Role of Heads of Service**

2.3.1 Heads of Service are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.

2.3.2 Heads of Service are responsible for:

- (a) Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Finance Officer.
- (b) Ensuring that members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
- (c) Consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
- (d) Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.
- (e) Inform immediately the Chief Finance Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets.

## 3. **BUDGET SETTING - CAPITAL**

3.1 The detailed form of the Capital Programme shall be determined by The Chief Financial Officer.

3.2 The Chief Financial Officer, in conjunction with Management Team and Heads of Service, shall submit to the Policy, Finance and Development Committee the estimates of capital payments to be incurred in the ensuing financial years.

- 3.3 The Policy, Finance and Development Committee shall consider the overall capital programme and the resources available, make amendments as thought fit, and shall recommend an overall programme to Council.
- 3.4 All new schemes, prior to inclusion in the capital programme, must first have been considered as part of the Service and Financial Planning process. This must include details of the objectives of the scheme, the resources required, the timescale and the revenue implications. The de minimis level for a scheme to be considered as a capital scheme has been set at £3,000.
- 3.5 Any proposal to amend a project beyond its current policy or include a new project in the capital programme must be considered by the Council in accordance with the Budget and Policy Framework, included in the Constitution. Amendments to an existing project solely involving budgetary change which is being met from the virement process can be approved in accordance with Section 6 of these Regulations. Supplementary capital estimates must be sought from the Policy, Finance and Development Committee where sufficient budgetary provision is not available.
- 3.6 The inclusion of a scheme in the approved Capital Programme shall constitute authority to incur expenditure with the exception of schemes of a budgeted value exceeding £250,000 which shall be specifically reported to the Policy, Finance and Development Committee for approval to progress.
- 3.7 However, when the in year capital programme exceeds the resources available at the 1 April of that year, any scheme partly or wholly funded from capital receipts may not commence unless identified in the capital programme. All other schemes partly/wholly funded from capital receipts must not be implemented unless specific Policy, Finance and Development Committee approval is agreed and the funding for the scheme is identified.
- 3.8 The Management Team and Heads of Service monitor the delivery of capital schemes, capital expenditure and resources.

#### **4. BUDGET SETTING – REVENUE**

- 4.1 The detailed form of the Revenue Budget shall be determined by The Chief Financial Officer.
- 4.2 Revenue budgets include the General Fund Revenue Account and Housing Revenue Account.
- 4.3 The Chief Financial Officer, in consultation with the relevant Heads of Service, shall prepare revenue estimates. These estimates shall be submitted by The Chief Financial Officer and shall detail estimates of expenditure and income for the ensuing financial year and current year. The estimates shall show in respect of each item of expenditure and income:
- 4.3.1 Actual results for the last financial year.
  - 4.3.2 Original and working budgets for the current financial year.
  - 4.3.3 Original estimate for the following financial year.

In relation to (4.3.2) and (4.3.3) above, The Chief Financial Officer or the appropriate Heads of Service shall report on the reasons for material variations.

- 4.4 The Council shall approve a strategy for fees and charges in line with the Council's overall policies for the coming year. The detailed fee increases will be submitted to the relevant Service Committee before being recommended to the Policy, Finance and Development Committee. Heads of Service will implement changes to fees and charges in accordance with this strategy and the scheme of delegation. The Committee is required to approve Heads of Service proposals in respect of fees and charges where these are not in accordance with the approved strategy.
- 4.5 The Policy, Finance and Development Committee shall consider the overall revenue budget and the sources available, make amendments as thought fit, shall consult with the Service Delivery and Overview and Scrutiny Committees, and shall recommend an overall budget to the Full Council.
- 4.6 It is the responsibility of The Chief Financial Officer to advise the Policy, Finance and Development Committee and/or the Full Council on prudent levels of reserves for the Authority. This will be based on a risk assessment of General Fund and Earmarked reserves.

## **5. SUPPLEMENTARY ESTIMATES**

- 5.1 Supplementary estimates reduce the Council's reserves, and therefore must be used sparingly so as to not jeopardise the Council's Financial Strategy. Service should endeavour to find the resources from their own budgets, financing the project or variance through budget virement (see Section 6 of these Regulations). Supplementary estimates should represent a last option for financing a project or variance.
- 5.2 The Chief Financial Officer can approve Supplementary Estimates up to £10,000 in consultation with the Chief Executive, from £10,001 but less than £30,000 in consultation with the Chair of Policy, Finance and Development Committee. Supplementary Estimates above these levels, either individually or cumulatively, require the approval of Policy, Finance and Development Committee.
- 5.3 A Supplementary Estimate shall only be requested from the Policy, Finance and Development Committee where expenditure will be incurred that cannot be accounted within a budget head by way of virement. In this context, any reduction to income shall be deemed to be expenditure, except where it relates to seasonal or periodic variations which are not anticipated to affect the annual budgeted figure.
- 5.4 The Policy, Finance and Development Committee can approve supplementary estimates or as part of the quarterly revenue budget monitoring report to the Committee.

## **6. BUDGETARY CONTROL**

### **CONTACT: Chief Financial Officer**

- 6.1 The Chief Financial Officer shall make available to Management Team and Heads of Service, information concerning all income and expenditure falling within their respective

responsibilities and such other information that may be relevant. This information shall allow comparison between actual expenditure, including committed expenditure, against the current budget.

- 6.2 Each Head of Service is responsible for ensuring that all expenditure and income is processed in a timely manner and charged to an appropriate account code to enable budgetary control information to be produced as per 5.1 above.
- 6.3 Each Head of Service is responsible for ensuring that all expenditure committed by their Service is within a revenue or capital budget. Any expenditure or income likely to vary significantly from an approved budget shall be reported to the Chief Financial Officer. All virement and supplementary requests require approval before expenditure is committed, the only exceptions are in connection with emergency events. If appropriate a virement or supplementary estimate will be obtained and reported to the Policy, Finance and Development Committee as part of the quarterly revenue and capital budget monitoring process.
- 6.4 The inclusion of items in approved revenue or capital estimates shall constitute authority to incur such expenditure subject to compliance with any requirements mentioned elsewhere in these Regulations and Contract Procedure Rules.
- 6.5 Any proposal outside the budget and policy framework that involves:
  - 6.5.1 Capital expenditure not specifically included in the capital budget (see also conditions in paragraph 2.7).
  - 6.5.2 Revenue expenditure on a new service or project that has not been specifically provided for in any of the revenue budgets.
  - 6.5.3 A new source of income or significant variation in an existing source of income.
  - 6.5.4 The sale or disposal of land, buildings or other property of the Council, (other than those for which delegated authority has been given)shall be subject to the specific approval of the Council on the recommendation of the Policy, Finance and Development Committee. Should, at any time during the project, the likely cost exceed the amount specifically approved or the scope of the project altered, then further specific approval will be sought unless the financial implications can be accommodated by Virement. The initial or any subsequent submission of such proposals to the Council shall be subject to the procedures in Section 4.
- 6.6 In a situation that necessitates expenditure or the acceptance of quotes/ tenders in contravention of these Regulations, the relevant Head of Service and The Chief Financial Officer, in conjunction with the Director of Services, shall have authority to sanction such expenditure. The Chief Financial Officer shall report such approvals in the schedule prepared under Regulation 4.4.
- 6.7 Nothing in these Financial Regulations shall prevent expenditure being incurred where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent. Where in the opinion of the relevant Heads of Service, in consultation if possible

with the Chief Executive and the Chief Financial Officer, the urgency of the situation will not permit delay, nothing in the Financial Regulations or Standing Orders shall prevent the relevant Head of Service from incurring expenditure. Action under this Financial Regulation shall be reported to the next meeting of the Policy, Finance and Development Committee.

## **7. TRANSFER OF BUDGETS (VIREMENT)**

- 7.1 Virement is a transfer between approved budgets. Heads of Service should endeavour to finance projects or variances from within this Service by way of virement before a supplementary estimate is considered.
- 7.2 Virements shall only be made in accordance with the authorisation limits and criteria shown in 6.3 and 6.4 and the general conditions shown below:
- 7.2.1 All virements will be submitted to the Chief Financial Officer in a form approved by the Chief Financial Officer where the appropriate authorisation is required.
- 7.2.2 All approved virements will be reflected in the Council's Financial Information System (FIS) by the Chief Financial Officer
- 7.2.3 The Chief Financial Officer reserves the right to refer any virement request to the Policy, Finance and Development Committee for approval.
- 7.2.4 The destination of the proposed virement must be a project, scheme or budget that has previously been approved for funding.
- 7.2.5 No virements shall be made:
- 7.2.5.1 from budgets held for support service recharges, central and departmental recharges, and capital financing charges.
- 7.2.5.2 between the Revenue and Capital accounts of the Council or between the Housing Revenue Account and General Fund.
- that create an ongoing expenditure commitment for the Council.
- 7.2.6. No virements shall be made from salary budgets unless approved by the Chief Financial Officer, so that the annual transitional vacancy target is met each year.
- 7.2.7. Virements shall only be made within and not between the budget heads of the Council as defined in the Council's Budget and Policy Framework i.e.

General Fund Revenue Account

Housing Revenue Account

General Fund Capital Programme

## Housing Capital Programme

7.2.8. There must be sufficient budget provision remaining in the source of the virement to meet all expenditure for the rest of the year.

### 7.3 Virement Authorisation Limits

<b>Virement Type</b>	<b>Authorisation Level:</b>			
	<b>Head of Service</b>	<b>Chief Financial Officer in consultation with Chair of PFD Committee</b>	<b>Policy, Finance and Development Committee</b>	<b>Council</b>
(a) Within a cost centre	In consultation with Service Accountant			
(b) Within a Budget Head	Less than £25,000	£25,000 - £49,999	£50,000 - £250,000	More than £250,000
(c) Between Budget Heads but within a Service	Less than £25,000	£25,000 - £49,999	£50,000 - £250,000	More than £250,000
(d) Between capital projects		Less than £50,000	£50,000 - £250,000	More than £250,000
(e) Within Committee's responsibility			Less than £250,000	More than £250,000

For the purposes of virement a service is defined as:-

General Fund – a collection of cost centre(s) (comprising a summary line in the budget book) as detailed in The Addendum to the Financial Regulations.

Housing Revenue Account – the whole account

Virements under 6.3(a) authorised by Heads of Service or Chief Financial Officer will not require reporting to Committee. Virements under 6.3 (b) & (c) authorised by Heads of Service, or Chief Financial Officer shall be reported to the Policy, Finance and Development Committee on a schedule.

When the virement is as a result of a rationalisation of the Council's financial system codes, the authorisation level will up to £250,000 by the Head of Finance/Revenues and Benefits and over £250,000, the Chief Financial Officer. This would include setting up new cost centres as a result of restructures, reviewing and rationalising subjective codes and changes to staff reports. All these technical virements will be reported to the Chair of the PFD Committee for information.

- 7.4 All virements that relate to substantial changes in the method of service provision must be approved by Management Team irrespective of amount

## **8. ACCOUNTING**

- 8.1 All accounting procedures and records of the Council shall be determined by the Chief Financial Officer in so far as they are not prescribed by law.
- 8.2 All accounts and accounting records of the Council shall comply with the relevant accounting standards and shall be in a form determined by the Chief Financial Officer.
- 8.3 All Heads of Service shall ensure that the principles of Separation of Duties and good control procedures are observed in the allocation of accounting duties:
- 8.3.1 The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them.
- 8.3.2 Officers responsible for examining and checking the accounts of cash or stores transactions shall not themselves be engaged in any of these transactions.
- 8.4 As soon as possible after the end of each financial year, and not later than 30 September the Chief Financial Officer shall report to Council or committee under delegation on the accounts for that year.

## **9. TREASURY MANAGEMENT**

- 9.1 All external investments in the name of the Council shall be made in accordance with the Council's policy for Treasury Management.
- 9.2 Oadby and Wigston Borough Council adopts the key recommendations of CIPFA's Treasury Management Code of Practice (the Code), updated in 2011.
- 9.3** Accordingly, Oadby and Wigston Borough Council will create and maintain, as the cornerstones for effective treasury management:
- 9.3.1 A treasury management policy statement (TMPS), stating the policies and objectives of its treasury management activities.
- 9.3.2 Suitable treasury management practices (TMP), setting out the manner in which Oadby and Wigston Borough Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 9.4 Oadby and Wigston Borough Council's Policy, Finance and Development Committee will receive reports on its treasury management policies, practices and activities including, as a minimum, an annual strategy and plan in advance of the year, an annual report after its close and an in year monitoring report. The Strategy will be updated and reported more frequently if the Council financial circumstances change e.g. need to borrow or best practice recommends. The Policy, Finance and Development Committee will receive updates on the Council's investments as part of the quarterly monitoring reports (revenue expenditure).

- 9.5 Oadby and Wigston Borough Council delegates responsibility for the scrutiny, implementation and monitoring of its Treasury Management Policies and practices to the Policy, Finance and Development Committee and for the execution and administration of treasury management decisions to the Chief Financial Officer who will act in accordance with the Council's Policy Statement and TMPs and, if they are a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- 9.6 The Chief Financial Officer shall report to the Policy, Finance and Development Committee on an exception basis, on investment and borrowing transactions.

## 10. **VALUE ADDED TAX (VAT)**

- 10.1 It shall be the responsibility of the Chief Financial Officer to secure arrangements for the administration and accounting of VAT to ensure compliance with all statutory requirements including such returns as are required within laid down timescales.
- 10.2 Each Head of Service shall keep records, as determined by the Chief Financial Officer for the prescribed statutory period, of all matters pertaining to the administration and accounting of VAT, and in particular:
- 10.2.1 All supplier invoices, including any relevant back-up and authorisation documents;
  - 10.2.2 Documentation supporting all income raised by invoice;
  - 10.2.3 Documentation supporting all non-invoiced income, including amounts lodged directly with the bank and cash collected directly by departments.
- 10.3 The Chief Financial Officer nominates the Head of Finance /Revenues and Benefits as the contact point for enquiries regarding any VAT matter.

Each Head of Service shall fully observe any direction and advice as may be issued by the office of the Chief Financial Officer.

## 11. **COMMITTEE REPORTS**

**11.1** The Chief Financial Officer shall ensure that Committee Reports contain a section outlining the financial implications of the matter being reported upon. Additionally, he shall be entitled to report upon the financial implications of any matter coming before the Council, or other Committees, if necessary, in the interests of the financial affairs of the Council. To allow the Chief Financial Officer to fulfil his obligations all Heads of Service are obliged to consult with the Chief Financial Officer on all matters with a potential financial implication which are likely to result in a report to Committee.

**11.2** With regard to reports prepared for consideration by Committee, Heads of Service shall follow the expected format and latest detailed guidance notes, as issued by the Chief Executive and the Chief Financial Officer, for ensuring all financial implications are identified and recognised. Further, Heads of Service shall ensure that the Chief Financial Officer or Head of Finance/Revenues and Benefits is fully consulted on the financial implications of reports with the inclusion of appendices within reports for ease of reference.

**11.3** The following principles should be adhered to in the preparation of all Committee reports:-

- 11.3.1 The report should clearly distinguish capital and revenue financial implications.
- 11.3.2 Implications for the capital budget should identify where provision exists within the Council's capital programme.
- 11.3.3 Implications for the revenue budget should identify where provision exists within the Council's revenue budget. It is not considered sufficient to indicate that any increase in expenditure will be contained within a Service budget.
- 11.3.4 Implications for the revenue budget should distinguish ordinary running costs from capital financing costs.
- 11.3.5 Accountants within Finance should be involved in the calculation of such figures, as appropriate.
- 11.3.6 No additional budgetary implications will be allowed unless specifically approved by the Policy, Finance and Development Committee or Full Council (where appropriate).
- 11.2.7 Reports should make clear how additional or unbudgeted running costs are to be funded in both the current year and future years revenue budgets i.e. via ongoing compensating savings, virement, external funding etc.
- 11.2.8 Where virement is proposed, in order to fund overspends or unbudgeted expenditure, reports should indicate whether such virement is to be considered as a permanent adjustment or as a one-off.
- 11.2.9 Government grant funding availability / arrangements should be clearly highlighted as should the percentage of expenditure covered by grant and any residual costs to be borne by the Council. If the grant is to be available for only a limited period then this should also be identified in the financial implications.
- 11.2.10 Staffing changes / additions should clearly state whether such adjustments are of a permanent, temporary or fixed term nature.
- 11.2.11 All financial implications narrative and supporting appendices should be agreed with the relevant Accountant at draft /consultation stage.
- 11.2.12 Reports with significant financial implications, should, as a matter of course have a financial appendix which should provide a financial analysis broken down into appropriate cost and income headings (e.g. employee costs, property costs, supplies and services etc.) and should identify current year costs (which in the main will have a part year effect only) and costs for a full financial year.
- 11.2.13 Costings for the purpose of financial implications should be to the nearest ten pounds using current year prices.

## 12. AUDIT REQUIREMENTS

- 12.1 The Accounts and Audit Regulations require every local authority to maintain an adequate and effective internal audit function.
- 12.2 The Chief Financial Officer shall maintain an adequate and effective system of internal audit for all accounting, financial and other operations of the Council and in particular shall arrange for the examination, review and appraisal of:
  - 12.2.1 the adequacy and effectiveness of the systems of financial, operational and management control, and their operation in practice in relation to the business risks to be addressed;
  - 12.2.2 the extent of compliance with, relevance of, and financial effect of, policies, standards, plans and procedures established by Members and the extent of compliance with external laws and regulations, including reporting requirements of regulatory bodies;
  - 12.2.3 the extent to which the assets and interests are acquired economically, used efficiently, accounted for and safeguarded from losses of all kinds arising from waste, extravagance, inefficient administration, poor value for money, fraud or other cause and that adequate business continuity plans exist;
  - 12.2.4 the suitability, accuracy, reliability and integrity of financial and other management information and the means used to identify, measure, classify and report such information;
  - 12.2.5 the integrity of processes and systems, including those under development, to ensure that controls offer adequate protection against error, fraud and loss of all kinds; and that the process aligns with the Council's strategic goals;
  - 12.2.6 the follow-up action taken to remedy weaknesses identified by Internal Audit, ensuring that good practice is identified and communicated widely;
  - 12.2.7 the operation of the Council's corporate governance and risk management arrangements.
- 12.3. The Internal Audit Service (IAS) in consultation with the Head of Finance/Revenues and Benefits and Chief Financial Officer shall prepare annual audit plans detailing the areas of audit coverage for the following year. These plans shall be presented to the Policy, Finance and Development Committee.
- 12.4. Internal Auditors from IAS have authority to:
  - 12.4.1 Enter at any time Council premises or land subject to any statutory or contractual restrictions that may apply.

- 12.4.2 Have access to all records, documents and correspondence relating to any financial or other business of the Council and to remove any such records as is necessary for the purpose of their work.
- 12.4.3 Receive any information and explanations considered necessary concerning any matter under examination.
- 12.4.4 Require any employee, agent or contractor of the Council to produce cash, stores or any other Council property under his or her control.
- 12.4.5 Have direct access to the Chief Executive, Director of Services, Chief Financial Officer, Policy, Finance and Development Committee and Overview and Scrutiny Committees.

### **13. FRAUD AND IRREGULARITY**

- 13.1 The Council will not tolerate internal or external fraud and corruption in the administration of its responsibilities.
- 13.2 The Chief Financial Officer and the Head of Finance/Revenues and Benefits shall be notified immediately by the Head of Service of the Service concerned of any suspected irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council. The Chief Financial Officer shall take such steps as he or she considers necessary by way of investigation and report.
- 13.3 Should it be found that any major irregularity has occurred or is occurring, the Chief Financial Officer shall immediately inform the Chief Executive, Leader and the Chair of the Policy, Finance and Development
- 13.4 The Chief Financial Officer and the Chief Executive will be responsible for deciding whether any irregularity shall be referred or reported to the Police.
- 13.5 All employees and Members of the Council have a responsibility to bring to the attention of the Finance Manager/ Chief Financial Officer suspected irregularity. It is NOT Officers / Members responsibility to investigate suspicions as this could prejudice any investigation.
- 13.6 Requests for surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) must be approved in accordance with the Council's "Use of Surveillance Powers" policy. The use of Surveillance Powers Policy is available on the Council's intranet, under Policies and Forms/ Surveillance.
- 13.7 The Chief Financial Officer has overall responsibility for:
  - 13.7.1 Developing and maintaining an anti-fraud and corruption policy
  - 13.7.2 Developing and maintaining a whistle blowing policy
  - 13.7.3 Maintenance of a register of interests and a register for recording gifts or hospitality

13.8 Management Team will instigate the Council's disciplinary procedures where the outcome of an investigation indicates improper behaviour.

### **13.INSURANCES & RISK MANAGEMENT**

#### **CONTACT: Insurance - Head of Finance/Revenues and Benefits Risk Management-Chief Financial Officer**

**13.1 Risk Management** – all organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk Management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an intricate part of good business practice. Risk Management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

**13.2** Policy, Finance and Development Committee is responsible for approving fundamental (or significant) changes to the Risk Management Strategy and ensuring the overall effectiveness of the strategy.

**13.3** The Chief Financial Officer is responsible for preparing the Authority's risk management policy statement and Corporate Risk Register and for promoting it throughout the Council and updating it.

**13.4 Internal Control** – Internal Control refers to the systems of control devised by management to reduce risks to an acceptable level and to help ensure that the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.

**13.5** The Chief Financial 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 provisions that govern their use.

**13.6** It is the responsibility of Heads of Service to establish sound arrangements, consistent with guidance given by the Chief Financial Officer, for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and achieving their financial performance targets.

**13.7 Business Continuity** – Management Team should ensure that adequate plans are in place for ensuring continuity of service in the event of a disaster or system failure.

**13.8 Intellectual Property** - Intellectual Property is a generic term that includes inventions and writing. If these are created by the employee in the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of Intellectual Property. Certain activities within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as Intellectual Property.

**13.9** Chief Financial Officer is responsible for developing and disseminating good practice through Intellectual Property procedures. Management Team must ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employers right with regard to Intellectual Property.

**13.10 Insurances** - Arrangements for insurances shall only be made through the Chief Financial Officer who shall arrange such insurances as considered necessary to protect the Council's interests.

**13.11** The Chief Financial Officer shall maintain details of all policies, claims or other transactions relating to the Council's insurance and details of all items or risks insured.

**13.12** Management Team are responsible for ensuring that the Chief Financial Officer is notified of all new risks which require to be insured and any alterations affecting existing insurances.

**13.13** Management Team shall be responsible for notifying the Chief Financial Officer, in a form prescribed by the Chief Financial Officer, as soon as possible of any loss, liability or damage or any event likely to lead to a claim.

**13.14** The Chief Financial Officer shall negotiate all claims made by the Council against its insurers.

**13.15** Employees of the Council shall be included in a fidelity guarantee policy suitable to the roles they perform.

## **14. ESTATES**

### **CONTACT: Planning Regeneration and Development**

**14.1** The Head Planning Regeneration and Development shall be responsible for maintaining a terrier of all land and buildings owned by the Council, recording the holding committee, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

**14.2** The Head Planning Regeneration and Development shall be responsible for the safe custody of all title deeds, formal contracts and agreements under secure arrangements agreed with the Chief Financial Officer.

## **15. SALARIES AND OTHER EMOLUMENTS**

**CONTACT:** Head of People and Performance

**15.1** The calculation and payment of all salaries, pensions, compensation and other emoluments to all employees, former employees or Members of the Council shall be made by the Head of People and Performance

under arrangements approved and controlled by him.

**15.2** Heads of Service are responsible for ensuring that the Head of People and Performance

is notified as soon as possible of all matters affecting the payment of such sums and in particular:

- (a) Appointments, resignations, dismissals, suspensions, secondments and transfers.
- (b) Absences from duty for sickness or other reason, apart from approved leave.
- (c) Changes in remuneration, pay awards and agreements of general application.
- (d) Information necessary to maintain records of service for pension, income tax, National Insurance and the like.
- (e) Untaken or excessive leave when officers leave the employment of the Council.

**15.3** Appointments of all employees shall be made within the approved establishment of the appropriate department, grades and rates of pay agreed by the Council, either specifically or generally by reference to the decisions of the appropriate negotiating body, and in accordance with any regulations of the Council.

**15.4** All time keeping, or other records affecting the pay  
All time keeping, or other records affecting the pay of an employee, shall be in a form approved by the Head of People and Performance .

**15.5** All time keeping or other records relating to hours worked or leave taken shall be completed by the employee that they relate to, except in the case of illiteracy where they can be completed by a supervisor and certified to that effect.

**15.6** An authorised officer shall certify all timesheets, or other records affecting the pay of an employee. Heads of Service shall notify the Chief Financial Officer / Finance of those officers authorised to sign such documents, detailing the limits of their authority and including a specimen of their signature. Initials may not be used to certify such documents.

**15.7** All salary payments will be made on the due date. No advances of pay will be made without the consent of the Chief Financial Officer or Finance Manager, and will only be allowed in exceptional circumstances.

## **16. PETTY CASH, CHANGE FLOATS AND POSTAGES**

### **CONTACT: Head of Finance/Revenues and Benefits**

**16.1** A central Petty Cash Account on an imprest basis shall be maintained by the Chief Financial Officer for the purposes of minor disbursements. Vouchers submitted through this account shall be examined and certified in compliance with Regulation 16.3. In all cases, where applicable, receipts supporting the claim shall be attached to the voucher.

**16.2** No income, except imprest reimbursements, shall be paid into petty cash accounts or cash floats.

**16.3** Cash reimbursement shall be limited to minor items of expenditure not exceeding £30 (or any other limit specified by the Chief Financial Officer). Payments and claims shall not be divided to avoid this limit. All individual claims over the £30 limit must not be reimbursed through the Petty Cash account, but should be reimbursed on a monthly basis through the purchase ledger function.

**16.4** Officers responsible for change or petty cash floats shall produce on request any record and balance to the Chief Financial Officer for examination. In addition, as part of the closure of accounts

a signed petty cash declaration is required for each subsidiary imprest or float as requested by the Chief Financial Officer.

**16.5** Officers responsible for change or petty cash floats shall perform, in conjunction with another Officer, regular checks to verify the balance of the float. As a minimum this should be done weekly and a record of the checks, signed by both Officers, shall be maintained.

**16.6** Heads of Service shall ensure that any floats held by Officers leaving the employ of the Council are checked prior to the leaving date. These floats should then either be paid back to the Chief Financial Officer or transferred to another employee.

**16.7** All postages for outgoing mail shall be made through centralised franking machinery unless otherwise approved. Packages containing documents or articles of value shall be registered or insured, according to the arrangements in force.

**16.8** Corporate Credit Cards shall be issued to a nominated Officer whose duties require one. The Chief Financial Officer shall ultimately decide to whom credit cards will be issued and withdrawn.

**16.9** The Chief Financial Officer shall issue guidelines on the acceptable use of corporate credit cards, including types of expenditure permitted and proper accounting for expenditure incurred. All corporate credit card holders will be required to sign that they will only charge payments that are within the guideline rules. Random checks will be made on credit card payments by the Finance Manager.

## **17. TRAVELLING AND SUBSISTENCE ALLOWANCES**

**CONTACT:** Head of People and Performance

**17.1** Payment of Travelling and Subsistence allowances shall be made in accordance with current Oadby and Wigston Borough Council policy. Details of the current policy are available from Human Resources.

**17.2** The Head of People and Performance shall be responsible for paying any travelling and subsistence allowances and reimbursement shall be made through the payroll.

**17.3** Claims from Officers for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be made on a form specified by the Chief Financial Officer and shall be submitted within 3 months of journeys claimed. Periods in excess of 3 months shall be paid at the discretion of the Chief Financial Officer. Managers must ensure that all claims are complete before authorising e.g. mileometer readings.

**17.4** All claims for travelling expenses, car allowances and subsistence will be made through the payroll system. Human Resources will advise on the last day for submission of claims for each pay period.

**17.5** All claims for car allowances, subsistence, travelling and incidental expenses shall be certified by an officer so authorised. Heads of Service shall supply a list of names and specimen signatures of all those Officers in their department, with limits if applicable, to the Chief Financial Officer. Authorisation shall be in the form of a signature and not initials.

**17.6** Subsistence allowances will only be paid against actual expenditure incurred up to the maximum allowed under the current regulations. Receipts should be obtained and submitted to support the claim. Claims may be rejected if receipts are not attached. Where it is impossible to obtain receipts, the claimant shall list the items purchased, where purchased from and the cost, and payment will be made at the discretion of the Management Team in consultation with the Chief Financial Officer. Subsistence allowances will not be reimbursed for alcoholic drinks.

**17.7** Officers using rail travel shall obtain a travel warrant from the Chief Financial Officer prior to their journey. The Council will only provide rail warrants and reimburse rail travel from Leicester or from the nearest town to the employees place of work if different. Exception will be made if travel is made on a different rail route other than Leicester and the station used is of equal cost or less than travelling from Leicester. Any additional cost should be paid by the officer.

**17.8** Private vehicles can only be used for Council business, and the subsequent mileage allowance claimed, if the vehicle and driver has been specifically insured for this use. Human Resources will make such necessary checks to ensure that this regulation is adhered to.

## **18. ASSETS & INVENTORIES**

### **CONTACT: Chief Financial Officer**

**18.1 Assets** – It is the responsibility of the Chief Financial Officer that an Asset Register is maintained in accordance with good practice. The function of the Asset Register is to provide the Council with information about fixed assets so that they are safeguarded, used efficiently and effectively and adequately maintained. It is also the Chief Financial Officer responsibility to ensure that assets are valued in accordance with relevant guidance.

**18.2** Heads of Service shall be responsible for the care and custody of all Council assets within their Service and shall maintain proper security for all buildings, vehicles, plant, stocks, stores, furniture, equipment and cash.

**18.3 Inventories** - Inventories shall be maintained by Service for all establishments as follows:

**18.4** The Chief Financial Officer will be responsible for the maintenance of a comprehensive Hardware and Software Inventory for all Council IT equipment in all Service and shall ensure that appropriate entries are made at the time of purchase, at the time of disposal and that an annual check of all items on the inventory takes place.

**18.5** The Chief Financial Officer will be responsible for the maintenance of an Inventory for all Council furniture in all Service and shall ensure that appropriate entries are made at the time of purchase, at the time of disposal and that an annual check of all items on the inventory takes place.

**18.6** The extent to which the inventory shall record items specified within 18.1 above shall be in a form determined by the Chief Financial Officer

**18.7 Disposal of Assets-** Disposal of assets should be carried out in accordance with the Council's Contract Procedure Rules. Items which are obsolete or surplus to requirements, excluding land or buildings, over the cost of £500 (at the time of purchase) can be sold or disposed of on completion of an asset disposal form found on the staff intranet under staff info/procurement with approval by Management Team or Head of Service providing the estimated loss on disposal is no more than £10,000. Where the loss is estimated to exceed the £10,000 threshold, approval of Policy, Finance

and Development Committee must be obtained. Items that have been leased to the Council should not be disposed of unless full written consent has been obtained from the lessor.

### **18.8 Surplus**

Surplus or obsolete stock / assets with an estimated sale value of less than £75,000 can be sold or disposed of through the methods of disposal outlined under Contract Procedure Rules, subject to the Head of Service demonstrating that the interests of the Council have been considered. Surplus or obsolete stock / assets with an estimated sale value of £75,001 or more must be sold via competitive tender inviting bids in line with Contract Procedure Rules or sale by public auction. Other methods may be used if the Management Team and the Chief Financial Officer believe another method would be in the best interest of

the Council. All disposals should be notified to the Chief Financial Officer so that the Capital Asset register can be probably maintained. All vehicles (non-leased) must be disposed of through sale by public auction or by quotations from a reputable dealer.

**18.9** All disposals must comply as applicable with the Waste Electrical & Electronic Equipment Directive and Health & Safety legislation. All Council and personal data must be removed from any IT or recording equipment prior to their disposal.

**18.10** Where small items of equipment with a value of less than £500 (at the time of purchase) such as keyboards, are scrapped, they must be recorded on a list held by each relevant Head of Service and signed off at year end. The list must be passed to Finance at year end.

**18.11** The property of the Council specified within 18.1 above shall not be used other than for legitimate Council business

## **19. INCOME**

### **CONTACT: Head of Finance/Revenues and Benefits**

**19.1** The Chief Financial Officer shall make and maintain adequate arrangements for:

**(a)** The organisation and accounting necessary to ensure the proper recording of all sums due to the Council.

**(b)** The custody, control, disposal and proper accounting of all cash received by the Council through any Service.

**19.2** Each Head of Service shall ensure that there are adequate arrangements for the calculation, collection and banking of all income due to their Service and that it is done in such a way to prevent losses arising from any source.

**19.3** Every sum received by an officer or agent of the Council shall be acknowledged immediately by the issue of an official receipt, ticket, voucher or other document prescribed by the Chief Financial Officer.

**19.4** All receipts, tickets, voucher or other document prescribed by the Chief Financial Officer shall be sequentially pre-numbered.

**19.5** Heads of Service shall be responsible for ensuring that all receipts issued to officers in their department are accounted for, have been used in accordance with any relevant guidelines and that income collected on those receipts has been collected and paid over to the Council.

**19.6** All official receipts forms, books, tickets and other documents of a similar nature shall be ordered, controlled and issued by the Chief Financial Officer, and a register shall be maintained for this purpose. The Chief Financial Officer shall also make any necessary checks to ensure that all receipts issued have been accounted for.

**19.7** Every Officer who receives monies on behalf of the Council shall pay the monies to the Chief Financial Officer who shall then arrange for it to be banked. All cash over £50 received at Council Offices, Wigston, by an officer of the Council must be banked via the Council's Kiosk, currently located in the Reception Area. This must be done on the day the cash is received or if the Kiosk is not available the next clear working day.

All cheques received at Council Offices, Wigston, should be banked/ sent to the Council's Cashiering service the next available clear working day. Cash collected shall, under no circumstances, be replaced with a personal cheque. All income collected shall be paid over promptly, intact and without deduction, and shall not be used for expenditure, floats or petty cash. Cheques received at satellite sites should be sent to the Council's cashiering service in line with procedures agreed with the Finance Manager. - 33 -

**19.8** All income collected by Council Officers on behalf of a third party, whether for a commission or not, shall be receipted and banked in the same way as if it was the Council's own money. Any amount due to the third party will be paid by a BACS/ Cheque issued by the Chief Financial Officer once the account has been checked and balances agreed.

**19.9** The Chief Financial Officer shall be responsible for the operation and running of a computerised sundry debtor system and shall furnish each Head of service with details of outstanding debts for which their Service are responsible.

**19.10** Payment in advance shall be obtained for the supply of goods and services. The only variance to this may be:

- due to contractual arrangements
- the invoice is based on the supply of variable goods and services
- if agreed with the Finance Manager.

Each Head of Service shall be responsible for ensuring that a sundry debtors invoice is promptly raised.

**19.11** The Chief Financial Officer, in conjunction with the relevant Head of Service, shall determine those goods or services where sundry debtors may be raised.

**19.12** Heads of Service shall be responsible for ensuring that all debts raised by their Service are collected promptly.

**19.13** Chief Financial Officer shall fix a limit below which sundry debtor accounts will not be raised, apart from allotments and in such cases alternative collection methods shall be employed, where possible.

**19.14** A record should be kept of every transfer of money between employees of the Authority. The Receiving Officer must sign for the money received and both the Receiving Officer and transferor should keep a record of the transaction.

## **20. RECOVERY AND WRITE OFF OF DEBTS**

### **CONTACT: Head of Finance/Revenues and Benefits**

**20.1** The Council shall have a policy for recovery approved by the Chief Financial Officer and the Policy, Finance and Development Committee.

**20.2** Heads of Service are responsible for ensuring that all debts are collected in accordance with the laid down policy.

**20.3** The Chief Financial Officer shall be responsible for providing Service with details of all debts outstanding.

**20.4** A debt, which is properly due to the Council and deemed irrecoverable, shall only be written off as follows:

**(a)** Debts of less than £5,000 with the approval of the Chief Financial Officer or his appointed nominee.

**(b)** Debts of £5,001 and less than £10,001 with the approval of the Chief Financial Officer or his appointed nominee and the Chair of the Policy, Finance and Development Committee.

**(c)** Debts of £10,001 or more with the approval of The Policy, Finance and Development Committee. For the purposes of these Regulations the value of debts shall be determined by reference to the debtor as opposed to individual debts. Where the value of several debts for one individual or organisation exceeds £10,001 the approval of the Policy, Finance and Development Committee shall be obtained.

**(d)** These regulations apply to debts including, Council Tax, housing and garage rents.

**20.5** Heads of Service are responsible for ensuring that every available means of recovering a debt has been taken before a debt is reduced or recommended for write off. No debt will be reduced or written off without the receipt of a signed instruction issued by the relevant Head of Service. The Chief Financial Officer shall make such checks as he considers necessary on the procedures used.

**20.6** Heads of Service, in consultation with the Chief Financial Officer, shall be responsible for ensuring that sufficient budgetary provision is made for bad debts.

**20.7** Distress proceedings for recovery of Council Tax, Business Rates and warrants for committal to prison shall be instituted by the Chief Financial Officer. The Head of Corporate Resources shall institute Court proceedings for the recovery of other monies due to the Council.

## **21. BANKING ARRANGEMENTS AND CHEQUES**

### **CONTACT: Head of Finance/Revenues and Benefits**

**21.1** All arrangements for banking services shall be made through the Chief Financial Officer. The Committee shall approve the bankers and the accounts to be used.

**21.2** All cheques or other instructions issued on behalf of the Council shall bear the impression or manuscript signature of the Chief Financial Officer with a proviso that cheques for £10,000 shall also bear the impression or manuscript signature of an officer(s) approved by the Chief Financial Officer.

**21.3** The Chief Financial Officer shall be responsible for the ordering and control of all cheques. The Chief Financial Officer shall make sufficient arrangements for the safe custody of blank cheques and the control and reconciliation of those issued.

**21.4** The Chief Financial Officer shall be responsible for ensuring that a monthly reconciliation between the Council's Bank account and its income and expenditure records is performed and that the reconciliation is reviewed by the Head of Finance/Revenues and Benefits and signed off on a timely basis.

**21.5** Opening or closing any bank account shall require the written approval by the Chief Financial Officer and one other authorised signatory.

## **22. SECURITY & SAFES**

### **CONTACT: Head of Finance/Revenues and Benefits**

**22.1** Each Head of Service shall be responsible for maintaining adequate and proper security at all times for all buildings, stocks, stores, IT, furniture, equipment, vehicles, plant, cash and any other assets of the Council under their control. These arrangements shall be subject to the agreement of the Chief Financial Officer and shall be sufficient enough to minimise losses arising from any cause.

**22.2** Maximum limits for cash holdings, in whatever receptacle, shall be agreed with the Chief Financial Officer and shall not be exceeded without express permission and with regard to the appropriate insurance limit.

**22.3** Officers, who in the course of their duties collect money on behalf of the Council, shall take all reasonable precautions for its safe custody and shall observe any instructions as may be issued by the Chief Financial Officer.

**22.4** Each Head of Service shall maintain a Register of Keys for external doors, safes, cash boxes and others of similar importance. This Register shall list the key holders and out of hours contact numbers. This Register must be kept in a secure environment and not available for general inspection by unauthorised officers. All keys issued to staff are to be carried on the person, or held in a secure place, by those responsible at all times. Safe keys must not be left on the premises where the safe is situated. The loss of any keys must be reported to the relevant Head of Service and the Chief Financial Officer.

**22.5** All safes shall be specified by the Chief Financial Officer after consultation with the Council's insurers.

**22.6** The IT manager has responsibility for E-Government & Business Systems and shall be responsible for maintaining proper security and privacy in respect of information held on the Council's computer installations and for ensuring that its use is in accordance with any relevant legislation.

**22.7** Heads of Service are responsible for ensuring that all visitors to any Council office or establishment, except in public areas, are signed in and are wearing an appropriate visitors pass. They shall also ensure that any visitor working in the above stated areas are adequately supervised to ensure confidentiality of Council information and security of Council assets is maintained at all times.

**22.8** Every Officer shall comply with any instructions issued from time to time on building on building security.

## **23. DOCUMENT RETENTION**

**CONTACT: Chief Financial Officer**

**23.1** Documentation created / maintained for transactions covered by these Financial Regulations or Contract Procedure Rules shall be retained in accordance with the document retention schedule which can be found on the INTRANET under the section marked Freedom of Information or for a period not less than 6 years after the transaction / project etc ceases to be current.

## **24. RECEIPT OF GIFTS, GRATUITIES AND HOSPITALITY**

**CONTACT: Head of Law and Governance**

### **General Guidance**

**24.1** Any Council employee shall treat with caution any offer of gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do business with the Council, or may be applying to the Council for planning permission or some other kind of decision.

**24.2** Employees are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in the Council.

**24.3** The proper course of action for employees is to only accept gifts or hospitality where they regard the acceptance as normal and reasonable.

**24.4** Employees shall ensure that any gift or hospitality is not of a level or amount which would lead any reasonable person to believe that the employee might be influenced by such gift or hospitality.

**24.5** In the event that doubt should exist over the appropriateness of any gift, hospitality, or fee or commission, employees shall seek advice from their Head of Service or, if appropriate, the Chief Financial Officer.

**24.6** The rules and guidance for officers relating to gifts, gratuities and hospitality can be found in the Officer Code of Conduct which can be found on the Council's INTRANET.

## **25. PAYMENT OF ACCOUNTS**

**CONTACT: Head of Finance/Revenues and Benefits**

**25.1** Payments by the Council shall only be made on an official invoice submitted by a supplier except for periodic recurring payments, contract payments and other exceptions as the Chief Financial Officer may specifically approve.

**25.2** Orders must be raised electronically and approved by an authorised Officer with the relevant financial delegation.

**25.3** The purchase/works order shall specify the goods, services, or works to be provided and set out the price and terms of payment. The only exception to this is if a signed agreement or contract exists between the Council and the supplier and that contract and agreement specifies in detail the exact works, goods or services to be supplied, in which case a brief description of the project and the total contracted price can be specified.

**25.4** Officers certifying purchase/ works orders, electronically or otherwise, must be authorised to do so under the scheme of delegation. Heads of Service will provide Finance with details of Officers within the Service who are authorised to sign orders, including the maximum order value and sample signature of that Officer.

**25.5** Officers certifying purchase/works orders shall have due regard to the availability of sufficient budgetary provision. No order shall be authorised where the anticipated expenditure will cause the budget to be overspent, unless covered by section 6 of these Financial Regulations.

**25.6** Certifying officers shall, before certifying an account for payment, be satisfied that:

**(a)** The official ordering procedure, as detailed in Regulation 25, has been observed and that Contract Procedure Rules have been complied with.

**(b)** The work, goods or services, to which the account relates have been received, carried out, examined and approved and are in accordance with the official order.

**(c)** The prices, extensions, calculations, trade discount, other allowances, credits and tax are correct.

**(d)** The expenditure has been properly incurred, has been charged to an appropriate account and is within the relevant estimate provision.

**(e)** Appropriate entries have been made in inventories, stores records or stock books as required.

**(f)** The account has not been previously passed for payment and is a proper liability of the Council.

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Only invoices with an official order shall be paid unless an additional certification has been obtained from the relevant Head of Service.

**25.7** Apart from petty cash, the normal method of payment shall be by BACS. Where expenditure is non-recurring payment may be made by cheque, or other instrument drawn on the Council's bank account.

**25.8** All payments drawn on the Council's bank account shall be authorised by the Chief Financial Officer or a person nominated by him or her.

**25.9** Any payment by cheque for £10,000 or more shall also bear the impression or manuscript signature of an officer(s) approved by the Chief Financial Officer.

**25.10** The Chief Financial Officer shall be responsible for ensuring that the Council's bankers are kept informed of those Officers authorised to make payments from the Council's accounts and that they have up to date specimen signatures of those Officers.

**25.11** The Chief Financial Officer shall be responsible for ensuring that sufficient fidelity guarantee insurance is in place for those Officers authorised to initiate or make payments from the Council's accounts.

**25.12** The Head of Service issuing an order is responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment of accounts arising from sources in his / her Service. Such certification shall be in a form required by the Chief Financial Officer.

**25.13** Heads of Service are responsible for ensuring that the names of Officers authorised to certify accounts for payment in their department, along with specimen signatures and limits of authority, are supplied to the Chief Financial Officer. They are also responsible for ensuring that the Chief Financial Officer is advised of any amendments to the list of authorised Officers, or changes in signatures of those previously notified. On an annual basis a consolidated list of signatories and signatures shall be submitted.

**25.14** Accounts for payment shall only be processed and paid on receipt of a properly certified invoice or other approved document.

**25.15** Authorised Officers shall use their signature for certification purposes and not their initials.

**25.16** Departments shall be responsible for ensuring that invoices are processed and passed for payment by Finance in sufficient time to meet the terms and conditions of the Payment of Invoices indicator, and so that payment can be made through the weekly payment runs.

**25.17** Invoices are to be paid in accordance with the terms stated by the supplier and the appropriate performance indicator. The normal weekly payment system is to be used but in extreme cases invoices can be paid on an urgent basis (the same day). Examples of acceptable reasons for an urgent payment are where delay would cause hardship to individuals where the payment is in respect of a refund on a rent or benefit account, where essential services will be suspended if payment is delayed or any other reason agreed by the Chief Financial Officer. In all cases the certifying officer shall document the reason for urgency on, or attached to, the invoice.

**25.18** Any rounding amendment to an account up to the value of £1 shall be made in ink, initialled and dated by the Officer making it, stating briefly the reasons when they are not self-evident.

**25.19** Heads of Service shall be responsible for ensuring that the duties of ordering goods and certifying accounts for payment shall not all be performed by the same Officer and accounts shall not be certified for payment by an Officer who has personal control over the goods and services to which the accounts relate.

**25.20** Heads of Service shall, by a date specified by the Chief Financial Officer each year, supply details of all outstanding expenditure and income relating to the previous financial year to the Chief Financial Officer.

**25.21** The Chief Financial Officer shall make such checks and impose such further examination as he considers necessary to ensure that accounts for payment have been processed in accordance with these Regulations and Contract Standing Orders and that the Council can legally make such a payment. He shall report any instances of non-compliance to the Chief Financial Officer.

**25.22** The Chief Financial Officer shall determine the frequency of pay schedules of all invoices or accounts for payment. Payments of an urgent nature will be made as they arise. (see also para 25.18)

**25.24** Officers certifying payment on behalf of the Council must have due regard to the VAT implications and comply with the instructions periodically issued by the Chief Financial Officer. Any queries regarding VAT should be referred to the Finance Manager.

## **26. STOCKS AND STORES**

### **CONTACT: Head of Finance/Revenues and Benefits**

**26.1** Each Head of Service shall be responsible for the care and custody of the stocks and stores in his/her Service.

**26.2** Heads of Service shall furnish the Chief Financial Officer with details and a signed certificate of the value of stores held in their department at the end of each financial year.

**26.3** Stores shall be valued in accordance with accounting policies adopted by the Chief Financial Officer.

**26.4** All goods must be checked at the time of delivery, with regards to quantity, quality and compliance with any specification as soon as practical after delivery.

**26.5** Heads of Service shall be responsible for ensuring that a comprehensive record of stock balances, stock issues and receipts are maintained, including records of quantities, values and the person issued to.

**26.6** Heads of Service shall be responsible for ensuring that stocks and stores are not held in excess of reasonable requirements and that maximum and minimum levels are set.

**26.7** Heads of Service shall be responsible for ensuring that a system of continuous stocktaking shall operate in all stores with an average value over £10,000. This system shall ensure that every commodity is checked at least once per annum, and fast moving, valuable and desirable items are checked more frequently. The Chief Financial Officer shall carry out such independent checks as he considers necessary. In addition, as part of the closure of accounts a signed stock certificate declaration is required for each stock account as requested by the Chief Financial Officer.

**26.8** Individual deficiencies that exceed £500 shall be reported to the Chief Financial Officer for write off. Stores in excess of £500 that are considered to be surplus or obsolete shall also be reported for consideration for disposal (including by sale) or write off.

## **27. ORDERING WORKS, GOODS AND SERVICES - CONTRACTS AND AGREEMENTS**

**CONTACT: Head of Finance/Revenues and Benefits**

**27.1** All purchases for works, goods or services are subject to the provisions contained in the Council's Contract Procedure Rules.

## **28. AMENDMENTS AND WAIVERS TO FINANCIAL REGULATIONS**

**CONTACT: Chief Financial Officer**

**28.1** These Financial Regulations outline the minimum required to safeguard the Council's assets and interests. Any amendments to these Regulations shall be approved by Full Council and shall not come into force until approval has been given.

**28.2** The waiving of Financial Regulations must be approved by the Chief Financial Officer and where appropriate with the Policy, Finance and Development Committee. In all cases Best Value must be demonstrated for a waiver to be approved. Waivers must be fully documented.

**28.3** The Chief Financial Officer shall formally review these Regulations at regular intervals.



## **CONTRACT PROCEDURE RULES**

### **INTRODUCTION**

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability and deter corruption. They are in line with the CIPFA/Local Government Task Force Contract Procedure Rules published 2006. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

Officers responsible for purchasing or disposal must comply with these contract procedure rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rule 3 even if one might apply or be granted.)

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include electronic transmissions (e.g. email, fax or via an e-procurement portal) as well as hard copy.

Officers should:

- Follow the rules if you purchase goods or services or order building work.
- Take all necessary legal, financial and professional advice at the appropriate time
- Declare any personal financial interest in a contract. Corruption is a criminal offence.
- Conduct a management review to appraise the purchasing need.
- Check whether there is an existing Corporate Contract you can make use of before undergoing a competitive process.
- Normally allow at least four weeks for submission of bids
- Keep bids confidential.
- Complete a written contract or council purchase order before the supply or works begin.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- Keep records of dealings with suppliers.
- Assess each contract afterwards to see how well it met the purchasing need and Value for Money requirements.

In accordance with the Constitution, the Chief Financial Officer shall have the power to make amendments from time to time to these contract procedure rules after consultation with the Monitoring Officer.

**These Rules must be read in conjunction with the definitions set out at the end of the Rules.**

### **SECTION 1: SCOPE OF CONTRACT - PROCEDURE RULES**

#### **1. BASIC PRINCIPLES**

All purchasing and disposal procedures must:

- achieve Best Value for public money spent
- be consistent with the highest standards of integrity
- ensure fairness in allocating public contracts
- comply with all legal requirements
- ensure that non-commercial considerations do not influence any contracting decision
- support the Council's corporate and departmental aims and policies
- comply with the Council's corporate Procurement Strategy.

## **2. OFFICER RESPONSIBILITIES**

### **2.1. Officers**

2.1.1. Officers responsible for purchasing or disposal must comply with these contract procedure rules, Financial Regulations, the Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.2. Officers must:

- have regard to the Council's current Procurement Strategy
- check whether a suitable corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to keep the records required by Rule 6
- take all necessary legal, financial and professional advice.

2.1.3. When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotations.

### **2.2. Chief Officers**

2.2.1. Chief Officers must:

- ensure that their staff comply with Rule 2.1
- ensure that registers are kept of:
  - contracts completed by signature, rather than by the Council's seal (see Rule 16.3) and arrange their safekeeping on council premises (Major contracts should also be kept with Law and Governance))
  - exemptions recorded under Rule 3.2. (to be held by Democratic Services)

## **3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS**

3.1. The Council and the Policy, Finance and Development Committee have power to waive any requirements within these contract procedure rules for specific projects, and any such decision may be a Key Decision.

- 3.2. A Chief Officer has the power, under the scheme of delegation in the Constitution, in circumstances deemed exceptional by Law and Governance, to waive any requirements within these contract procedure rules, provided that, where the contract is likely to exceed £40,000, the relevant Committee Chair is consulted.
- 3.3. Where a proposed contract is likely to exceed the EU Threshold the EU Procedure will apply and the requirements of these contract procedure rules may not be waived other than in the case of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to council services, in which case the provisions of Rule 3.4 below will apply.
- 3.4. Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to council services, the Officer and the Chief Financial Officer or Head of Finance may jointly approve the exemption but they must prepare a report for the next PFD Committee to support the action taken.
- 3.5. All exemptions, and the reasons for them, must be recorded using the Exemption Form. Exemptions shall be signed by the Officer and countersigned by the Chief Financial Officer.
- 3.6. An exemption must be approved by the Chief Financial Officer:
  - (i) prior to commencing any procurement process using Crown Commercial Service (CCS) contracts;
  - (ii) prior to abandonment, where a procurement process is to be abandoned.
- 3.7. The terms and conditions of contract applicable to any CCS arrangement, including the requirement to undertake competition between providers, must be fully complied with.
- 3.8. Financial Services must monitor the use of all exemptions.
- 3.9. In order to secure Value for Money, the authority may enter into collaborative procurement arrangements. The Officer must consult the Chief Financial Officer and the Monitoring Officer where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- 3.10. Purchases made via a local authority purchasing and distribution consortium, other than purchases above the EU Threshold and other purchases below the EU threshold where international suppliers may be interested, are deemed to comply with these contract procedure rules and no exemption is required.
- 3.11. Purchases above the EU Threshold and other purchases below the threshold where international suppliers may be interested must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of the Council and other consortium members.
- 3.12. Any contract entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed and that complies with the contract

procedure rules of the leading organisation, will be deemed to comply with these contract procedure rules and no exemption is required. However, advice must be sought from the Chief Financial Officer and the Monitoring Officer before the contract is entered into.

- 3.13. The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and Value for Money.

#### **4. RELEVANT CONTRACTS**

4.1. All Relevant Contracts must comply with these contract procedure rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply or disposal of goods, materials or services. These include arrangements for:

- the supply and/or disposal of goods
- the hire, rental or lease of goods and/or equipment
- the delivery of services, including (but not limited to) those related to:
  - the recruitment of staff
  - land and property transactions
  - financial and consultancy services.

4.2. Relevant Contracts do not include:

- contracts of employment which make an individual a direct employee of the Council,
- agreements regarding the acquisition, disposal, or transfer of land and/or assets (for which Financial Regulations shall apply).

#### **SECTION 2: COMMON REQUIREMENTS**

#### **5. STEPS PRIOR TO PURCHASE**

5.1. The Officer must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any guidance in the Procurement Strategy by:

- taking into account the requirements from any relevant management review or Audit review
- appraising the need for the expenditure and its priority
- defining the objectives of the purchase
- assessing the risks associated with the purchase and how to manage them
- considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium
- ensure the evaluation methodology for any procurement process must not disadvantage any group of economic operator, including Small / Medium Sized Enterprises or new / start up companies, in any aspect of the evaluation including but not limited to reference checks and financial assessments”.

- consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring
- drafting the terms and conditions that are to apply to the proposed contract
- setting out these matters in writing if the total value of the purchase exceeds £50,000.

5.2. and by confirming that:

- there is approved budgetary provision for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution.

## **6. RECORDS**

6.1. Where the Total Value is less than £50,000, the following records must be kept (which will include logs kept by an e-procurement portal):

- invitations to quote and quotations received
- a record:
  - of any exemptions and the reasons for them
  - of the reason if the lowest price is not accepted
- Written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.

6.2. Where the total value exceeds £50,000 the Officer must record:

- the method for obtaining bids (see Rule 8.1)
- any contracting decision and the reasons for it
- any exemption under Rule 3 together with the reasons for it
- the award criteria in descending order of importance
- Tender documents sent to and received from candidates
- pre-tender market research
- clarification and post-tender negotiation (to include minutes of meetings)
- the contract documents
- post-contract evaluation and monitoring
- Communications with candidates and with the successful contractor throughout the period of the contract.

6.3. Records required by this rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful Candidates may be microfilmed or electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

## **7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS**

7.1. **Identifying and Assessing Potential Candidates**

7.1.1. Officers shall ensure that, where proposed contracts, irrespective of their total value, might be of interest to potential candidates located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- the Council's website
- portal websites specifically created for contracts
- advertisements
- national official journals, or
- the Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED) (even if there is no requirement within the EU Procedure).

7.1.2. Officers are responsible for ensuring that all candidates for a relevant contract are suitably assessed. The assessment process shall establish that the potential candidates have sound:

- economic and financial standing
- technical ability and capacity to fulfil the requirements of the Council.

7.1.3. This shall be achieved in respect of proposed contracts that are expected to exceed £50,000 by selecting firms from:

- Approved lists of providers, maintained by the Council or on its behalf, and compiled following responses to a public advertisement; or
- shortlists assessed from expressions of interest in a particular contract submitted in response to a public advertisement.

7.1.4. Public advertisements issued in respect of Rule 7.1.3 above shall reflect the potential degree of interest from candidates located within other member states of the EU.

7.1.5. Advertisements must comply with any requirement for publication as set out in national legislation as amended from time to time.

## 7.2. **Approved Lists**

7.2.1. Approved lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot be used where the EU Procedure applies.

7.2.2. Chief Officers may draw up in consultation with the Chief Financial Officer:

- Approved Lists of persons ready to perform contracts to supply goods or services of particular types including without limitation on the basis of agreed contract term
- criteria for shortlisting from the lists.

7.2.3. No person may be entered on an approved list until there has been an adequate investigation into both their financial standing and their technical ability to perform the

contract, unless such matters will be investigated each time bids are invited from that list (in which case this must be made clear on the list).

- 7.2.4. Approved lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers throughout all member states of the EU. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 7.2.3 are met.
- 7.2.5. The list and shortlisting criteria must be reviewed at least annually and re-advertised at least every three years. On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply. Review means:
- the reassessment of the financial standing and technical ability and performance of those persons on the list, unless such matters will be investigated each time bids are invited from that list
  - the deletion of those persons no longer qualified, with a written record kept justifying the deletion.
- 7.2.6. All approved lists shall be maintained in an open, fair and transparent manner and be open to public inspection.
- 7.2.7. A register of pre-qualified contractors and consultants maintained by or on behalf of central government (e.g. Constructionline) will be deemed to be an Approved List for the purpose of these contract procedure rules and shall not be subject to the requirements of Rules 7.2.2 to 7.2.6 inclusive.

### 7.3. **Framework Agreements**

- 7.3.1. The term of a Framework Agreement must not exceed four years.
- 7.3.2. Contracts based on Framework Agreements may be awarded by either:
- applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
  - where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
    - inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written tenders
    - fixing a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
    - awarding each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the Framework Agreement.

## **SECTION 3: CONDUCTING PURCHASE AND DISPOSAL**

### **8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS**

The Officer must calculate the total value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the Chief Financial Officer.

#### **8.1. Purchasing – Competition Requirements**

8.1.1. Where the total value for a purchase is within the values in the first column below, the award procedure in the second column must be followed. Shortlisting shall be done by the persons specified in the third column.

<b>Total Value</b>	<b>Award Procedure</b>	<b>Shortlisting</b>
<b>Up to £3,000</b>	One oral Quotation (confirmed in writing where the Total Value exceeds £500)	Budget Holder
<b>£3,001-£50,000</b>	Three written Quotations	Budget Holder and Chief Officer
<b>£50,001–£EU-Threshold</b>	Invitation to Tender to at least three and no more than six Candidates	Budget Holder and Chief Officer
<b>Above EU Threshold</b>	EU Procedure or, where this does not apply, Invitation to Tender by advertisement/list to at least four and no more than six Candidates	Consult the Chief Financial Officer see Rule 8.1.4

8.1.2. Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirement, all suitably qualified candidates must be invited.

8.1.3. An Officer must not enter into separate contracts nor select a method of calculating the total value in order to minimise the application of these contract procedure rules.

8.1.4. Where the EU Procedure is required, the Officer shall consult the Chief Financial Officer to determine the method of conducting the purchase.

#### **8.2. Assets for Disposal**

8.2.1. Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting quotations and tenders (these may be invited by advertising on the Council's internet site). In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the Chief Financial Officer or the nominated substitute.

### **8.3. Providing Services to External Purchasers**

8.3.1. The Chief Financial Officer must be consulted and regard had to Financial Regulations where contracts to work for organisations other than the Council are contemplated.

### **8.4. Collaborative and Partnership Arrangements**

8.4.1. Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules. If in doubt, Officers must seek the advice of the Chief Financial Officer and the Monitoring Officer.

### **8.5. The Appointment of Consultants to Provide Services**

8.5.1. Consultant architects, engineers, surveyors and other professional consultants shall be selected and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined in 8.1.1

8.5.2. The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.

8.5.3. Records of consultancy appointments shall be maintained in accordance with Rule 6.

8.5.4. Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant Chief Officer for the periods specified in the respective agreement.

## **9. PRE-TENDER MARKET RESEARCH AND CONSULTATION**

9.1. The officer responsible for the purchase:

- may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential candidate, but
- must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition, and
- should seek advice from the Chief Financial Officer.

## **10. STANDARDS AND AWARD CRITERIA**

- 10.1. The Officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The officer must include those standards which are necessary properly to describe the required quality. The Chief Financial Officer and the Monitoring Officer must be consulted if it is proposed to use standards other than European standards.
- 10.2. The Officer must define award criteria that are appropriate to the purchase and designed to secure an outcome giving Value for money for the Council. The basic criteria shall be:
  - 'lowest price' where payment is to be made by the Council
  - 'highest price' if payment is to be received, or
  - 'most economically advantageous', where considerations other than price also apply.

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service and quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

10.3. Award Criteria must not include:

- Non-commercial considerations
- matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

## **11. INVITATIONS TO TENDER/QUOTATIONS**

- 11.1. The Invitation to Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this clause shall be considered.
- 11.2. All Invitations to Tender shall include the following:
  - a. A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
  - b. A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
  - c. A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
  - d. Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
  - e. A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance.

- f. Notification that no tender will be considered unless it is submitted via the Council's secure e-procurement portal unless specific circumstances restrict the ability to undertake the tender exercise (e.g. the use of electronic means of communication would require specific tools, equipment, devices or file formats that are not generally available or supported by generally available applications) when tenders shall be submitted as set out in 13.4 below.
  - g. A stipulation that any tenders submitted by other means shall not be considered unless specific circumstances restrict the ability to undertake the tender exercise electronically when tenders shall be submitted as set out in 13.4 below.
  - h. The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice-versa.
- 11.3. All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 16).
- 11.4. The method by which a start up company is to be evaluated
- 11.5. The Invitation to Tender or Quotation must state that the Council is not bound to accept any Quotation or Tender.
- 11.6. All Candidates invited to Tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

## **12. SHORTLISTING**

- 12.1. Any Shortlisting must have regard to the financial and technical standards relevant to the contract and the award criteria. Special rules apply in respect of the EU Procedure.
- 12.2. The Officers responsible for shortlisting are specified in Rule 8.1.1.
- 12.3. Where approved lists are used, Shortlisting may be done by the officer in accordance with the shortlisting criteria drawn up when the approved list was compiled (see Rule 7.2.2). However, where the EU Procedure applies, approved lists may not be used.

## **13. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS**

- 13.1. Candidates must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The EU Procedure lays down specific time periods (seek guidance from Chief Financial Officer).
- 13.2. All tenders must be returned via the Council's secure e-procurement portal (unless specific circumstances restrict the ability to undertake the tender exercise (e.g. the use of electronic means of communication would require specific tools, equipment, devices or file

formats that are not generally available or supported by generally available applications)) when tenders shall be submitted as set out in 13.4 below

- 13.3. Tenders received by hardcopy, fax or other electronic means (e.g. email) must be rejected, unless they have been specifically requested (e.g. where use of an e-procurement portal is not appropriate due to specific circumstances).
- 13.4. Where use of an e-procurement portal is not appropriate, all tenders must be returned to the Chief Executive.
- 13.5. The Officer must not disclose the names of candidates to any staff involved in the receipt, custody or opening of Tenders.
- 13.6. The Monitoring Officer shall be responsible for the safekeeping of tenders until the appointed time of opening. Each tender must be:
  - suitably recorded so as to subsequently verify the date and precise time it was received
  - adequately protected immediately on receipt to guard against amendment of its contents
  - recorded immediately on receipt in the Tender Record Log.
- 13.7. Candidates must be provided with a contact point in case they experience any problems in submitting their tender electronically. Candidates must also be advised that failure to advise the Council of the problem before the deadline for return of tenders will mean they have lost their opportunity to tender. Where a sending problem is received in time, consideration should be given to extending the deadline for submission and all candidates should be advised accordingly of any extension of time.

#### **14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION**

- 14.1. Providing clarification of an Invitation to Tender to potential or actual candidates or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price.
- 14.2. If post-tender negotiations are necessary after a single-stage tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best tender and after all unsuccessful Candidates have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Chief Officer to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

- 14.3. Post-tender negotiation must only be conducted in accordance with guidance issued by the Chief Financial Officer and the Monitoring Officer, who must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by at least two officers, one of whom must be from a team independent to that leading the negotiations.
- 14.4. Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

## **15. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING CANDIDATES**

- 15.1. Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of quotations, tenders and the identity of candidates must be preserved at all times and information about one candidate's response, other than areas covered by The Freedom of Information Act 2000 must not be given to another candidate.
- 15.2. Contracts must be evaluated and awarded in accordance with the award criteria. During this process, officers shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily. Where tender prices are substantially in excess of the pre tender estimates, whether published or otherwise, consideration shall be given to abandonment of the procurement process.
- 15.3. The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 15.4. Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules and, in respect of proposed contracts that are expected to exceed £250,000, the approval of the relevant Committee Chair has been secured. The awarding of contracts that are expected to exceed £500,000 shall also be approved by the Policy, Finance and Development Committee.
- 15.5. Where the total value is over £50,000, the officer must notify all candidates simultaneously and as soon as possible of the intention to award the contract to the successful Candidate. The officer must provide unsuccessful candidates with a period of at least ten days in which to challenge the decision before the officer awards the contract. If the decision is challenged by an unsuccessful candidate then the officer shall not award the contract and shall immediately seek the advice of the Monitoring Officer.
- 15.6. The officer shall debrief in writing all those candidates who submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of the Monitoring Officer:

- how the Award Criteria were applied
- the prices or range of prices submitted, in either case not correlated to candidates' names
- the names of candidates where there were three or more candidates.

15.7. If a Candidate requests in writing the reasons for a contracting decision, the Officer must give the reasons in writing within 15 days of the request. If requested, the Officer may also give the debriefing information at Rule 15.6 above to candidates who were deselected in a pre-tender shortlisting process.

## **SECTION 4: CONTRACT & OTHER FORMALITIES**

### **16. CONTRACT DOCUMENTS**

#### **16.1. Relevant Contracts**

16.1.1. All relevant contracts that exceed £50,000 shall be in writing.

16.1.2. All relevant contracts, irrespective of value, shall clearly specify:

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
- the provisions for payment (i.e. the price to be paid and when)
- the time, or times, within which the contract is to be performed
- the provisions for the Council to terminate the contract.
- Duration of the contract. In particular an end date.

16.1.3. The Council's purchase order form or standard terms and conditions issued by a relevant professional body must be used wherever possible.

16.1.4. In addition, every relevant contract of purchase over £50,000 must also state clearly as a minimum:

- that the contractor may not assign or sub-contract without prior written consent
- any insurance requirements
- health and safety requirements
- ombudsman requirements
- data protection requirements, if relevant
- that charter standards are to be met if relevant
- race relations requirements
- Equality Act requirements
- Anti Bribery requirements
- Termination process
- Freedom of Information Act requirements
- where agents are used to let contracts, that agents must comply with the Council's contract procedure rules

- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

16.1.5. The formal advice of the Monitoring Officer must be sought for the following contracts:

- where the Total Value exceeds £50,000
- those involving leasing arrangements
- where it is proposed to use a supplier's own terms
- those that are complex in any other way.

## 16.2. Contract Formalities

16.2.1. Agreements shall be completed as follows:

Total Value	Method of Completion	By
<b>Up to £3,000</b>	Signature	Budget Holder (see Rule 16.2.3)
<b>£3,001-£50,000</b>	Signature	Chief Officer (see Rule 16.2.3)
<b>£50,001–£EU-Threshold</b>	Sealing	See Rule 16.3

16.2.2. All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Chief Financial Officer. An award letter is insufficient.

16.2.3. The officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

## 16.3. Sealing

16.3.1. Where contracts are completed by each side adding their formal seal, such contracts shall be signed by the respective Chief Officer, together with the fixing of the Council's seal, witnessed by the Mayor and the Chief Executive.

16.3.2. Every council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the Council, a Committee, the Leader, Chair of Committee or Chief Officer (or those authorised by any of them) acting under delegated powers.

16.3.3. A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services

- there is any doubt about the authority of the person signing for the other contracting party
- the Total Value exceeds £50,000; or
- this is legally required.

## **17. BONDS AND PARENT COMPANY GUARANTEES**

17.1. The Officer must consult the Chief Financial Officer about whether a Parent Company Guarantee or some other form of security is necessary when a Candidate is a subsidiary of a parent company and:

- the Total Value exceeds £250,000, or
- award is based on evaluation of the parent company, or
- there is some concern about the stability of the Candidate.

17.2. The Officer must consult the Chief Financial Officer about whether a Bond is needed:

- where the Total Value exceeds £1,000,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the candidate.

## **18. PREVENTION OF CORRUPTION**

18.1. The Officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below

18.2. The following clause must be put in every written council contract:

*"The Council may terminate this contract and recover all its loss if the contractor, its employees or anyone acting on the contractor's behalf do any of the following things:*

*(a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or*

*(b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or*

*(c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Councillors, contractors or employees. Any clause limiting the Contractor's liability shall not apply to this clause."*

## **19. DECLARATION OF INTERESTS**

- 19.1. If it comes to the knowledge of a Councillor or an employee of the Council that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the chief executive.
- 19.2. Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the Councillor or employee is directly a party.
- 19.3. A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.
- 19.4. The chief executive shall maintain a record of all declarations of interests notified by Councillors and Officers.
- 19.5. The chief executive shall ensure that the attention of all Councillors is drawn to the Code of Conduct for Councillors.

## **SECTION 5: CONTRACT MANAGEMENT**

### **20. MANAGING CONTRACTS**

- 20.1. Chief Officers are to name contract managers for all new contracts entered into within their service. All contracts must have a named council contract manager for the entirety of the contract.
- 20.2. Contract managers must have regard to the Council's procurement strategy.

### **21. RISK ASSESSMENT AND CONTINGENCY PLANNING**

- 21.1. A formal business case must be prepared for all procurements with a potential value over the EU Threshold. The procurement process must also be included on the Corporate Programme Register. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2. For all contracts with a value of over £50,000, contract managers must:
  - maintain a risk register during the contract period
  - undertake appropriate risk assessments for identified risks
  - review risk assessments annually for current contracts
  - ensure contingency measures are in place.

### **22. CONTRACT MONITORING, EVALUATION AND REVIEW**

- 22.1. All contracts which have a value higher than the EU Threshold limits, or which have been calculated as High Risk, using the Council's Risk Management Methodology, are to be subject to monthly formal review with the contractor.
- 22.2. For all contracts with a value higher than the EU Threshold limits, or which are High Risk, an annual report must be submitted to the Contract Management Board. This Board will consist of the Chief Financial Officer and the Monitoring Officer.
- 22.3. A council-developed Gateway review process must be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.
- 22.4. During the life of the contract, the Officer must monitor in respect of:
- performance
  - compliance with specification and contract
  - cost
  - any Value for Money requirements
  - user satisfaction and risk management.
- 22.5. Where the Total Value of the contract exceeds £250,000, the Officer must make a written report to the relevant Committee Chair evaluating the extent to which the purchasing need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

## **SECTION SIX: DEFINITIONS APPENDIX**

Agent:	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Approved List:	A list drawn up in accordance with Rule 7.2.
Award Criteria:	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2e).
Award Procedure:	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value:	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by Value for Money.
Bond:	A document under which, if the contractor does not do what it has promised under a contract, the Council can claim from the bank or insurer the sum of money specified in the bond (often 10% of the contract value). A bond is

intended to protect the Council against the contractor's failure to perform the contract.

- Candidate: Any person who asks or is invited to submit a Quotation or Tender.
- Chief Officer: The officers defined as such in the Constitution.
- Code of Conduct: The Code of Conduct for Officers regulating conduct of officers issued by the Chief Financial Officer.
- Committee: A committee which has power to make decisions for the Council, for example a joint committee with another local authority, but not a scrutiny committee.
- Constitution: The constitutional document approved by the Council which:
- allocates powers and responsibility within the Council and between it and others
  - delegates authority to act to the Leader, Committees and Officers
  - regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
- Consultant: Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
- Contract Management Board: The group of Officers that meets regularly to consider procurement issues on a corporate basis.
- Contracting Decision: Any of the following decisions:
- composition of Approved Lists
  - withdrawal of Invitation to Tender
  - whom to invite to submit a Quotation or Tender
  - Shortlisting
  - award of contract
  - any decision to terminate a contract.
- EU Procedure: The procedure required by the EU where the Total Value exceeds the EU Threshold.
- EU Threshold: The contract value at which the EU public procurement directives apply.
- European Economic Area: The 28 members of the European Union, and Norway, Iceland and Liechtenstein.
- Chief Financial Officer: As identified in the Constitution.

- Financial Regulations:** The financial regulations outlining officer responsibilities for financial matters issued by the Chief Financial Officer in accordance with the Constitution.
- Framework Agreement:** An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
- Government Procurement Agreement:** The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
- Monitoring Officer:** As identified in the Constitution.
- High Profile:** A high-profile purchase is one that could have a significant impact on functions integral to council service delivery should it fail or go wrong.
- High Risk:** A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
- High Value:** A high-value purchase is where the value exceeds the EU Threshold values.
- Invitation to Tender:** Invitation to tender documents in the form required by these contract procedure rules.
- Line Manager:** The Officer's immediate superior or the officer designated by the Chief Officer to exercise the role reserved to the line manager by these contract procedure rules.
- Nominated Suppliers and Sub-contractors:** Those persons specified in a main contract for the discharge of any part of that contract.
- Non-commercial Considerations:**
- (a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
  - (b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.
  - (c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.

- (d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').
- (e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.
- (f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.
- (g) Financial support or lack of financial support by contractors for any institution to or from which the Council gives or withholds support.
- (h) Use or non-use by contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959.

Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.

Officer: The officer designated by the Chief Officer to deal with the contract in question.

Parent Company Guarantee: A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.

Priority Services: Those services required to be tendered as defined in the EU public procurement directives.

Procurement Strategy: The document setting out the Council's approach to procurement and key priorities for the next few years. This can be found on the Intranet.

Quotation: A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).

Relevant Contract: Contracts to which these contract procedure rules apply (see Rule 4).

Shortlisting: The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.

Supervising Officer: The Line Manager's immediate superior.

Tender: A Candidate's proposal submitted in response to an Invitation to Tender.

Tender Record Log: The log kept by the Monitoring Officer to record details of Tenders (see Rule 13.5).

Total Value: The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:

(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period

(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months

(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48

(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result

(e) for Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.

TUPE: (Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246) - Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Value for Money: Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

## **OFFICER EMPLOYMENT PROCEDURE RULES**

This Part deals with the appointment and dismissal of staff.

The Head of Paid Service is responsible for employment matters.

### **1. Prescribed Standing Orders**

1.1 subject to rule 1.2 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority by the head of paid service or by an officer nominated by him or her.

1.2 rule 1.1 shall not apply to the appointment or dismissal of, or disciplinary action against:

(a) the head of the paid service.

(b) a statutory chief officer.

(c) a non-statutory chief officer.

(d) a deputy chief officer.

(e) a political assistant.

1.3 permanent appointment shall be upon a contract which, unless terminated earlier by either party, would continue for a period of more than 18 months. interim appointment shall be upon terms which will terminate before the expiry of a period of no more than 18 months, unless extended with the approval of the appointments committee (for chief and deputy chief officers) or the head of paid service (for all other officers).

1.4 appointment shall include designation as head of paid service, chief finance officer and monitoring officer. recruitment and appointment

### **2.1. Declarations**

2.1.1 The Council has drawn up procedures which include a requirement that any candidate for an appointment as an officer must state in writing whether they have any relationship with any councillor or officer of the Council;

No candidate so related to a Councillor or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him.

### **2.2. Seeking support for appointment**

2.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

2. **RECRUITMENT OF CHIEF EXECUTIVE/HEAD OF PAID SERVICE AND CHIEF OFFICERS**

Where the Council proposes to appoint a Chief Executive/Head of Paid Service or a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- 2.1 draw up a statement including the following:
  - 2.1.1 the duties of the Officer concerned; and
  - 2.1.2 any qualifications or qualities to be sought in the person to be appointed;
- 2.2 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
- 2.3 make arrangements for a copy of the procedures mentioned in paragraph 1.1 to be sent to any person on request.

3. **APPOINTMENT OF HEAD OF PAID SERVICE**

- 3.1 The full Council will approve the appointment of the Head of Paid Service, following the recommendation of such appointment by a committee or sub-committee of the Council.

4. **APPOINTMENTS AND DISMISSALS OF CHIEF OFFICERS**

In this paragraph –

“the Appointing Committee” means the Appointments Sub-Committee

“the Dismissing Committee” means the Investigatory Sub-Committee

“the proper officer” means the Head of Law and Governance.

- 4.1 The appointment and dismissal of the Chief Executive/Head of Paid Service, Chief Officers and any assistant for political groups (appointed in pursuance of Section 9 of the Local Government Housing Act 1989) is the responsibility of the relevant Committee.
- 4.2 Where the relevant Committee is proposing to appoint or dismiss the Chief Executive/Head of Paid Service, the Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.
- 4.3 The Committee shall not make an offer of appointment in relation to any of the officers named in 4.1 above (apart from an assistant for political groups) until;
  - 4.3.1 The relevant Committee has notified the proper officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
  - 4.3.2 Notice of the dismissal of an officer named in 4.1 above must not be given by the Committee until –
    - (a) The Committee has notified the proper officer of the name of the person who the Committee wishes to dismiss (in the case of the Chief

Executive/Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, subject to the approval of the Council) and any other particulars which the Committee considers are relevant to the dismissal;

## 5. **OTHER OFFICERS**

- 5.1 Appointment and dismissal of officers below Chief Officer is the responsibility of the Chief Executive/Head of Paid Service or his nominee, and may not be undertaken by councillors.
- 5.2 Councillors will not be involved in disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

## 6. **SUSPENSION**

An officer named in 4.1 above and the Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay.

## 7. **APPEALS**

None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal by:

- 7.1 any person against any decision relating to the appointment of that person as a member of staff of the authority; or
- 7.2 a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned retirement where the member of staff has less than six months notice – in these instances the appeal shall be conducted by a senior officer.

## 8. **APPOINTMENT OF POLITICAL ASSISTANTS**

For the purposes of Section 9(2)(d) of the Local Government and Housing Act 1989 (the 1989 Act):

- 8.1 no appointment shall be made to any post allocated to a political group until the Council has allocated a post to each of the groups which qualify for one;
- 8.2 no political group shall be allocated a post unless it qualifies for one under the 1989 Act; and
- 8.3 no political group shall be allocated more than one post.

## **OADBY AND WIGSTON BOROUGH COUNCIL**

### **PETITION 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 correspondence. All petitions sent or presented to the Council will receive acknowledgement from the Council within 5 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. The Council will treat something as a petition if it is identified as being a petition, or if it appears that it is intended to be a petition.

Paper petitions should be sent to:

Democratic Services  
Oadby and Wigston Borough Council  
Council Offices  
Station Road, Wigston  
Leicestershire  
LE18 2DR

or by e-mail to [democratic.services@oadby-wigston.gov.uk](mailto:democratic.services@oadby-wigston.gov.uk).

or be created, signed and submitted on-line by following this link

<http://moderngov.oadby-wigston.gov.uk/mgepetitionlistdisplay.aspx?bcr=1>

If a petition is delivered direct to the Council Offices of Customer Service Centre (CSC), it should be handed directly to the Receptionist or the CSC Staff.

In order to ensure the neutrality of Officers, no petition should be handed directly to an officer, other than the Receptionist of CSC 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 Democratic Services on (0116) 257 2775 or at [democratic.services@oadby-wigston.gov.uk](mailto:democratic.services@oadby-wigston.gov.uk).

#### **2. What are the Guidelines for Submitting a Petition?**

Petitions submitted must:

- (a) include a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take; and

- (b) it should relate to an issue which affects the Borough and/or over which the Borough has some influence;
- (c) include the name and address and signature of every person supporting the petition. The address should be that at which you live, work or study in the Borough;
- (d) include the contact details, including 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. If the petition does not identify a petition organiser, the Council will contact the first signatory to the petition;
- (e) the Council will not accept petitions where there are no contact details for the petition organiser or the first signatory.

### 3. Who can Sign a Petition?

In order to sign a petition you must be living, working or studying in the Borough. A blank petitioning form is available for your use from the Council’s website.

### 4. 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 Director dealing with the issue directly;
- (b) taking the action requested in the petition;
- (c) considering the petition at a Council meeting;
- (d) holding an inquiry into the matter;
- (e) holding a public meeting;
- (f) holding a consultation;
- (g) holding a meeting with petitioners;
- (h) calling a referendum; and
- (i) 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.

### 5. 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.

TYPE OF PETITION	NUMBER OF SIGNATORIES REQUIRED	BRIEF DESCRIPTION OF THE DIFFERENT TYPES
Ordinary petitions	10 signatories	<ul style="list-style-type: none"> <li>• Relates to things for which Council has responsibility for or affect the area or over which the Council has influence.</li> </ul>

TYPE OF PETITION	NUMBER OF SIGNATORIES REQUIRED	BRIEF DESCRIPTION OF THE DIFFERENT TYPES
Petitions for debate at a Council meeting	100 signatories	<ul style="list-style-type: none"> <li>If you want the petition to be reported and debated at a Council meeting by councillors.</li> </ul>

## 6. Exemptions

1. The Head of Law and Governance may reject petitions which are, in his/her opinion:
  - not concerned with an issue which affects the Borough or do not raise matters over which the Authority has responsibility or has some influence; defamatory, illegal, scurrilous, frivolous, offensive, out of order or relates to a specific licensing or planning application; relates to substantially the same issue / subject as a petition which has been received by the Authority in the last 12 months; requests the Council to do something which conflicts with Council policy.
2. If you wish to raise issues of possible Borough councillor misconduct under the Members' Code of Conduct and the Local Government Act 2000 then you should do this via the formal member complaint process. Details of how you can do this, the process and a complaint form are available on the Council's website. You can telephone the Monitoring Officer for advice on this process on 0116 257 2775.
3. Duplicate petitions - if more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser but only the petition organiser of the first petition will be invited to address the meeting.
4. If the petition applies to a planning or licensing application, is a statutory requirement (for example, requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available from the following contacts:
  - (a) Planning – (0116) 288 8961
  - (b) Licensing – (0116) 257 2642
  - (c) Council Tax – (0116) 288 8961
  - (d) Referendum (Elections Office) – (0116) 257 2722
5. If your petition is about something that a different council or other organisation is responsible for, the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event, the Council will always notify you of what action has been taken.

If Democratic Services rejects a petition for any of these reasons, then he/she will notify you of the rejection and tell you the reasons why. Democratic Services will also notify the Chief Executive and relevant Director if appropriate.

## 7. What Happens When a Petition is Received

<p>When a petition is received, of whatever sort</p>	<ul style="list-style-type: none"><li>• It will be acknowledged to the petition organiser within 5 working days of receipt.</li><li>• 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.</li><li>• In some cases Democratic Services may be able to resolve the petitions request directly, by asking the relevant Committee Chair or Director to take some action. For example, if the petition relates to fly tipping the Director can arrange for it to be cleared up directly. Where this is done, Democratic Services will ask the petition organiser whether he/she considers that the matter is resolved. Democratic Services will inform the petition organiser at the time of acknowledgement that they intend to try and resolve the matter in this way.</li><li>• If the petition organiser is satisfied with the proposed direct action he/she will be asked to confirm this to Democratic Services. If the petition organiser does not confirm that they are satisfied with the proposed direct action within 10 working days from the date of the detailed response then Democratic Services will assume that the petition organiser is satisfied and that no further action is required.</li><li>• If the petition organiser is not satisfied with the proposed direct action then he/she should notify Democratic Services within 10 working days from the date of the detailed response. Democratic Services will, as soon as practicable, respond to the organiser setting out:<ul style="list-style-type: none"><li>- who the petition will be reported to for consideration;</li><li>- if the matter is to go to a meeting, when and where that meeting will take place;</li><li>- inviting the organiser to attend that meeting and address the meeting in accordance with the Petition Scheme;</li><li>- any invitation to address the meeting is in addition, but will be dealt with separately, to any other public speaking rights at the meeting.</li></ul></li><li>• At the same time, Democratic Services will notify the relevant ward councillors of receipt of the petition.</li></ul>
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	<ul style="list-style-type: none"> <li>• Within 10 days of receipt of the petition Democratic Services will enter details of the petition on the Council's website - including the: <ul style="list-style-type: none"> <li>- subject matter of the petition;</li> <li>- the date of receipt;</li> <li>- what will happen with it;</li> <li>- the petition organiser's contact details (unless they request that they are not made public).</li> </ul> </li> <li>• The petitions website will be updated through the process of consideration of the petition to ensure that petitioners can track progress on their petition.</li> </ul>
<p>Ordinary petition</p>	<ul style="list-style-type: none"> <li>• Democratic Services will arrange for the petition to be reported to the next convenient meeting of the relevant Committee or full Council.</li> <li>• The Chair will invite the petition organiser to address the meeting for up to 5 minutes on the subject of the petition. If the petition organiser is not present at the meeting the petition will fail and will not be considered.</li> <li>• Members may question the petition organiser and make initial comments for 5 minutes.</li> <li>• The relevant Committee Chair may then address the meeting for up to 5 minutes.</li> <li>• There shall be no vote taken on an ordinary petition. A member may propose that the subject matter be placed on the next convenient ordinary meeting of the relevant Committee. The motion shall be moved and seconded and put to the vote without discussion or debate.</li> <li>• If no such motion is moved or carried then Council takes no further action with the petition. The petition will be referred to the relevant Director or Head of Service who will respond to the petition organiser in writing within 28 days to explain what happened at Council.</li> </ul>

<p>Petitions for debate at a Council meeting</p>	<ul style="list-style-type: none"> <li>• Democratic Services will arrange for the petition to be reported to the next convenient meeting of the relevant Committee or Full Council.</li> <li>• The Chair will invite the petition organiser to address the meeting for up to 5 minutes on the subject of the petition. If the petition organiser is not present at the meeting, the petition will fail and will not be considered.</li> <li>• The Mayor will invite the relevant Committee Chair to address the meeting for up to 5 minutes.</li> <li>• The Mayor will invite any relevant ward members to address the meeting. A maximum of 5 minutes in total will be allowed to hear from ward members.</li> <li>• The matter will then be open for a general debate in line with the usual rules of debate.</li> <li>• Council will, where possible, decide, by resolution, how to respond to the petition at the meeting. Council could: <ul style="list-style-type: none"> <li>- take the action requested by the petition (if it has the power to do so);</li> <li>- not to take the action requested for reasons put forward in the debate;</li> <li>- commission further investigation into the matter by a Committee / officers;</li> </ul> </li> <li>• The petition organiser will receive written confirmation of the decision following the meeting.</li> </ul>
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<p>General rules on how petitions will be dealt with at Council or Committee</p>	<ul style="list-style-type: none"> <li>• A maximum of two petitions only will be permitted at any meeting. Only one petition will be permitted if the Head of Law and Governance receives notice of a deputation under Council Procedure Rule 19.</li> <li>• Petitions that do not relate to an item of business already on the agenda will be considered before the normal business of the meeting.</li> <li>• Petitions will be considered in the order they were received by Democratic Services.</li> <li>• A maximum of 45 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.</li> <li>• The Mayor may invite an officer 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.</li> </ul>
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## **8. E-petitions**

The Council welcomes e-petitions which are created and submitted through its website <http://moderngov.oadby-wigston.gov.uk/mgepetitionlistdisplay.aspx?bcr=1> 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 clear 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 clear 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 Democratic Services. In the same way as a paper petition, you will receive an acknowledgement within ten clear working days. If you would like to present your e-petition to a meeting of the Council, please contact Democratic Services on (0116) 257 2775 within ten clear 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 be Dealt with Properly**

If you feel that the Council has not dealt with your petition properly, the petition organiser has the right to request that the Council's Monitoring Officer review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The Monitoring Officer will endeavour to consider your request as soon as possible.

Should the Monitoring Officer determine the Council has not dealt with your petition adequately, he may use any of his powers to deal with the matter. These powers include instigating an investigation, making recommendations for consideration by a Committee or arranging for the matter to be considered at a meeting of the full Council which will be the conclusion of the matter. The Monitoring Officer will give reasons for any decision made under this review process.

Once the review has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on the Council's website.

# **Oadby and Wigston Borough Council**

## **MEMBERS' SUBSTITUTE SCHEME**

### **SUBSTITUTION 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
- (i) the Assessment, Determination and Review Sub-Committees;
  - (ii) The Licensing Sub-Committee; or
  - (iii) Private Hire and Taxi Licensing Sub-Committee.

#### **3. NOMINATION AND APPOINTMENT**

- 3.1 The Council, when establishing appointments to committees and working groups of the Council, will also appoint substitutes for elected Members to those bodies on the nomination of the political group leaders. Substitutes to other working groups will be appointed by the establishing body, as appropriate. The substitutes themselves must also be elected members.
- 3.2 The number of substitutes appointed will relate to the number of seats that each political group or grouping has on the body concerned as follows:
- more than 5 seats - 3 substitutes
  - 2 to 5 seats - 2 substitutes
  - 1 seat - 1 substitute.
- 3.3 On appointment, it shall be the responsibility of a substitute member to keep up to date with the business of the body to which he or she has been appointed to ensure effective decision making..

#### **4. ATTENDANCE**

- 4.1 It is the responsibility of the member who cannot attend the relevant meeting ("the appointor") to arrange for an appointed substitute to attend when he or she is unable to do so, and inform their party group leader, chair and officers of the substitute members and date of the meeting.
- 4.2 Only the appointed substitute members of a body may serve as a member of that body.
- 4.3 A member who is acting as a substitute for a usual member who is the Chair or vice-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 member at any meeting at which the appointor has nominated them, and 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 as referred to in 4.10 below.

- 4.5 In the case of Committees and Sub-Committees, written notice of the substitution must be received by the Head of Law and Governance no later than 5pm before the last clear working day before the meeting. [e.g if a meeting is held on a Thursday, notice must be given by 5pm on Tuesday, thus allowing one clear day between]. In the case of other bodies, e.g working groups, similar notice is helpful but not obligatory. A form is available from Democratic Services for this purpose.
- 4.6 In the event of illness or other circumstances beyond the member's control, he or she may appoint a substitute at short notice at the discretion of the Chair of the relevant Committee. It is the responsibility of the appointing member 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 and details of the meeting.
- 4.8 Where there is sufficient time, a copy of the agenda and papers for the meeting concerned, and details of any pre-briefs and site visit arrangements, will be sent to the substitute member upon receipt of the notice, otherwise they will be passed over on the day of the meeting. Members are reminded that where they are able to pass on their own papers to the substitute, it is preferable to do so in the case of short notice.
- 4.9 At the commencement of a meeting (or, if appropriate, on his or her arrival if the meeting has started) the appointed substitute will advise the Chair and those present that he or she is attending as a substitute member.
- 4.10 If the appointor attends a meeting after arranging for a substitute member to attend, the substitute member will continue as the voting member of the committee. If a substitute, however, has not arrived by the commencement of the meeting and the original appointed member is present, then the appointed member will continue as the voting member of the committee. Both parties must not vote at the same meeting.
- 4.11 Where a substitute member has attended a meeting which is adjourned to a subsequent date, the appointor may attend the reconvened meeting as the voting member, provided that the meeting is not part way through the consideration of an item or issue.
- 4.12 Any member attending as the appointed substitute will be entitled to travelling and subsistence allowance in accordance with the scheme approved by the Council.
- 4.13 When a member attends a meeting as a substitute for a usual member, the minutes and any report of that meeting will include the name of the substitute, in alphabetical order, amongst those attending the meeting, followed by "(substitute for .....)" indicating the name of the usual member.

## **5. VOTING**

- 5.1 The substitute member will be entitled to speak and vote in his or her own capacity, and is not constrained by the views of the member for whom he or she is substituting.
- 5.2 No substitute member for the Licensing and Regulatory Committee and Development Control Committee may vote unless he or she has been present for the entire consideration of the item under discussion at that meeting.
- 5.3 The substitute members of the Licensing and Regulatory Committee and Development Control Committee must comply with the Local Licensing and Planning codes of

conduct and the substitute members of these Committees have had the necessary training before first acting as a substitute.

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# PART 5

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## CODES AND PROTOCOLS

## **PART 5: CODES AND PROTOCOLS**

INTRODUCTION

**MEMBERS' CODE OF CONDUCT**

CODE OF CONDUCT FOR EMPLOYEES

PROTOCOL ON MEMBER/OFFICER RELATIONS

ROLES & RESPONSIBILITIES OF MEMBERS

LOCAL MEMBER CONSULTATIVE CHARTER

CONFIDENTIAL REPORTING ("WHISTLEBLOWING") CODE

LOCAL CODE OF CORPORATE GOVERNANCE

PLANNING CODE OF CONDUCT

LICENSING CODE OF CONDUCT

PROCEDURE AND RESOLUTION OF DISPUTE/CONFLICT BETWEEN OFFICERS AND MEMBERS

MONITORING OFFICER PROTOCOL

## 5.1 – INTRODUCTION

1. In this Part of the Constitution we set out our Codes and Protocols which govern how Members and Officers should conduct themselves when exercising their roles within the Council and what they can expect from the Council.

This part sets out Nolan’s Seven Principles of Public Life. They underpin the new ethical framework.

### THE SEVEN PRINCIPLES OF PUBLIC LIFE

Set out below are Nolan’s Seven Principles of Public Life, which underpin the ethical framework in our Constitution. In particular, the codes and protocols set out in this part of the Constitution should be read in the context of these Principles.

#### 1.1 **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### 1.2 **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

#### 1.3 **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### 1.4 **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### 1.5 **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### 1.6 **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### 1.7 **Leadership**

Holders of public office should promote and support these principles by leadership and example.

## 5.2 - MEMBERS' CODE OF CONDUCT

## **MEMBERS' CODE OF CONDUCT**

### **CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS OF**

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

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#### **Part 1 – General Provisions**

##### **Introduction**

- 1.1 This Code applies to **you** as a member of Oadby and Wigston Borough Council (the Authority).
- 1.2 You should read this Code in conjunction with the Procedure Rules as detailed in the Constitution.
- 1.3 It is your responsibility to comply with the provisions of this Code and ensure all obligations are met.

##### **Interpretation**

- 1.4 In this Code:
  - 1.4.1 "**co-opted member**" means those members who are not elected members of the Authority, but who are co-opted and have voting powers.
  - 1.4.2 "**meeting**" means any meeting of:
    - (a) the Authority;
    - (b) any of the Authority's committees, subcommittees, joint committees, joint subcommittees, or area committees.
  - 1.4.3 "**member**" means any person being an elected or co-opted member of the Authority.

##### **Scope**

- 1.5 You must comply with this Code whenever you:
  - 1.5.1 act in your capacity as a member or co-opted member of the Authority;
  - 1.5.2 conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed).
- 1.6 Where you act as a representative of the Authority:
  - 1.6.1 on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

- 1.6.2 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.

## **Part 2 – The Principles**

- 2.1 In accordance with the requirements of the Localism Act 2011, you must have regard to the following principles and observe the following rules of behaviour:-

### Principle 1 - Selflessness

Holders of public office should act solely in terms of the public interest.

### Principle 2 - 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 declare and resolve any interests and relationships.

### Principle 3 - Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### Principle 4 - 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.

### Principle 5 - 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.

### Principle 6 - Honesty

Holders of public office should be truthful.

### Principle 7 - 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.

- 2.2. The above principles articulate the fundamental values of public service that underpin the conduct of members. The following provisions contained in this Code are derived from these principles and provide a set of enforceable minimum standards for the conduct that is expected of members and co-opted members of the Authority when they are acting in that capacity.

## **Part 3 – General Obligations**

### **Respect**

- 3.1 You must treat others with respect by striving to establish respectful and courteous relationships with everyone you come into contact with as a member.

### 3.2 You must not:

- 3.2.1 do anything which may cause the Authority to breach any of the equality enactments;
- 3.2.2 bully any person;
- 3.2.3 intimidate or attempt to intimidate any person who is or is likely to be:
  - (i) a complainant;
  - (ii) a witness; or
  - (iii) involved in the administration of any investigation or proceedings; in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;
- 3.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

### **Confidentiality**

#### 3.3 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- 3.3.1 you have the consent of a person authorised to give it;
- 3.3.2 you are required by law to do so;
- 3.3.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- 3.3.4 the disclosure is:
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the Authority.

#### 3.4 You must not prevent another person from gaining access to information to which that person is entitled by law.

### **Reputation of the Authority**

#### 3.5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.

### **Use of your position and the Authority's resources**

#### 3.6 You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

#### 3.7 You must, when using or authorising the use by others of the resources of the Authority:

- 3.7.1 act in accordance with the Authority's reasonable requirements;
- 3.7.2 ensure that such resources are not used improperly, (including use for political and party political purposes).

### **Publicity**

- 3.8 You must have regard to any applicable Local Authority Code of Publicity made under the relevant legislation in existence at the time.

### **Decision making**

- 3.9 When reaching decisions on any matter you must have regard to any relevant advice provided to you by officers of the Authority acting pursuant to their statutory responsibilities (including a proper officer designated by the Authority), or advisors to the Authority.
- 3.10 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.
- 3.11 You must follow the adopted corporate operational policies of the Authority.

## **Part 4 – Interests**

### **A. Disclosable Pecuniary Interests**

#### Definition

- 4.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description specified in regulations made by the Secretary of State and the interest is:
- (a) yours;
  - (b) your spouse's or civil partner's;
  - (c) somebody with whom you are living as husband and wife or as if you are civil partners; and you are aware, in the case of paragraphs (b) and (c) that that other person has the interest.

*[Note 2: the regulations currently in force are attached but do not form part of the Constitution determined by the Authority, as they may be amended by the Government at any time.]*

#### Declaring at and participation in meetings

- 4.2 If you are present at any meeting of the Authority, and you have a Disclosable Pecuniary Interest in any matter to be considered or being considered, and the interest is not a 'sensitive interest', at the meeting:
- 4.2.1 you must disclose the interest to the meeting whether or not it has been registered;
  - 4.2.2 unless a dispensation has been given, you may not participate in any discussion of the matter at the meeting;
  - 4.2.3 unless a dispensation has been given, you may not participate in any vote taken on the matter at the meeting.
- 4.3 Where you have a Disclosable Pecuniary Interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

- 4.4 Following any disclosure of a Disclosable Pecuniary Interest at a meeting which is not on the Authority's register or the subject of a pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.
- 4.5 Where an executive member may discharge functions alone and becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by him/her, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **B. Personal Interests**

### Definition

- 4.6 You have a personal interest in any business of the Authority where either:
    - 4.6.1 it relates to or is likely to affect:
      - 4.6.1.1 any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
      - 4.6.1.2 any body:
        - (i) exercising functions of a public nature;
        - (ii) directed to charitable purposes; or
        - (iii) one of whose principle purposes includes the influence of public opinion or policy (including any political party or trade union);
 of which you are a member or in a position of general control or management.
      - 4.6.1.3 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 12 months.
- or**
- 4.6.2 a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 4.7 For the purposes of paragraph 4.6, a 'relevant person' is:
    - 4.7.1 a member of your family or any person with whom you have a close association; or
    - 4.7.2 any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
    - 4.7.3 any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body; or
    - 4.7.4 any body of a type described in sub-paragraph 4.6.1.1 or 4.6.1.2.

### Declaring at and participation in meetings

- 4.8 Subject to paragraph 4.10 below, where you have a Personal Interest in any business of the Authority and where you are aware or ought reasonably to be aware of the existence of the

Personal Interest and you attend a meeting of the Authority where such business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of the meeting and prior to any discussion of the relevant item, or as soon as the interest becomes apparent to you.

- 4.9 Where you have a Personal Interest you may remain in the meeting, speak and vote on the matter unless to do so would compromise your impartiality obligations or any other obligations set out in this Code.
- 4.10 Where you have a Personal Interest, but, by virtue of paragraph 4.17, sensitive information relating to it is not registered in the Authority's Register of Members Interests, you must indicate to the meeting that you have a Personal Interest, but need not disclose the sensitive information to the meeting.

### **C. Personal Interests which might lead to bias**

#### Definition

- 4.11 In addition to the requirements in relation to Disclosable Pecuniary Interests referred to in Section A of Part 4 of this Code, you have a Personal Interest which might lead to bias in any business of the Authority where:
- 4.11.1 you have a 'Personal Interest' as defined in paragraph 4.6 and 4.7 above; **and**
- 4.11.2 that 'Personal Interest' is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 4.12 The provisions of paragraph 4.11 shall be applied in such a manner as to recognise that this Code should not obstruct a members 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 member'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.

#### Declaring at and participation in meetings

- 4.13 If you are present at any meeting of the Authority, and you have a Personal Interest which might lead to bias in any matter to be considered or being considered, and the interest is not a 'sensitive interest', subject to paragraphs 4.14 and 4.15 below, at the meeting:
- 4.13.1 you must disclose the interest to the meeting (whether or not it is registered);
- 4.13.2 unless a dispensation has been given, you may not participate in any discussion of the matter at the meeting;
- 4.13.3 unless a dispensation has been given, you may not participate in any vote taken on the matter at the meeting.
- 4.14 Where you have a Personal Interest which might lead to bias in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or

otherwise, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

4.15 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a Personal Interest which might lead to bias, if the matter relates to:

4.15.1 housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;

4.15.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

4.15.3 an allowance, payment or indemnity given to members;

4.15.4 any ceremonial honour given to members; or

4.15.5 setting council tax or precept under the Local Government Finance Act 1992.

#### **D. Registration of interests**

4.16 Subject to paragraph 4.18 (Sensitive Interests), you must within 28 days of:

(a) the adoption of this Code; or

(b) your election or appointment to office as a member (where that is later);

notify the Monitoring Officer in writing of :

(i) any Disclosable Pecuniary Interest, as defined in paragraph 4.1 above; and

(ii) details of your Personal Interests where they fall within the category mentioned in paragraph 4.6.1 above.

4.17 Subject to paragraph 4.18 (Sensitive Interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or Personal Interest as referred to in paragraph 4.6.1, or any change to any such interest, notify the Monitoring Officer in writing of the details of that new interest or change.

#### **E. Sensitive Interests**

4.18 Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being the subject of violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the Register, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest but may state that you have an interest, the details of which are withheld.

#### **F. Dispensations**

4.19 To enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest or a Personal Interest that might lead to bias, the Council may grant you a dispensation in accordance with rules and procedures established by the Authority.

## 5.3 - CODE OF CONDUCT FOR EMPLOYEES

## **5.3 - CODE OF CONDUCT FOR EMPLOYEES**

The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code of Conduct outlines the existing rules and conditions of service which apply to you as a Council employee and is designed to provide clear guidance to assist you in your day-to-day work.

The Code sets out the standards which are expected of you and provides a framework which will help to promote best practice. Reference should also be made to Nolan's Seven Principles of Public Life in section 5.1. All employees of the Council are required to observe and uphold the standards of the Code and all policies and procedures of the Council. Failure to do so is a serious matter which could result in disciplinary action, including dismissal.

You should therefore read the document carefully, and if you are uncertain about any aspect of its contents, please contact your immediate manager or supervisor.

### **1. STANDARDS AND ATTITUDE**

- 1.1 All employees of the Council are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 1.2 Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous.
- 1.3 All employees are expected to report, in the first instance, to their manager or supervisor any illegality, impropriety, breach of procedure or policy of the Council.
- 1.4 There are a number of mechanisms available to employees to do this including the Council's complaints procedure and also the Confidential Reporting Code.
- 1.5 In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

### **2. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION**

- 2.1 The law requires that certain types of information must be available to councillors, auditors, government services, service users and the public. Different rules apply in different situations. If you are in any doubt as to whether you can release any particular information, always check with your manager or supervisor first.
- 2.2 The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. Also, of course, you should not knowingly pass information on to others who might use it in such a way.
- 2.3 You should not communicate confidential information or documents to others who do not have a legitimate right to know. Information must only be disclosed in accordance with the requirements of the Data Protection Act 1998, which covers computerised and manual information held on individuals. All staff need to bear in mind that an E-mail is as legally binding as a letter and informal messages sent internally can be used in evidence in court proceedings.

- 2.4 Information given in the course of your duties should be accurate and fair and never designed to mislead.
- 2.5 Any particular information received by an employee from a councillor which is personal to that councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required by law.

### 3. **POLITICAL NEUTRALITY**

- 3.1 Employees serve the authority as a whole. It follows that you must serve all councillors equally and ensure that the individual rights of all councillors are respected.
- 3.2 From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.
- 3.3 Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work.

### 4. **RELATIONSHIPS**

#### 4.1 **Councillors**

Mutual respect between employees and councillors is essential for good local government. Some employees need to work closely with councillors. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

#### 4.2 **The Local Community and Service Users**

Employees should always remember their responsibilities to the whole of the community they serve and ensure courteous, effective and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority.

#### 4.3 **Contractors and Suppliers**

- 4.3.1 All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on *Form [X] 1* at the earliest opportunity.
- 4.3.2 Orders and contracts must be awarded in accordance with the Council's Contract Procedure Rules and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

### 5. **APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- 5.1 It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments you should do everything possible to ensure that these are made on the basis of merit and in accordance with the Council's .

- 5.2 In order to avoid any possible accusation of bias, you must not become involved in any appointment if you are related to an applicant, or have a close personal relationship with him or her.
- 5.3 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments in respect of any other employee who is a relative or with whom you have a close personal relationship; nor should you attempt to influence such decisions.
- 5.4 Senior officers (i.e. Head of Service and above) must disclose to the Head of Law and Governance on *Form [X] 2* any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council.
- 5.5 If you apply for promotion or are seeking another job in the Council, you must not approach any councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager or supervisor and not with councillors.

## 6. **OUTSIDE COMMITMENTS**

- 6.1 Your off-duty hours are your own concern, but you should make sure that you do not allow yourself to get into a position where your private interests come into conflict with your contractual obligations or are detrimental to the interests or reputation of the Council.
- 6.2 Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete *Form [X] 3* and submit it to your Chief Officer. The Council will not unreasonably stop officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.
- 6.3 Even if you are not subject to the Green Book provisions you should ensure that none of your outside activities are detrimental to the Council's interests.
- 6.4 If you write a book or article for payment on subjects relating to your work for the Council, you must seek the permission of the Council through your manager or supervisor using *Form [X] 3*. The general presumption would be that any fee or royalty payable would be passed over to the Council.
- 6.5 You must not undertake private or personal work of any description in working hours or in the office unless you have been given specific permission by your manager or supervisor.
- 6.6 Private use of Council facilities and equipment, such as stationery and fax machines, is not allowed. Personal use of the telephone is permitted within reason, provided that calls are properly logged and charges paid back to the Council. Also, you should not arrange to receive correspondence, telephone calls and fax messages in the office related to outside work or private interests.

## 7. **PERSONAL INTERESTS**

- 7.1 You must declare to your manager or supervisor on *Form [X] 4* any financial or non-financial interests which could bring about conflict with the Council's interests.
- 7.2 If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or supervisor so that a decision can be made as to how best to proceed.
- 7.3 You must not make, or become involved with any official or professional decisions about matters in which you have a personal interest.
- 7.4 Section 117 of the Local Government Act 1972 requires you to make a formal declaration about *contracts or personal contracts* with the Council in which you have a pecuniary interest. Such declarations should be made on *Form [X] 5* and sent to the Head of Law and Governance . It is a criminal offence to fail to comply with this provision which is set out in full at *Annex A*.
- 7.5 You must declare to the Head of Law and Governance *membership of any organisation* not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or membership or conduct, for example, the freemasons. A definition of such an organisation appears at *Annex B*. Such declarations should be made on *Form [X] 6* and sent to the Head of Law and Governance .

## 8. **EQUALITY**

All members of the local community, customers and other Council employees have a right to be treated fairly and equally. You should become familiar with and observe all Council policies relating to equality issues, eg the Council's Equal Opportunities Policy, in addition to the requirements of the law.

## 9. **TENDERING PROCEDURES**

- 9.1 Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.2 If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors, you must declare that relationship to your manager or supervisor using *Form [X] 4*.
- 9.3 If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.
- 9.4 All employees must ensure that no special favour is shown to current, or recent former, employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

## 10. **CORRUPTION**

- 10.1 Employees must be aware that it is a serious criminal offence under the Bribery Act 2010 for them to receive or give any gift, loan or reward or advantage in their official capacity

“for doing, or not doing, anything”, or “showing favour, or disfavour to any person”. If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules appear at Annex C.

- 10.2 For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Chief Officer.

## 11. **POSSIBLE INDUCEMENTS**

### 11.1 **Introduction**

A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence. There is a checklist to help you at the end of this section.

### 11.2 **Gifts Generally**

11.2.1 Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the Bribery Act 2010. Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you or your partner, or to a member of your family, by any person or organisation having dealings with the Council.

11.2.2 Any such offer should be reported to your manager or supervisor (or to the Head of Law and Governance if you are a Chief or deputy Chief Officer) on *Form [X] 7*.

11.2.3 When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your manager or supervisor or the Head of Law and Governance as appropriate.

### 11.3 **Gifts to Employees with a Caring Role**

11.3.1 There are sometimes special problems encountered by employees who have a “caring” role, or provide a direct personal service to vulnerable people.

11.3.2 It is not unusual for residents of residential care homes, or for people receiving support at home from Council employees, or their relatives to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their Will.

11.3.3 It is most important in such situations that employees and the Council are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, therefore, members of staff and their families are not allowed to accept gifts or legacies from clients.

- 11.3.4 If you are made aware that a client is considering making a gift to you or including you in their Will, or has actually done so, then you should immediately report the matter to your Manager who will take it up with the client.
- 11.3.5 Similarly, you should never become involved with making Wills for clients nor act as an Executor in a client's Will.
- 11.3.6 For the purposes of this section of the Code "client" means any current or former client.

#### 11.4 **Exceptions**

- 11.4.1 Gifts of a token value given at Christmas, such as calendars, diaries, blotters, pens or other simple items of office equipment for use in Council offices, but only if it bears the company's name or insignia.
- 11.4.2 Gifts of a promotional nature on the conclusion of a courtesy visit to a factory or company offices, of a sort normally given by the company to visitors.

#### 11.5 **Hospitality**

- 11.5.1 Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence.
- 11.5.2 Hospitality is sometimes offered to representatives of the Council in an official or formal capacity. Normally the only officers who would attend would be Chief Officers and appropriate heads of service.
- 11.5.3 If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc, who may stand to benefit from the goodwill of the Council.
- 11.5.4 You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.
- 11.5.5 In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.
- 11.5.6 All offers of hospitality should be reported to your Chief Officer, or to the Head of Law and Governance if you are a Chief Officer or deputy Chief Officer, on *Form [X] 8*.

## 11.6 **Checklist**

The question in all these cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

- 11.6.1 Is the donor, or event, significant in the community or area? If so, is the refusal likely to cause offence?
- 11.6.2 Are you expected to attend because of your position in the community or area?
- 11.6.3 Will the event be attended by others of a similar standing in the community or in other communities?
- 11.6.4 What do you think is the motivation behind the invitation?
- 11.6.5 Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?
- 11.6.6 Could you justify the decision to the Council, press and public?
- 11.6.7 Is the extent of the hospitality, or the nature of the gift reasonable and appropriate?
- 11.6.8 Are you likely to be expected to respond to the hospitality, and if so, how?
- 11.6.9 Are you comfortable about the decision?

## 12. **SPONSORSHIP - GIVING AND RECEIVING**

- 12.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 12.2 Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Chief Officer of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## 13. **FINANCIAL PROCEDURE RULES**

- 13.1 All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders for works, goods or services must follow the Council's Financial Procedure Rules.
- 13.2 They must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

**ANY BREACHES OF THESE INSTRUCTIONS MAY LEAD TO DISCIPLINARY ACTION AND  
COULD LEAD TO DISMISSAL**

**ANNEX A**

**LOCAL GOVERNMENT ACT 1972, SECTION 117**

1. If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has an pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a member of the authority.

2. An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
3. Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
4. References in this section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

## **ANNEX B**

### **ORGANISATIONS NOT OPEN TO THE PUBLIC**

#### **(See paragraph [7.5] of the Code)**

Any lodge, chapter, society, trust or regular gathering or meeting (other than a professional association), which:-

1. is not open to members of the public who are not members of that lodge, chapter, society or trust; or
2. includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society or gathering or meeting; or
3. includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

## **ANNEX C**

### **BRIBERY ACT 2010**

The Bribery Act 2010 creates offences making it unlawful to give or receive financial or other advantages in return for the improper performance of a relevant function or activity. The Act applies to functions and activities of a public nature which an individual is expected to perform in good faith, impartially or in a position of trust.

## 5.4 - PROTOCOL ON MEMBER/OFFICER RELATIONS

## **5.4 - PROTOCOL ON MEMBER/OFFICER RELATIONS**

### **1. INTRODUCTION**

- 1.1 The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive 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 Members and Employees. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.5 Members and Employees are servants of the public and they depend on each other in carrying out the work of the Authority. Members are responsible to the electorate and serve only so long as their term of office lasts, while Employees are responsible to the Council. Their job is to give advice to the Council, as well as to individual Members, and to carry out the Council's work under the direction and control of the Council and its various bodies.
- 1.6 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.
- 1.7 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

### **2. ROLES OF MEMBERS**

Members undertake many different roles. Broadly these are:

- 2.1 Members express political values and support the policies of the party or group to which they belong (if any).
- 2.2 Members represent their electoral division and are advocates for the citizens who live in the area.
- 2.3 Members are involved in active partnerships with other organisations as community leaders.

- 2.4 Members contribute to the decisions taken in full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- 2.5 Members help develop and review policy and strategy.
- 2.6 Members monitor and review policy implementation and service quality.
- 2.7 Members are involved in quasi-judicial work through their membership of regulatory committees.

### 3. **ROLES OF EMPLOYEES**

Briefly, Employees have the following main roles:

- 3.1 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 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
- 3.3 Initiating policy proposals.
- 3.4 Implementing agreed policy.
- 3.5 Ensuring that the Council always acts in a lawful manner.

### 4. **RESPECT AND COURTESY**

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

#### 4.2 **Undue Pressure**

- 4.2.1 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- 4.2.2 In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- 4.2.3 A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 4.2.4 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees.

*(The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code).*

#### 4.3 **Familiarity**

- 4.3.1 Close personal familiarity between individual Members and Employees 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.
- 4.3.2 Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- 4.3.3 For these reasons close personal familiarity must be avoided.

#### 4.4 **Breach of Protocol**

- 4.4.1 If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.
- 4.4.2 If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by Assessments Sub-Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

### 5. **PROVISION OF ADVICE AND INFORMATION TO MEMBERS**

- 5.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 5.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 5 working days of the receipt of the enquiry.
- 5.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.

- 5.4 The Access to Information Procedure Rules of the Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 5.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 5.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 5.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (*Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol*).
- 5.8 If a Member asks for specific information relating to the work of a particular Service, 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 Committee Chair concerned should be advised about the information provided.
- 5.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members 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 Members want to hear. They do this as much for the protection of Members 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 Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.
- 5.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Head of Law and Governance will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

## 6. **CONFIDENTIALITY**

- 6.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:-
  - 6.1.1 he/she has the consent of a person authorised to give it;
  - 6.1.2 he/she is required by law to do so;

- 6.1.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- 6.1.4 the disclosure is -
- (a) reasonable and in the public interest; and
  - (b) made in good faith and in compliance with the reasonable requirements of the authority.
- 6.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members 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. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be 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 will normally be confidential.
- 6.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 6.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 6.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that officer.

## **7. PROVISION OF SUPPORT SERVICES TO MEMBERS**

- 7.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. 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 Correspondence**

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that 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 Member.

### 7.3 **Media**

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.

## 8. **THE COUNCIL'S ROLE AS EMPLOYER**

In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

## 9. **POLITICAL ACTIVITY**

9.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

9.2 In summary, such employees are prevented from:

9.2.1 being a Member of Parliament, European Parliament or local authority;

9.2.2 acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in 9.2.1;

9.2.3 being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:-

(a) participate in the general management of the party or branch; or

(b) act on behalf of the party or branch in dealings with persons other than members of the party;

9.2.4 canvassing on behalf of a political party or a candidate for election to any the bodies referred to in 9.2.1

9.2.5 speaking to the public with the apparent intent of affecting public support for a political party; and

9.2.6 publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

9.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on

matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

- 9.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 9.5 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.
- 9.6 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

## 10. **SANCTIONS**

- 10.1 Complaints about any breach of this Protocol by a member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.
- 10.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the Head of Law and Governance .

## 11. **CONCLUSION**

- 11.1 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.



## **ROLES AND RESPONSIBILITIES OF MEMBERS**

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Chair of Licensing and Regulatory Committee

Deputy Leader of an Opposition Group

Chair of a Committee, Forum or Group

## **Introduction**

Role profiles for Councillors are to be introduced by Oadby and Wigston Borough Council and will be used by the Independent Review Panel (IRP) to underpin the Members Allowance Scheme. They have been developed as a means to clearly set out the expectations of a Ward Councillor and all roles attracting Special Responsibility Allowance (SRA) so as to support the Council's improvement priorities and Member Development.

. There has been consultation with Councillors and key officers to ensure the role profiles reflect the changing role of Councillors and the future needs of the Council and local government. In addition to this, skills and knowledge for each role have been identified to both meet the requirements of any future allowance scheme and support the Member Development programme.

The role profiles set out the roles and responsibilities as well as the skills and knowledge required for each role. The role profile for the Ward Councillor is the foundation for all other roles. The responsibilities, skills and knowledge required for roles attracting an SRA are in addition to those set out for the Ward Councillor.

The role profiles have three main purposes:

- To provide clarity for both Councillors and officers about what is expected of each role
- To provide guidance to the IRP for the Members Allowance Scheme
- To support Councillors in their development by providing a checklist to identify their development needs, both for the roles they are currently undertaking and for future roles to support succession planning

## **Ward Councillor**

### **Role and Responsibilities**

#### **Leadership at Ward Level**

- To lead and champion the interests of the local community and effectively represent the interests of the Ward and its constituents.
- To meet and liaise regularly with local interested parties and involve and consult them on key Council decisions.
- To support and promote citizenship locally and empower the community to participate in the governance of the area.
- To undertake case work for constituents and act as an advocate in resolving concerns or grievances.
- To communicate with local people and answer enquiries:
  - o about decisions that affect them
  - o about opportunities in the community
  - o regarding the rights of constituents
  - o as to why decisions are taken
- To act as an advocate for the Council within the Authority and outside

#### **Localism**

- To participate constructively in the good governance of the area.
- To use influence as an Elected Representative to develop links between groups and communities in the Ward and local area.
- To forge local partnerships to ensure resources are used to meet the priority needs of the area.

#### **Representation**

- To inform the debate at Full Council meetings and contribute to the effectiveness of the Council meeting as the focus of visible leadership.
- To contribute to the formation and scrutiny of the Authority's policies, budget, strategies and service delivery.
- To contribute to the scrutiny of decision making and review of the policies and services of the Council and of other public services delivered in the Borough via the Scrutiny process.

- To represent the authority to the community and the community to the Council.
- To develop and maintain a knowledge of the Council and develop effective working relationships with its officers.
- To participate in the activities of any political group of which the Councillor is a member.
- To represent the Council on outside bodies and to participate effectively in the appointed role and, where appropriate, to represent those bodies within the Borough.

**Other**

- Commitment to delivering excellent public services.
- To fulfil the legal (in accordance with the Council Code of Conduct for Councillors) and local requirements placed on an elected member.
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

**Competencies**

**Community Leadership**

Skills

- Ability to lead and champion the interests of the local community
- Ability to manage casework (including the use of IT to support the process)
- Community engagement
- Ability to influence and persuade
- Negotiation skills
- Managing conflict and mediation skills
- Ability to develop relationships with key officers and partner agencies
- Ability to build effective relationships with all sections of the community so as to be able to represent their needs to the Council
- Ability to chair community meetings and facilitate discussions

Knowledge

- Understanding of how the Council works
- Knowledge of the Council structure, key contact officers and services procedures and eligibility criteria
- Knowledge of the political decision making structures
- Understanding of the Code of Conduct for Councillors, ethics and standards and the role of the Standards Committee and the Standards Board for England.
- Understanding of national policies and their impact on the Council
- Knowledge of the strategic priorities and key policies of the Council
- Understanding of legislation and Council policies to which Members must adhere (e.g. Dignity at Work, Smoking Policy, Freedom of Information, Data Protection, equality legislation)

- Basic understanding local government finances and audit processes
- Understanding the Corporate Parenting responsibilities
- Knowledge of the Council's complaints procedure

### **Communication Skills**

- Ability to deal with the media whilst being able to identify when additional support from public relations specialists is required, to ensure the Council is positively represented
- Ability to communicate with a range of audiences
- Active listening and questioning skills
- Presentation skills
- Public speaking

### **Leader of the Council**

This role profile identifies the responsibilities, skills and knowledge required of the Leader of the Council.

#### **Role and Responsibilities**

- To provide leadership to the Council
- To undertake the role of community leader, building a vision for the area and leading the Council and its partners towards realisation of that vision.
- To represent the Council and provide leadership of the Local Strategic Partnership and other key local, sub regional and regional partnerships.
- To lead the Council and take responsibility for its performance
- To represent the authority, and be accountable for, discussions and negotiations with the community and with regional, national and international organisations.
- To undertake political executive responsibility for proposing and directing the overall strategy, budget, policy arrangements and service reviews.
- To act as spokesperson for the authority (in consultation with the Leader of other political groups and the Chief Executive as is appropriate).
- To ensure the work of the Council is conducted in accordance with the Council's Constitution and with due regard for any statutory provisions set out in legislation.
- To facilitate good communication so that people within and outside the authority are able to contribute constructively to the decision making processes of the Council.
- To work closely with the political majority group to ensure the smooth running of the Group and the personal development of its Members.
- To maintain effective liaison with the Chair of the Overview and Scrutiny Committee.

To work with other Leaders in the sub-region to maximise benefits and opportunities to Leicestershire.

## **Competencies**

### **Community Leadership**

- Refer to Ward Member role
- Tact and diplomacy to be able to work across the full range of Council services, partners and political groups, to the benefit of the community.

### **Scrutiny and Challenge**

- Understands the purpose of Scrutiny
- Understanding of the role of Scrutiny in informing decision making
- Understands the need for Scrutiny to challenge
- Understands the requirement to respond to Scrutiny

### **Communication Skills**

- Ability to facilitate effective communication within and across the Council to ensure the community are able to engage in the Council's decision making processes
- Advanced skills in working with the media whilst being able to identify when additional support from public relations specialists is required, to ensure the Council is positively represented
- Advanced listening and questioning skills
- Advanced presentation skills
- Advanced public speaking
- Advanced chairing skills

### **Working in Partnership**

Knowledge

- Detailed knowledge of the work of national, regional and sub regional bodies and the role of the Leader and Council within them
- Detailed knowledge of the role of local partners and the services they deliver

### **Political Understanding**

- Ability to build effective relationships with other parts of the political management structure e.g. Full Council, Overview and Scrutiny, Residents' Forums and other political groups
- Political sensitivity to be able to address difficult issues across all groups
- Understanding of the relationship between national politics and local political leadership

### **Providing Vision**

Knowledge

- Understanding of the wider, national issues facing elected Members and the practical implications for the Authority's Members

### **Excellence in Leadership**

- Strong commitment to delivering excellent public services

#### Skills

- Advanced Leadership Skills
- Ability to develop a vision for Oadby and Wigston and drive the Council and its partners towards achieving that vision
- Advanced Ambassadorial skills to be able to represent the Council both within and outside the Council, particularly at the sub-regional, regional and national level
- Ability to lead the Council towards continuous improvement
- Ability to build effective relationships with external partners
- Ability to provide political leadership for their group
- Ability to, when necessary, discipline Members of their political group
- Advanced chairing skills
- Ability to plan and prioritise the business of Council and its committees having regard to the terms of reference and the key challenges facing the Council

#### Knowledge

- A detailed understanding of the strategic role of the leader of the Council
- Detailed understanding of the legally defined role of the Chief Executive and other senior officers
- Detailed understanding of the national policy framework and its impact on local policy development
- Detailed understanding of the Council's constitution, code of conduct, budget and audit processes and key internal policies

### **Deputy Leader of the Council**

This role profile is to be read in conjunction with the role profile for the Leader of the Council. It identifies responsibilities specific to the role of Deputy Leader.

#### **Role and Responsibilities**

- To assist the Leader of the Council in the formal processes and matters of leadership of the authority specifically set out in the profile for the former.
- To work with the Leader of the Council on the budget and policy development
- To take the appropriate developmental steps to be equipped with the knowledge and skills to carry out the role of the Leader when called upon

To deputise for the Leader in his or her absence and undertake the above mentioned duties set out in the role profile for the Leader of the Council.

### **Skills**

As it is expected that the Deputy Leader is able to deputise for the Leader, the additional skills and knowledge set out for the Leader are copied here as they are also required of the Deputy Leader.

### **Competencies**

#### **Community Leadership**

- Refer to Ward Member role
- Tact and diplomacy to be able to work across the full range of Council services, partners and political groups, to the benefit of the community.

#### **Scrutiny and Challenge**

- Understands the purpose of Scrutiny
- Understanding of the role of Scrutiny in informing decision making
- Understands the need for Scrutiny to challenge
- Understands the requirement to respond to Scrutiny

#### **Communication Skills**

- Ability to facilitate effective communication within and across the Council to ensure the community are able to engage in the Council's decision making processes
- Advanced skills in working with the media whilst being able to identify when additional support from public relations specialists is required, to ensure the Council is positively represented
- Advanced listening and questioning skills
- Advanced presentation skills
- Advanced public speaking
- Advanced chairing skills

#### **Working in Partnership**

Knowledge

- Detailed knowledge of the work of national, regional and sub regional bodies and the role of the Leader of the Council within them
- Detailed knowledge of the role of local partners and the services they deliver

#### **Political Understanding**

- Ability to build effective relationships with other parts of the political management structure e.g. Full Council, Overview and Scrutiny, Residents' Forums and other political groups
- Political sensitivity to be able to address difficult issues across all groups
- Understanding of the relationship between national politics and local political leadership

## **Providing Vision**

### Knowledge

- Understanding of the wider, national issues facing elected Members and the practical implications for the Authority's Members

## **Excellence in Leadership**

- Strong commitment to delivering excellent public services

### Skills

- Advanced Leadership Skills
- Ability to develop a vision for Oadby and Wigston and drive the Council and its partners towards achieving that vision
- Advanced Ambassadorial skills to be able to represent the Council both within and outside the Council, particularly at the sub-regional, regional and national level
- Ability to lead the Council towards continuous improvement
- Ability to build effective relationships with external partners
- Ability to provide political leadership for their group
- Ability to, when necessary, discipline Members of their political group
- Advanced chairing skills
- Ability to plan and prioritise the business of Council and its committees having regard to the terms of reference and the key challenges facing the Council

### Knowledge

- A detailed understanding of the strategic role of the leader of the Council
- Detailed understanding of the legally defined role of the Chief Executive and other senior officers
- Detailed understanding of the national policy framework and its impact on local policy development
- Detailed understanding of the Council's constitution, code of conduct, budget and audit processes and key internal policies

## **Leader of an Opposition Group**

### **Role and Responsibilities**

- To lead an Opposition Group within the Council
- To manage the work of Members within that Group
- To manage the overall co-ordination of opposition spokespersons and the business of the Group
- To scrutinise the Leader of the Council and its Committees in their duties.

- To act as the principal spokesperson for an Opposition Group of which he/she is leader and as a representative of the authority to external bodies and organisations as appropriate.
- To comment, challenge and review the Council's administration performance in the co-ordination and implementation of its policies and procedures.
- To establish and represent the views of the Group on issues of policy and priority.
- To develop opposition Group policies that are credible and could be implemented by the Council
- To champion member development, to ensure the smooth running of the Group and the personal development of its Members.
- To advise the Leader of the Council of the Group's position on issues relating to external relationships.
- To represent the Group on relevant formal and informal working groups
- To maintain effective liaison with the Scrutiny Chair, where appropriate act as ambassador for the Council
- To participate in the development of corporate strategies and policies e.g. community strategy, corporate improvement plan

## **Competencies**

### **Community Leadership**

- Refer to Ward Member role
- Tact and diplomacy to be able to work across the full range of Council services, with Officers, partners and political groups, to the benefit of the community

### **Scrutiny and Challenge**

- Understands the purpose of Scrutiny
- Understanding of the role of Scrutiny in informing decision making
- Understands the need for Scrutiny to challenge and how to provide effective Scrutiny
- Ability to hold the ruling group to account

### **Communications Skills**

- Advanced communication skills to be able to work constructively with officers, Members and partners
- Advanced listening and questioning skills
- Advanced presentation skills

- Advanced public speaking skills
- Ability to facilitate effective communication within and across the Council to ensure the community are given the opportunity to engage in policy development of the opposition group
- Advanced chairing skills
- Advanced skills in working with the media whilst being able to identify when additional support from public relations specialist is required, to ensure the Council is positively represented

### **Working in Partnership**

#### Knowledge

- Detailed knowledge of the work of national, regional and sub regional bodies and the role of the Council within them
- Detailed knowledge of the role of local partners and the services they deliver

### **Political Understanding**

- Political sensitivity to be able to address difficult issues with other Groups
- Ability to build effective relationships with other parts of the political management structure e.g. Full Council, Scrutiny, Residents' Forums and other political groups
- Political sensitivity to be able to address difficult issues across all groups
- Understanding of the relationship between national politics and local political leadership

### **Providing Vision**

#### Knowledge

- Understanding of the wider, national issues facing elected Members and the practical implications for the Authority's Members
- Research skills and policy development

### **Excellence in Leadership**

#### Skills

- Ability to provide political leadership of their Group and manage the tensions between the political demands and expectations of the Group, and the needs of the Council
- Ambassadorial skills to be able to represent the Council both within and outside the Council including at sub-regional, regional and national level
- Ability to, when necessary, discipline Members of their political Group
- Strong commitment to delivering excellent public services
- Effective chairing skills
- Assimilating and analysing complex information
- Ability to plan and prioritise the business of the Group

#### Knowledge

- Understanding of the roles of the Leader of the Council, Committee Chairs and the Leader of the Opposition Group within the Council
- Understanding of the legally defined role of certain senior officers

- Detailed knowledge of the work of national, regional and sub regional bodies and the role of the Council within them
- Detailed understanding of the national policy framework and its impact on local policy development
- Detailed knowledge of the challenges facing local government
- Understanding of Council strategy, policies and operations
- Knowledge of the role of local partners and the services they deliver and their relationship with the Council
- Understanding of the Council's constitution, code of conduct, budget and audit processes and key internal policies
- Detailed knowledge of community needs and their priorities for action
- Understanding of the wider, national issues facing elected Members and the practical implications for the Members in their group
- Understanding of the principles and importance of making rational decisions

### **Chair of Development Control Committee**

#### **Role and Responsibilities**

- To chair the Development Control Committee in accordance with the agreed protocols.
- To foster and maintain a disciplined approach by the Members involved having regard to high standards of behaviour and ethics including the protocol relating to development control procedures.
- To ensure that contributions by the public to meetings are facilitated and controlled in accordance with the agreed procedure.
- To represent the Council in all dealings with the public, media and other bodies in respect of the work of the Committee.

### **Competencies**

#### **Regulating and Monitoring**

- Ability to represent the Development Control Committee to Members, the community and the media
- Prioritising and managing the work of the Development Control Committee including agenda planning
- Ability to plan and prioritise the business of the Development Control Committee having regard to its terms of reference and key challenges facing the Development Control Committee
- An in-depth understanding of development control issues and protocol relating to planning procedures and the Development Control Committee
- Understanding of the role of Ward Councillors in the planning process and how to handle conflicts of interest between being a Ward Member and a member of the Development Control Committee
- Understanding the role of the Development Control Officers

### **Working in Partnerships 320**

Relationship building particularly with senior officers involved in the planning function, Leaders, and Service Committee Chairs.

### **Communication Skills**

- Advanced listening and questioning skills.
- Communication skills – particularly with Members and Officers involved with the Development Control Committee
- Intermediate presentations skills
- Intermediate public speaking
- Ability to work with the media and to identify when additional support from public relations specialists is required, to ensure the Council and the Planning function is positively represented
- Advanced chairing skills

N.B. No Member can sit on the Development Control Committee without having had appropriate training.

### **Chair of Licensing/Regulatory Committee**

This role profile is also relevant for the Chair of a Regulatory Committee (Licensing and Regulatory) where the majority of current activity takes place.

### **Role and Responsibilities**

- To chair the Licensing/Regulatory Committee in accordance with its terms of reference.
- To foster and maintain a disciplined approach by the Members involved having regard to high standards of behaviour and ethics
- To represent the Council in all dealings with the public, media and other bodies in respect of the work of the Committee.
- To represent the Committee's decisions in appeals to the Magistrates and higher Courts.
- To be aware of legislation and ongoing local and national developments on licensing matters and their implications.
- To be the elected member spokesperson in regular scheduled meetings with the taxi vehicle trade and with other interested parties so that the Council maintains relationships and can have positive dialogue on licensing issues.

### **Competencies**

#### **Regulating and Monitoring**

- Ability to represent the Licensing Committee to the community and the media
- Ability to plan and prioritise the business of the licensing and regulatory committees having regard to its terms of reference and key challenges facing the licensing and regulatory functions
- Knowledge and understanding of relevant legislation and local/national developments on licensing and regulatory matters – and their implications

### **Working in Partnership**

- Relationship building particularly with senior officers involved in the licensing and regulatory functions, Leaders and Service Committee Chairs.

### **Communication Skills**

- Advanced listening and questioning skills.
- Advanced chairing skills, including the ability to manage conflict
- Communication skills – particularly with Members and Officers involved with the Licensing/Regulatory Committee
- Effective presentations skills
- Effective public speaking skills
- Ability to work with the media and to identify when additional support from public relations specialists is required, to ensure the Council and the Licensing and Regulatory function is positively represented

N.B. No Member can sit on a Licensing/Regulatory Committee without having had appropriate training.

### **Deputy Leader of an Opposition Group**

This role profile is to be read in conjunction with the role profile for Leader of an Opposition Group.

#### **Role and Responsibilities**

- To undertake the development required to ensure the Member is equipped with the knowledge and skills required to carry out the role of the Group Leader when called upon.
- To assist the Group Leader to manage the work of Members within the Group
- To work with the Group Leader on the budget and policy development for the Group
- To deputise for the Group Leader in his or her absence and undertake the duties set out in the role profile for Leader of an Opposition Group.
- To support the Group Leader in the initiation of policy.
- To work closely with other members of your political group and Senior Officers where appropriate.
- To hold the ruling group to account at Council meetings.
- To play a proactive role in Overview and Scrutiny to discuss decisions taken or support the policy formulation process.
- Consult interested parties, ward Councillors and citizens as part of the development and review of group policy

- To assist the Group Leader when consulting on, and drawing up the revenue and capital budgets.

## **Competencies**

### **Community Leadership**

- Refer to Ward Member role
- Tact and diplomacy to be able to work across the full range of Council services, with Officers, partners and political groups, to the benefit of the community

### **Communication Skills**

- Advanced communication skills to be able to work constructively with officers, Members and partners
- Advanced listening and questioning skills
- Advanced presentation skills
- Advanced public speaking skills
- Ability to facilitate effective communication within and across the Council to ensure the community are given the opportunity to engage in policy development of the opposition group
- Advanced chairing skills
- Advanced skills in working with the media whilst being able to identify when additional support from public relations specialist is required, to ensure the Council is positively represented

### **Working in Partnership**

#### Knowledge

- Detailed knowledge of the work of national, regional and sub regional bodies and the role of the Council within them
- Detailed knowledge of the role of local partners and the services they deliver

### **Political Understanding**

- Political sensitivity to be able to address difficult issues with other Groups
- Ability to build effective relationships with other parts of the political management structure e.g. Full Council, Scrutiny, Residents' Forums and other political groups
- Political sensitivity to be able to address difficult issues across all groups
- Understanding of the relationship between national politics and local political leadership

### **Providing Vision**

#### Knowledge

- Understanding of the wider, national issues facing elected Members and the practical implications for the Authority's Members

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- Research skills and policy development

### **Excellence in leadership**

#### Skills

- Ability to provide political leadership of their Group and manage the tensions between the political demands and expectations of the Group, and the needs of the Council
- Ambassadorial skills to be able to represent the Council both within and outside the Council including at sub-regional, regional and national level
- Ability to, when necessary, discipline Members of their political Group
- Strong commitment to delivering excellent public services
- Effective chairing skills
- Assimilating and analysing complex information
- Ability to plan and prioritise the business of the Group

#### Knowledge

- Understanding of the roles of the Leader of the Council, Committee Chairs and the Leader of the Opposition Group within the Council
- Understanding of the legally defined role of certain senior officers
- Detailed knowledge of the work of national, regional and sub-regional bodies and the role of the Council within them
- Detailed understanding of the national policy framework and its impact on local policy development
- Detailed knowledge of the challenges facing local government
- Understanding of Council strategy, policies and operations
- Knowledge of the role of local partners and the services they deliver and their relationship with the Council
- Understanding of the Council's constitution, code of conduct, budget and audit processes and key internal policies
- Detailed knowledge of community needs and their priorities for action
- Understanding of the wider, national issues facing elected Members and the practical implications for the Members in their group.
- Understanding of the principles and importance of making rational decisions

### **Chair of a Policy/Service Committee, Forum or Group**

#### **Role and Responsibilities**

- To chair the Committee Forum or Group in accordance with the agreed protocols.
- To foster and maintain a disciplined approach by the Members involved having regard to high standards of behaviour and ethics including the protocol relating to the Committee's Forum or Group procedures.
- To ensure that contributions by the public to meetings are facilitated and controlled in accordance with the agreed procedure.
- To represent the Council in all dealings with the public, media and other bodies in respect of the work of the Committee Forum or Group.

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## **Competencies**

### **Regulating and Monitoring**

- Ability to represent the Committee, Forum or Group to Members, the community and the media
- Prioritising and managing the work of the Committee, Forum or Group including agenda planning
- Ability to plan and prioritise the business of the Committee having regards to its terms of reference and key challenges facing the Committee, Forum or Group
- An in-depth understanding of the issues and protocols relating to the procedures of the Committee, Forum or Group
- Understanding of the role of Ward Councillors in the Committee process and how to handle conflicts of interest between being a Ward Member and a Member of the Committee
- Understanding the role of relevant Council officers

### **Working in Partnerships**

- Relationship building, particularly with senior officers involved in the Committee function, Leaders and other Committee Chairs.

### **Communication Skills**

- Advanced listening and questioning skills
- Communication skills – particularly with members and Officers involved with the work of the Committee, Forum or Group
- Intermediate presentation skills
- Intermediate public speaking
- Ability to work with the media and to identify when additional support from public relations specialists is required, to ensure the Council and the Committee's, Forum or Group's function is positively represented
- Advanced chairing skills

## 5.5 - LOCAL MEMBER CONSULTATIVE CHARTER

## **5.5 - LOCAL MEMBER CONSULTATIVE CHARTER**

The Council is committed to providing its Elected Members with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Electoral Division and where circumstances render it appropriate to involve a Local Member.

1. Directors and staff will be continually vigilant to identify such matters and ensure that Local Members are informed accordingly. This will also include any matter which could impact upon the neighbouring areas of other Members.
2. Directors will ensure that all correspondence/enquiries from Local Members are dealt with promptly and if necessary Members will be kept advised of progress.
3. Appropriate Directors will ensure that, where the Council's Constitution allows, Local Members will be invited to meetings and receive the necessary documentation.
4. Any matter of significance or sensitivity which relates to a particular Electoral Division or Divisions will be discussed with the Local Member(s) concerned before being submitted for consideration by Council or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.
5. Directors and staff will regularly brief appropriate Members on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
6. Details of any petitions received which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader. Local Members will be kept informed on the progress/outcomes of such petitions.
7. Copies of all correspondence with MPs and MEPs which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader.
8. Directors and staff will ensure that as much local service information as possible is provided to local members.
9. Services will provide every Member with an Officer contact guide for the services they provide, including where appropriate local contacts.
10. Wherever appropriate, Services will make Local members aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of Council projects, schemes, exhibitions etc.
11. In certain instances, both Members and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Member(s) concerned a single response to such enquiries.
12. As part of a continual review of the Charter's effectiveness, the co-operation of Members is sought in the responsible use at all times of advice and information that is provided to them, and Members are encouraged to advise Officers of the information requirements and of any local circumstances or sensitivities which might have a bearing on the Council's work.



## **APPENDIX 1**

LOCAL CODE OF CORPORATE GOVERNANCE (See Below)

5.6 - CONFIDENTIAL REPORTING (“WHISTLEBLOWING”) CODE

## **5.6 - CONFIDENTIAL REPORTING (“WHISTLEBLOWING”) CODE**

### **1. INTRODUCTION**

- 1.1 This is the Council’s Policy intended to encourage and enable employees to raise concerns within the Council without fear of victimisation, subsequent discrimination or embarrassment. It reflects the Council’s commitment to good practices, to valuing staff and setting continuous improvement in service delivery.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant Council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis.
- 1.4 This document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or ‘blowing the whistle’ outside.
- 1.5 The Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing Services under a contract within the Council in their own premises, for example, care homes. The Council will seek to ensure that as part of its procurement processes, this code is brought to the attention of such external contractors, suppliers and services providers (described in this code as “Contractors”).
- 1.6 These procedures are in addition to the Council’s complaints procedures and other statutory reporting procedures applying to some Services. If asked, employees should make service users aware of the existence of these procedures.
- 1.7 This Code has been discussed with the relevant trade unions and professional organisations and has their support.

### **2. AIMS AND SCOPE OF THE CODE**

- 2.1 This Code aims to:
  - 2.1.1 encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
  - 2.1.2 provide avenues for you to raise those concerns and receive feedback on any action taken.

- 2.1.3 ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- 2.1.4 reassure you that you will be protected from possible reprisals or victimisation.
- 2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or you consider that you are being harassed due to your race, sex or age, or if you are concerned about health and safety risks. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures.
- 2.3 These include:
  - 2.3.1 conduct which is an offence or a breach of law;
  - 2.3.2 disclosures related to miscarriages of justice;
  - 2.3.3 health and safety risks, including risks to the public as well as other employees;
  - 2.3.4 damage to the environment;
  - 2.3.5 the unauthorised use of public funds;
  - 2.3.6 possible fraud and corruption;
  - 2.3.7 sexual or physical abuse of clients;
  - 2.3.8 any attempt to prevent disclosure of any of the above;
  - 2.3.9 other unethical conduct.
  - 2.3.10 Thus, any serious concerns that you have about any aspects of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Code.
- 2.4 This may be about something that:
  - 2.4.1 makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
  - 2.4.2 is against the Council's Constitution and policies;
  - 2.4.3 falls below established standards of practice;
  - 2.4.4 amounts to improper conduct.

### 3. **SAFEGUARDS**

- 3.1 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement is made in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

- 3.3 The Council will not tolerate any harassment or victimisation, including informal pressures, and will take appropriate action to protect you when you raise a concern in good faith. This action will depend on the type of concern and specific service arrangements. On very rare occasions, you may be asked whether you would be prepared to obtain further information.
- 3.4 This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.
- 3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

#### 4. **CONFIDENTIALITY**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly. At the appropriate time, however, you may need to come forward as a witness. If you wish to be supported by a representative of your choice, then this would be available to you.

#### 5. **ANONYMOUS ALLEGATIONS**

- 5.1 This Code encourages you to put your name to your allegation whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3 In exercising this discretion, the facts to be taken into account would include:
  - 5.3.1 the seriousness of the issues raised;
  - 5.3.2 the credibility of the concern; and
  - 5.3.3 the likelihood of confirming the allegation from attributable sources.

#### 6. **UNTRUE ALLEGATIONS**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

#### 7. **HOW TO RAISE A CONCERN**

This procedure applies to Council employees and contractors.

- 7.1 As a first step, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that senior management is involved, you should approach the Chief Executive, the Head of Law and Governance or, the Head of Finance.
- 7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- 7.2.1 the background and history of the concern, giving relevant dates;
- 7.2.2 the reason why you are particularly concerned about the situation.
- 7.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.4 Advice/guidance on how to pursue matters of concern may be obtained from:
  - 7.4.1 Head of Finance Senior Auditor
- 7.5 Alternatively, you may wish to seek advice from a person independent of the Council. In this case you should contact the Council's External Auditors (). You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two or more of you who have had the same experience or concerns.
- 7.6 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

## **8. HOW THE COUNCIL WILL RESPOND**

- 8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:
  - 8.2.1 be investigated by management, internal audit, or through the disciplinary process;
  - 8.2.2 be referred to the police;
  - 8.2.3 be referred to the external auditor;
  - 8.2.4 form the subject of an independent inquiry.
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the person with whom you have raised your concerns will write to you:
  - 8.5.1 acknowledging that the concern has been received;
  - 8.5.2 indicating how we propose to deal with the matter;

- 8.5.3 giving an estimate of how long it will take to provide a final response;
  - 8.5.4 telling you whether any initial enquiries have been made;
  - 8.5.5 supplying you with information on staff support mechanisms; and
  - 8.5.6 telling you whether further investigations will take place and if not, why not.
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the confidential reporting process, specific procedures will need to be applied.
- 8.8 Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the Head of Law and Governance , for a decision to be made as to whether such a course of action is both necessary and proportionate.

**Important:**

- 8.9 Managers must not, under any circumstances, ask an individual to obtain further information covertly, from another person, without following this procedure. Failure to do so may infringe Human Rights and render the Council liable to legal action.
- 8.10 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 8.11 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 8.12 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

9. **THE RESPONSIBLE OFFICER**

Corporate Directors and their senior staff who receive concerns will copy the initial complaint to the Head of Law and Governance , and keep that officer informed of the progress and outcome of the investigation. The Head of Law and Governance has overall responsibility for the maintenance and operation of the Code. That officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

10. **HOW THE MATTER CAN BE TAKEN FURTHER**

- 10.1 This Code is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not,

and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- 10.1.1 The Council's external auditors:
  - 10.1.2 you local Citizens' Advice Bureau
  - 10.1.3 relevant professional bodies or regulatory organisations
  - 10.1.4 a relevant voluntary organisation
  - 10.1.5 the police
- 10.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

## 5.7 - LOCAL CODE OF CORPORATE GOVERNANCE

## **5.8 - THE COUNCIL'S CORPORATE GOVERNANCE ARRANGEMENTS**

1. **PRINCIPLE 1: FOCUSING ON THE COUNCIL'S PURPOSE AND COMMUNITY NEEDS**

- 1.1 The Council will exercise strategic leadership by developing a clear vision and purpose, identifying intended outcomes and ensuring that these are clearly communicated to all stakeholders of the organisation, both internal and external. In doing so, the Council will report regularly on its activities and achievements, and its financial position and performance. The Council will publish annually:
- 1.2 The Corporate Strategy and Annual Report, including externally verified performance information;
  - 1.2.1 Directorate and Service Plans;
  - 1.2.2 The Statement of Accounts, incorporating the Annual Governance Statement.
- 1.3 In addition, the Council will keep its corporate strategies, objectives and priorities under constant review, so as to ensure that they remain relevant to the needs and aspirations of the community.
- 1.4 In undertaking all its activities, the Council will aim to deliver high quality services which meet the needs of service users. Delivery may be made directly, in partnership with other organisations or by a commissioning arrangement. Measurement of service quality will also be a key feature of service delivery. In addition, the Council will aim to ensure that tax payers and service users receive excellent value for money, and the Council will therefore continue to review this.
- 1.5 The Council will also seek to address any concerns or failings in service failure by adhering to and promoting its Complaints and Feedback Procedure.

2. **PRINCIPLE 2: HAVING CLEAR RESPONSIBILITIES AND ARRANGEMENTS FOR ACCOUNTABILITY**

- 2.1 To ensure accountability, the Constitution determines the roles and responsibilities of the Council's functions.
- 2.2 In particular, the Council's Constitution:
  - 2.2.1 clearly defines the statutory roles of Head of Paid Service, Section 151 Officer and Monitoring Officer;
  - 2.2.2 sets out a protocol to address the working relationship between the Leader and the Chief Executive which enables each to fulfil their respective roles;
  - 2.2.3 ensures that a constructive working relationship exists between Members and Officers and that the responsibilities of Members and Officers are carried out to a high standard;
  - 2.2.4 includes schemes of member and officer delegations;
  - 2.2.5 includes protocols for partnership working that help to ensure that responsibilities are clearly defined and that relationships work effectively for the benefit of service users;

2.2.6 requires appropriate governance arrangements for partnerships, which define the legal status of the entity and also the extent to which decisions taken by the partnership will be binding for each organisation;

2.2.7 will be reviewed annually.

### 3. **PRINCIPLE 3: GOOD CONDUCT AND BEHAVIOUR**

3.1 The Council will conduct its activities in a manner which promotes high ethical standards and good behaviour and will ensure that its Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance. The following policies and protocols have been established and will be kept under review to assist the Council in fostering this culture:

3.1.1 Member Code of Conduct

3.1.2 Officer Code of Conduct

3.1.3 Employee Code of Conduct

3.1.4 Protocol on Officer/Member Relations

3.1.5 Whistleblowing policy

3.2 The aim is to develop a set of shared values which will underpin an ethos of good governance. This will be further supported by compliance with legislation and all relevant professional standards.

3.3 The Council has also established a Policy, Finance and Development Committee to discharge its responsibilities for promoting and maintaining high standards of Member conduct.

3.4 Where the Council works in partnership it will continue to uphold its own ethical standards, as well as acting in accordance with the partnership's shared values and aspirations.

### 4. **PRINCIPLE 4: INFORMED, TRANSPARENT DECISION MAKING AND MANAGING RISK**

4.1 The Council observes this principle through the:

4.1.1 Establishment of an effective scrutiny function;

4.1.2 Recording of all decisions taken and the reasons for those decisions;

4.1.3 Maintenance of registers to record potential conflicts of interest;

4.1.4 Operation of the Policy, Finance and Development Committee;

4.1.5 Existence of an effective and transparent complaints and feedback procedure;

4.1.6 Provision of timely and relevant information to all interested parties;

- 4.1.7 Involvement of proper professional legal and/or financial expertise to inform decision-making;
  - 4.1.8 Existence of an embedded risk management culture;
  - 4.1.9 Existence of effective whistle blowing procedures;
  - 4.1.10 Observation of all specific legislative requirements placed upon the Council.
- 4.2 The Council has established a scrutiny framework that will ensure policies and decisions are made which reflect the Council's strategic objectives and priorities. Members will be supported in decision making by ensuring that they are properly informed of all legal and resource considerations.
- 4.3 Risk management processes within the Council will be maintained so as to ensure that the risk and impact of decisions can be fully assessed.

## 5. **PRINCIPLE 5: DEVELOPING SKILLS AND CAPACITY**

- 5.1 The Council is continually seeking to develop the capacity and capability of both its members and officers in recognition that the people who direct and control the organisation must have the right skills to do so. This is achieved through a commitment to training and development, as well as recruiting people with the right balance of knowledge and experience.
- 5.2 The Council will achieve this by:
- 5.2.1 Operating Member and employee induction programmes and identifying personal development needs;
  - 5.2.2 Providing career structures to encourage development;
  - 5.2.3 Investing in Member and Officer training and development;
  - 5.2.4 Maintaining an effective performance management system;
  - 5.2.5 Encouraging a wide variety of individuals to participate in the work of the Council.

## 6. **PRINCIPLE 6: ENGAGING STAKEHOLDERS TO ENSURE ROBUST ACCOUNTABILITY**

The Council will seek the views of its stakeholders and respond appropriately. The Council will achieve this by:

- 6.1 publishing an annual Statement of Accounts and Annual Report to inform stakeholders and services users of the previous year's achievements and outcomes;
- 6.2 producing plans for service delivery within the community;
- 6.3 clearly identifying its stakeholders, in order to ensure that relationships with these groups continue to be effective;

- 6.4 maintaining effective and clear channels of communication which reach all groups within the community and other stakeholders as well as offering a range of consultation methods;
- 6.5 producing an annual report on the performance of the scrutiny function;
- 6.6 providing a variety of opportunities for the public to engage effectively with the Council including attending meetings;
- 6.7 ensuring partnership arrangements demonstrate clear, appropriate governance accountabilities;
- 6.8 presenting itself in an open and accessible manner to ensure that council matters are dealt with transparently, in so far as the need for confidentiality allows;
- 6.9 developing an internal communication policy which will outline how staff and their representatives are consulted and involved in decision-making.

## 7. **MONITORING, REVIEW AND REPORTING**

- 7.1 The Council has two committees that are jointly responsible for monitoring and reviewing the Council's corporate governance arrangements:

- 7.1.1 Policy, Finance and Development Committee;

- 7.1.2 The Change Management Committee .

The two committees will liaise on any issue, principally matters relating to corporate governance that may be of common concern to both.

- 7.2 Both above-mentioned Committees has various powers and responsibilities in relation to audit and governance issues, as detailed in the Constitution.

- 7.3 The Policy, Finance and Development Committee in particular promotes and maintains high standards of conduct by councillors and co-opted members of the Council. The Committee also assists Councillors to observe the Members' Code of Conduct and provides advice to the Council on issues relating to Member/Officer relations.

- 7.4 The Council is required to annually review the effectiveness of its system of internal controls. This review will seek to:

- 7.4.1 Identify principal risks to the achievement of council objectives;

- 7.4.2 Identify and evaluate key controls to manage principal risks;

- 7.4.3 Obtain assurances of the effectiveness of key controls;

- 7.4.4 Evaluate assurances and identify gaps in control/assurances.

## 8. **THE ANNUAL GOVERNANCE STATEMENT**

- 8.1 Following the annual review of the Council's governance arrangements and system of internal control, an Annual Governance Statement (AGS) will be published as part of the Council's Statement of Accounts.

- 8.2 Action plans will be drawn up in response to any significant control weakness identified in the AGS. A follow up process will be overseen by the Policy, Finance and Development Committee to ensure continuous improvement of the system of corporate governance.

5.9 - CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

## **5.9 - CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS**

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### **1. INTRODUCTION**

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
  - 1.3.1 Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2 Members should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3 Members should make decisions on merit.
  - 1.3.4 Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - 1.3.5 Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6 Members should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Members and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

- 1.6 Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.
- 1.7 This Code of Practice sets out principles to guide members and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

## 2. **THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

- 2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Members shall provide:
  - 2.7.1 Impartial and professional advice;
  - 2.7.2 Consistency of interpretation of planning policy; and
  - 2.7.3 Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.

- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Members or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is. If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Members to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.10 The Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. A superior officer shall not have the power to overrule the professional advice of the head of the planning service.
- 2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.12 Members shall follow the advice in the Member's Code of Conduct about accepting gifts and hospitality. Members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.

### 3. **INTERESTS OF MEMBERS**

- 3.1 Where members have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the member will not be able to approach matters with an open mind and consider the application on its planning merits, members should consider withdrawing from the Committee for that item.
- 3.3 These principles apply equally to members who are not members of Planning Committee Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 Members should seek guidance from officers.
- 3.5 Members of Planning Committee and Officers who attend Planning Committee regularly should complete the Annual Return required for this purpose.
- 3.6 The Code of Conduct for Members provides guidance as to personal and prejudicial interests which may affect a member's ability to take part in the decision-making process. However, members may have other interests which may influence their decision which will not amount to personal or prejudicial interests for the purposes of the Code. In order to maintain the integrity of the planning system, members should

be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:-

- 3.6.1 from ward concerns;
- 3.6.2 from membership of other Committees of the Council;
- 3.6.3 from membership of other public or community bodies;
- 3.6.4 from membership of voluntary associations and trusts (including where appointed by the Council);
- 3.6.5 from a connection with a particular policy initiative of the Council;
- 3.6.6 from membership of clubs, societies and groups; and
- 3.6.7 from hobbies and other leisure interests.

Such interests may mean that a Member is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a member from participating in making the planning decision when the matter is considered by Planning Committee providing that the member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the member considers that this is not possible, the member should withdraw from consideration of that item.

- 3.7 As a minimum, the integrity of the planning system requires openness on the part of members; it must operate fairly and be seen to operate fairly.

#### 4. **DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

- 4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 4.3 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.
- 4.4 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.

#### 5. **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:

### 5.1 **Equality Act 2010**

Section 149 provides that:

5.1.1 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.

5.1.2 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.

### 5.2 **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."

### 5.3 **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."

#### 5.4 **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.”

### 6. **LOBBYING OF AND BY MEMBERS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 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.
- 6.4 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). Even though they may agree with a particular view, Planning Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members who are lobbied should:
  - 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
  - 6.4.2 only give procedural advice;
  - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Planning Committee). Members shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local Member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (either presenting their own views if they are an affected party or representing the views of their ward members) but not

- vote. The member of an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, be allowed to attend and speak but not vote. A local Member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, that Member shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
  - 6.8 Members of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.
  - 6.9 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

## **7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 Members need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

## 8. **OFFICER REPORTS TO COMMITTEE**

- 8.1 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.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Head of Planning and Regeneration will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## 9. **PLANNING CONSIDERATIONS**

- 9.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 9.2 Members of Planning Committee should attend training sessions which may be organised from time to time. All other members are encouraged to attend.
- 9.3 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.
- 9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:-
  - 9.4.1 the Development Plan;
  - 9.4.2 Government Guidance (contained in such documents as Circulars, Planning Policy Guidance Notes, Mineral Policy Guidance Notes, Planning Policy Statements and Ministerial announcements);
  - 9.4.3 Supplementary Planning Documents adopted by any related Committee;
  - 9.4.4 non-statutory planning policies adopted by the Council;
  - 9.4.5 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
  - 9.4.6 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;

- 9.4.7 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;
- 9.4.8 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.
- 9.5 it should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 9.6 It is the responsibility of officers in preparing reports and recommendations to members to identify the material planning considerations and warn members about those matters which are immaterial planning decisions.
- 9.7 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.
- 9.8 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.
- 9.9 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.
- 9.10 It will be inevitable that all the considerations will not point wither to grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## 10. **THE DECISION MAKING PROCESS**

- 10.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.4 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.
- 10.5 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,

or the Development Plan, agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted by the Head of Law and Governance .

10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

## **11. SITE VISITS BY THE COMMITTEE**

11.1 A site visit may be held if the Head of Planning and Regeneration in consultation with Chair of the relevant committee considers it will assist members in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material. Members should try to attend site visits organised by the Council where possible.

11.2 Site visits will be organised in accordance with the following procedures:

11.2.1 The Head of Law and Governance 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.

11.2.2 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.

11.2.3 Objectors will not normally be invited to attend a site visit or participate in any discussions on site.

11.2.4 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.

11.2.5 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all members have the same information.

11.3 Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless you feel it is essential for you to visit the site other than through attending the official site visit and you have first spoken to the Head of Planning and 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.

## 12. **REPRESENTATIONS ON PLANNING APPLICATIONS**

- 12.1 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.
- 12.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will apply:
- 12.2.1 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. Both the applicant and the objectors will also 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 20 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.
- 12.2.2 Each group of speakers (objectors and supporters) will be allowed a maximum of five 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.
- 12.2.3 At the meeting the Head of Planning and Regeneration will present his/her report first.
- 12.2.4 The objectors will make their representations, subject to a time limit of 5 minutes (except at the discretion of the Chair), and may be asked questions by the Committee.
- 12.2.5 The applicant will then make his or her representations, subject to a time limit of 5 minutes (except at the discretion of the Chair), and may be asked questions by the Committee.
- 12.2.6 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.
- 12.2.7 Officers may comment on the representations and the merits of the application
- 12.2.8 The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.

### 13. **REVIEW OF DECISIONS**

- 13.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 13.3 Attendance at the review site visits shall be restricted to members of the committee and the local Member.

### 14. **TRAINING**

- 14.1 Members should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 14.2 Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

**5.5: LICENSING CODE OF CONDUCT**

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**Rule Subject**

- 1 : Introduction**
- 2 : Relationship with the Members' 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**

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## **1. INTRODUCTION**

**1.1 This Code of Conduct (the Licensing Code) gives advice to members who:**

- **Are members of the Licensing and Regulatory Committee and who sit on Licensing Sub-committee.**
- **Wish to address the Committee or a hearing panel on any licensing issue.**

**Are involved outside the Committee on licensing applications or other licensing matters - including informal occasions such as meetings with officers or public and consultative meetings.**

- **Are involved in applications for licences under the Licensing Act 2003 and the Gambling Act 2005.**

**1.2 Most decisions taken by councillors are administrative in nature. The work of**

**the Licensing Committee and Sub-committees are different in that its proceedings are quasi judicial and the rules of natural justice apply. This imposes a new and higher set of standards on those councillors who are involved in the decision making process. Failure to abide by these standards may render the Council or individual councillors open to challenge either through the courts or the Audit and Governance Committee.**

**1.3 This Code provides a set of guidelines for councillors. It is part of the Council's ethical framework and should be read in conjunction with the Members' Code of Conduct and the Protocol on Member/Officer Relations.**

**1.4 A key aim of the Licensing Code is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or is not well founded in any way. Members must make these decisions openly, impartially with sound judgement and for justifiable reasons.**

**1.5 The Human Rights Act 1998 has implications for the licensing system and has created enhanced requirements for procedural fairness, transparency and accountability in decision making.**

**1.6 The Licensing Code is intended to minimise the prospect of legal or other challenge to decisions. Non-compliance without good reason could be taken into account in investigations into possible maladministration or may have implications for the standing of councillors and the Council as a whole.**

## **2. RELATIONSHIP WITH THE MEMBERS' CODE OF CONDUCT**

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**2.1 Members must comply with the Members' Code of Conduct and the rules in that Code must be applied before considering the Licensing Code.**

**2.2 The Licensing Code is not intended to form a part of the adopted Members' Code of Conduct but is a separate document, which is complimentary and supportive of the Members' Code of Conduct and also the source of expanded guidance in the particular area of licensing.**

## **3. LEGAL BACKGROUND**

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### **3.1 Human Rights Act**

**3.1.1 The Human Rights Act 1998, which came into full effect on 2 October**

**2000, incorporated the key articles of the European Convention on Human Rights into domestic law. The Convention guarantees certain basic human rights. As far as possible legislation (including the licensing laws) must be interpreted in such a way as to conform with Convention rights. Decisions on licensing issues are actions of a public authority and so must be compatible with Convention rights.**

**3.1.2 Members of the Sub-committee need to be aware of the rights contained in the Convention when making decisions and in particular:**

- **Article 6: Right to a fair trial**

**In the determination of a person's civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.**

- **Article 8: Right to respect for family and private life**

**Everyone has a right to respect for his or her private life, and his or her home and correspondence.**

- **Article 1 of the First Protocol: Protection of property**

**Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his or her possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.**

- **Article 14: Prohibition of discrimination**

**The enjoyment of the rights and freedoms in the Convention shall be secured without discrimination on any ground such as**

**sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.**

**3.1.3 Most Convention rights are not absolute and there are circumstances**

**when an interference with a person's rights is permitted although any interference with the rights must be proportionate and go no further than is necessary.**

**3.2 Quasi-Judicial Hearings**

**3.2.1 A quasi-judicial hearing is one:**

**which affects a person's  
livelihood which involves  
disciplinary action which affects  
property.**

**3.2.2 These hearings are subject to the rules of natural justice. Properly**

**applied, the rules of natural justice will ensure that the requirements of the Convention, that a hearing is both "fair" and presided over by an "independent and impartial tribunal", are met.**

**3.2.3 There are two principles underlying the rules of natural justice. First,**

**all parties must be given a chance to put their case under conditions which do not put one party at a substantial disadvantage to the other party. All parties should be given sufficient notice of the hearing, the applicant should have disclosure of the nature of the objections/representations as well as knowing who is objecting/making a representation and there should be a right to question witnesses.**

**3.2.4 Second, a person who has an interest in an application must be**

**disqualified from considering it. The Licensing Sub-committee must be impartial - not only must there be no actual bias but there must be no perception of bias.**

**3.2.5 The procedure rules which govern hearings of the Licensing Sub-**

**committee reflect the requirements of the Human Rights Act and the rules of natural justice. To avoid any allegations of bias or perceived bias, councillors sitting on the Licensing Sub-committee must strictly observe those procedure rules.**

#### **4. TRAINING OF COUNCILLORS**

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- 4.1** Because the technical and propriety issues associated with licensing are not straightforward, it is the Council's policy to arrange training on the work of the Licensing Sub-committee for all councillors who sit on the Sub-committee. Councillors must undertake the training before participating in a meeting of the Sub-committee. Other councillors are free to attend the training in order to gain an understanding of licensing issues.

#### **5. LICENSING APPLICATIONS BY COUNCILLORS, OFFICERS AND THE COUNCIL**

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- 5.1** Proposals to the Council by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So can proposals for a Council's own applications.
- 5.2** It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 5.3** Recent decisions by the Adjudication Panel on standards issues make it very difficult for members who have a professional qualification to act in presenting cases in that capacity for applicants or to act as professional witnesses in hearings.
- 5.4** Councillors and officers who submit their own proposal should notify the Monitoring Officer of the proposal and play no part in its processing or determination and avoid contact, whether direct or indirect with members of the Sub-committee concerning the application.

#### **6. LOBBYING**

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- 6.1** Councillors may be approached or lobbied by an applicant, councillor, agent or objector about a particular licensing application. Lobbying is a normal and perfectly proper part of the political process but it does not sit well with the quasi judicial nature of the Licensing Sub-committee when a councillor must enter the meeting with an open mind and make an impartial determination on the relative merits of all the evidence presented at the hearing. Being lobbied in advance of the meeting is incompatible with this high standard.
- 6.2** If a member is approached, he or she should advise the lobbyist to address any comments or concerns to the Head of Law and Governance. In no circumstances should a councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would

be unfair and Disclosable pecuniary. A councillor who feels that he or she has been exposed to undue or persistent lobbying should advise the Monitoring Officer.

**6.3 Other councillors should not lobby members of the Licensing Sub-committee, directly or indirectly, about issues which are due to be determined by the Licensing Sub-committee.**

**6.4 When attending a public meeting at which a licensing issue is raised, a member of the Licensing Sub-committee should take great care to maintain an impartial role and not express a conclusive view on any pre-application proposals or submitted application.**

**6.5 Correspondence received by any member of the Council (whether on the Licensing Sub-committee or not), should be passed without delay to the Chief Executive so that all relevant views can be made available to those councillors or officers responsible for determining the application. A reply by a councillor should, as a rule, simply note the contents of the correspondence and advise that it has been passed to officers.**

## **7. DISCUSSIONS BEFORE THE HEARING**

**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 Code of Conduct for Members and the Council's Member/Officer Protocol gives advice on the declaration of interests.**

**8.2 Where interests arise, the member must declare these in accordance with this Code of Conduct.**

**8.3 It is important that all councillors are familiar with the Code of Conduct for Members. Where in relation to any item any councillor has a Disclosable Interest in an application (as defined in the Code), this must be declared at**

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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 Subcommittee is its full compliment of 3 members and a late declaration of a Disclosable pecuniary interest may leave the meeting inquorate and unable to proceed.

**8.4** Where a member is in any doubt about whether they have an interest, they may always seek the advice of the Council's Monitoring Officer or legal advisor at the meeting, disclosing all material facts. Whenever possible, advice should be taken before meetings. Ultimately however, the duty to declare and the decision as to whether an interest should be disclosed rests with the elected member concerned.

## **9. PRE-DETERMINATION AND BIAS**

**9.1**The right to a fair and unbiased hearing (particularly in the light of the Human Rights Act 1998) is a general legal requirement and applies to licensing decision making in addition to the Code of Conduct for Members.

**9.2**Whilst the Localism Act 2011 provides for councillors to take a more proactive stance in relation to local issues, councillors must attend Sub-committee meetings with an open mind and only determine applications on the basis of the evidence and representations made to them at the hearing. If a councillor fails to determine an application on this basis it may amount to bias and to a breach of their obligations under the Code of Conduct.

**9.3** The suggestion of any bias may put the Council at risk of a finding of maladministration and it could also lead to legal proceedings for bias or a failure to take into account all factors enabling the proposal to be considered on its merits.

**9.4** There is a general acceptance that a member may consider matters in several capacities as different factors may apply to different decisions. However, given the size of Licensing Sub-committee and the proportionately greater influence an individual member will have, members should exercise caution in such situations, as it may preclude them from taking part in a licensing hearing.

## **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 Code of Conduct for members states that a Councillor with a Disclosable Pecuniary Interest cannot act as a representor where that interest relates to himself/herself, a member of his/her family or a close associate. A member may, however, act in a private capacity in such circumstances provided that it is made clear to the Committee that the member is exercising his/her private rights.**
- 12.9 A Councillor who is not on the Committee but who is at one of its meetings in his/her professional capacity should sit apart from the Committee or Sub-committee to demonstrate that he/she is not taking part in the discussion or determination unless his/her presence in that capacity would be a breach of the obligations of the Code of Conduct, for example, influencing a decision by presence. If the Councillor is attending in his/her private capacity as a member of the public, this should be made clear to the Committee and his/her rights are the same as those afforded to any member of the public.**
- 12.10 Councillors who are opposed in principle to any category of application or alcoholic liquor, form of entertainment or gambling, either in their own Ward or District wide should not seek nomination to the Committee.**

## **5.11 PROCEDURE AND RESOLUTION OF DISPUTE/CONFLICT BETWEEN OFFICERS AND MEMBERS**

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### **INTRODUCTION**

**This procedure has been developed as a quick and largely informal way of resolving disputes or conflict between officers and members. This procedure does not preclude the existing rights of the parties to initiate the Council's grievance or disciplinary procedures. It aims to foster mutual respect and courtesy and to develop good working relationships between officers and members. It will be conducted in private and will examine under performance or mistakes in a developmental way without attributing blame.**

### **THE PROCEDURE**

**Both councillors and officers shall have regard to the existing codes of conduct as setting clear ground rules on behaviour.**

**This procedure should be seen as additional to rather than as a substitute for the Council's existing grievance or disciplinary procedures. Any party may wish to be accompanied during part or the whole of the process.**

**In addition it does not preclude the involvement of external agencies in appropriate circumstances.**

**It will be expected that before the procedure is implemented that the parties to the dispute/conflict will have met to identify in writing specifically what the difference is and to discuss the matter in a meaningful way with a view to resolving the difference (where this is reasonably practical).**

**In the event that a difference cannot be resolved the Chief Executive shall be informed as soon as possible.**

**The Chief Executive shall notify the Leader of the Council and the appropriate Head of Service or Team Manager without delay.**

**The Head of Service or Team Manager shall convene a meeting ideally within 2 days between the two parties to the dispute and him or herself.**

**Where the dispute is between a Head of Service and a member the meeting shall take place between the two parties together with the Strategic Director of Place/Director of Housing and Customer Services or Chief Executive and the Leader of the Council.**

**Where there is a conflict between the Chief Executive and a member, the Leader shall be involved.**

**Any meetings shall encourage a full and frank exchange of views in a professional manner in an endeavour to resolve the conflict.**

**In the unlikely event of the matter not being resolved as above it will be referred to the Chief Executive and the Leader of the Council to try and break the deadlock. Should the matter remain unresolved it shall be open to the parties to initiate the Council's formal grievance or disciplinary procedures as appropriate.**

## **5.12: MONITORING OFFICER PROTOCOL**

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### **Rule Subject**

- 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**

## **5.8 MONITORING OFFICER PROTOCOL**

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### **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 Authority on any proposal, decision or omission by the Authority (or a Committee or Sub-committee, or a Joint Committee on which the Authority is represented) or an officer of the Authority, which has given rise to, or is likely or would give rise to:**

- (a) a contravention of law or any code of practice made or approved by or under any enactment; or**
- (b) such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974, i.e. in connection with action taken by or on behalf of the Authority, in exercise of the Authority's administrative functions.**

**It is the Monitoring Officer's duty to consult with both the Head of Paid Service and the Section 151 Officer during the preparation of a report and as soon as practicable after its preparation to arrange for a copy of it to be sent to each member of the Authority. The Monitoring Officer is bound to perform all of his or her duties personally, save that during absence or illness, a deputy nominated by him or her may undertake them.**

**1.4 Where there are town and parish councils within unitary and district authorities, other obligations are placed upon the Monitoring Officer. The protocol does not focus on these aspects.**

**1.5 In general terms, the Monitoring Officer's ability to discharge his or her duties and responsibilities will depend, to a large extent, on members and officers:**

- complying with the law (including any relevant Codes of Conduct);**

- **complying with any general guidance issued, from time to time, by the Audit and Governance Committee and the Monitoring Officer;**

- making lawful and proportionate decisions; and
- generally, not taking action that would bring the Council, their Officers or professions into disrepute.

## **2. WORKING ARRANGEMENTS**

### **2.1 Having excellent working relations with members and officers will assist in the**

**discharge of the statutory responsibilities of the Monitoring Officer and maintaining high standards of conduct, governance and legal compliance. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.**

### **2.2 Having effective working liaison and relationships with the Audit and**

**Governance Committee (and its members), the External Auditor and the Local Government Ombudsman will also assist in the discharge of those statutory responsibilities. This will include having the authority to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary.**

## **3. MONITORING OFFICER'S RIGHTS**

### **3.1 The following arrangements and understandings between the Monitoring**

**Officer, members and officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will have the right to:**

- be advised by members and officers of any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, policy, procedural or other constitutional issues that are likely to (or do) arise;**
- access to any meetings of officers or members (or both) of the Authority, whether or not such meetings include any other persons (for the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council);**
- receive advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision of the Council may be made formulated or briefed upon (including a failure to take a decision where one should have been taken) at or before the Council, committee meetings and/or Corporate Leadership Team (or equivalent arrangements);**

**(d) require when carrying out any investigation(s):**

- (I) **such advice and assistance from the Authority that he or she considers is reasonably needed to assist him or her,**
  - (ii) **unqualified access to any officer or member who the Monitoring Officer wishes to make inquiries of or who he or she believes can assist in the discharge of his/her functions, and**
  - (iii) **any information and documents held by the Council;**
- (e) **disclose information and documents to the appropriate and relevant authority (even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the Authority);**
- (f) **ensure or facilitate that the other statutory officers (Head of Paid Service and Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;**
- (g) **meet with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;**
- (h) **report on ethical governance issues and on the Constitution following consultation, where appropriate, with the Head of Paid Service and Section 151 Officer;**
- (i) **report to the Council as necessary on the staff accommodation and resources he/she requires to discharge his/her statutory functions and to be provided with the same;**
- (j) **obtain legal advice on any matter which he/she believes may be a reportable incident, at the Authority's expense;**
- (k) **defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved, subject to any necessary consultation with all or any of Head of Paid Service, Section 151 Officer, the Chairman of the Council, Leader, Deputy Leader and the Audit and Governance Committee;**
- (I) **notify (after consultation with the Head of Paid Service and the Section 151 Officer) the police, the Authority's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;**
- (m) **seek to resolve potential reportable incidents by avoiding or rectifying the**

**illegality, failure of process or breach of code, or by identifying alternative and**

legitimate methods to proceed whilst retaining the right to make a statutory report where, after consultation with the Head of Paid Service and the Section 151 Officer, he/she is of the opinion that such is necessary in order to respond properly to such an incident;

- (n) prepare any training programme for members or officers on ethical standards and Code of Conduct issues.
- (o) To make reports to and receive reports from the Audit and Governance Committee, subject (where appropriate) to consultation with the Head of Paid Service and the Section 151 Officer.

#### **4. PROPER OFFICER**

##### **4.1 Councils may place "Proper Officer" and other obligations on the Monitoring**

**Officer, through the Council's Constitution and elsewhere, but these are delegated functions of the Authority rather than personal duties under statute. Whilst the exercise of these functions equally require good working arrangements, they differ slightly from authority to authority. For the sake of commonality and clarity of the protocol, they are not directly addressed here.**

##### **4.2 The Proper Officer list is contained at Part 3, Section 8 of the Council's Constitution.**

#### **5. CONFLICTS OF INTEREST**

##### **5.1 Where the Monitoring Officer is aware he/she has a potential conflict of interest he/she shall refer the matter to the Deputy Monitoring Officer or another appropriate party (and report to the Head of Paid Service and/or the Authority as appropriate).**

#### **6. INSURANCE AND INDEMNITY ARRANGEMENTS**

##### **6.1 The Section 151 Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.**

#### **7. BREACH OF THIS PROTOCOL**

##### **7.1 Complaints against any breach of this protocol by a member may be:**

- dealt with informally by the Monitoring Officer or
- referred to the Audit and Governance Committee as appropriate by the Monitoring Officer (or if the Monitoring Officer so requests, referred to the Head of Paid Service) or

- **referred to the relevant Leader and/or whip of the political group.**

**7.2 Complaints against any breach of this protocol by an officer may be referred to the Head of Paid Service for assessment.**

**8. POST OF MONITORING OFFICER**

**8.1 For the purposes of this protocol, the term "Monitoring Officer" includes:**

- **any person nominated by the Monitoring Officer as a Deputy Monitoring Officer for the purposes of Section 5(7) of the Local Government and Housing Act 1989; and**
- **any person nominated under the provisions of Section 82A(2) or (3) of that Local Government Act 2000 to perform any function.**

**SCHEDULE**

**SUMMARY OF MONITORING OFFICER FUNCTIONS**

	<b>Description</b>	<b>Source</b>
1.	<b>Report on contraventions or likely contraventions of any enactment or rule of law.</b>	<b>Section 5 Local Government and Housing Act 1989.</b>
2.	<b>Report of any maladministration or injustice where Ombudsman has carried out an investigation.</b>	<b>Section 5 Local Government and Housing Act 1989.</b>
3.	<b>Appointment of Deputy.</b>	<b>Section 5 Local Government and Housing Act 1989.</b>
4.	<b>Report on resources.</b>	<b>Section 5 Local Government and Housing Act 1989.</b>
5.	<b>Investigate allegations of misconduct of councillors under the Authority's Code of Conduct in compliance with the Council's</b>	<b>Localism Act 2011 Section 28 and associated regulations and guidance.</b>
6.	<b>Establish and maintain registers of members' interests and gifts and hospitality.</b>	<b>Section 29 of the Localism Act 2011 and Code of Conduct for Members.</b>
7.	<b>Advice to members on interpretation of Code of Conduct.</b>	<b>Code of Conduct for Members.</b>

	Description	Source
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	New Council Constitutions Guidance paragraph 8.21.
11.	Refer relevant matters to the Audit and Governance Committee (or its Sub-committees) for initial	Council's adopted arrangements under Section 28 of Localism Act 2011.
12.	Advise on any indemnities and insurance issues for	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

The officer holding the designation Monitoring Officer also holds certain Proper Officer appointments as detailed in the Constitution.

# PART 6

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## MEMBERS' ALLOWANCE SCHEME

## **OADBY AND WIGSTON BOROUGH COUNCIL SCHEME OF MEMBERS' ALLOWANCES – 2018/19**

Oadby and Wigston Borough Council, in exercise of the powers conferred by the Local Authorities' (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:-

1. This scheme may be cited as the Oadby and Wigston Borough Council Members' Allowances Scheme and shall have effect for the period from 10 May 2018 to 9 May 2019.
2. In this Scheme,  
"Councillor" means a member of the Oadby and Wigston Borough Council who is a Councillor  
"Year" means the period ending with 9 May 2019.

### **Basic Allowance**

3. Subject to paragraph 6, a Basic Allowance of **£4,750** shall be paid to each Councillor.

The Basic Allowance is intended to recognise the time devoted by Councillors to their work, including their community representative role, and to cover some incidental expenses incurred by them.

### **Special Responsibility Allowances**

4. (1) A Special Responsibility Allowance shall be paid to those Councillors (in addition to the Basic Allowance) who hold the special responsibilities in relation to the Authority that are specified in Schedule 1 to this Scheme.
- (2) Subject to paragraph 6, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.
- (3) That Councillors be permitted to claim no more than two Special Responsibility Allowances. Where it appears to a Councillor that this policy has brought about an inequitable situation, that person may appeal to have the matter reviewed, to the independent Adjudication Panel (see paragraph 6 (7) post).
- (4) The Chief Executive, in consultation with the Leader of the Council and having regard to the guidance provided at Schedule 3 below, be authorised to approve the attendance of Councillors at appropriate events where they would be representing the Council and to make payment of special responsibility attendance allowance and any other relevant travel and subsistence expenses covered by the Scheme for the relevant period of absence from home, providing that authority for attendance is given by the Chief Executive in advance of the event taking place.

## **Claiming of Allowances**

- 5.** A Councillor may by notice in writing given to the Head of Law & Governance decline to claim any part of his or her entitlement to an allowance under this Scheme.

## **Part-Year Entitlements**

- 6. (1)** The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances to a Special Responsibility Allowance where, in the course of the 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.
- (2)** 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 to a Special Responsibility Allowance, then in relation to each of the periods
  - (a)** beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
  - (b)** beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.
- (3)** 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 or her term of office subsists bears to the number of days in that year.
- (4)** Where this Scheme is amended as mentioned in sub-paragraph (2) above, and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a) above, the entitlement of any such Councillor to a Basic Allowance shall be to the payment of such part of the 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 which his or her term of office as a Councillor subsists bears to the number of days in that period.
- (5)** Where a Councillor has during part of, but not throughout, a year special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to the payment of

such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.

- (6) Where this Scheme is amended as mentioned in sub-paragraph (2) above, and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2)(a) of that paragraph any such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's or Independent Person's entitlement shall be to the 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 or she has such special responsibilities bears to the number of days in that period.
- (7) A meeting of an Adjudication Panel comprising the Chief Executive, a member of the Independent Remuneration Panel and a senior Councillor, be called to consider and decide upon any issue of uncertainty or ambiguity that might arise in interpretation of the Scheme.

### **Travelling and Subsistence Allowances**

7. Councillors may claim Travelling and Subsistence Allowances in respect of the following categories of meetings, subject to them being held outside the Borough, at the rates prescribed in Schedule 2 to this Scheme.
- Conferences and meetings where attendance is authorised by the Council, a Committee or by the Chief Executive
  - Outside Bodies to which the Councillor has been appointed by the Council, a Committee or by the Chief Executive

Note: Councillors may not claim Travelling and Subsistence Allowances in respect of any meetings held inside the Borough. Allowance for such expenses is reflected in the basic allowance.

### **Childcare and Dependant Carers' Allowance**

8. Childcare and Dependent Carers' Allowances be paid for the actual receipted cost incurred to a Councillor, providing this does not exceed £10 per hour. The Allowances to cover attendance at any meeting of the Council for which the Councillor is a member or for attendance at any meeting of an outside body for which the Councillor is attending that meeting as a representative of the Council.

### **Claims**

10. Claims for the payment of Travelling and Subsistence Allowances under this Scheme must be made on the official forms provided within two months of the date on which the meeting took place.

These forms are available from the Chief Executive's Office.

## **Payments**

- 11.** Payments shall be made in respect of Basic and Special Responsibility Allowances, subject to paragraph 6(2), in installments of one-twelfth of the amount specified in this Scheme direct into Councillor's bank/building society account on the 25<sup>th</sup> day of each month or as close thereto as is possible.
- 12.** Where a payment of one-twelfth of the amount specified in this scheme in respect of basic allowance or a special responsibility allowance would result in a Councillor receiving more than the amount to which, by virtue of paragraph 6, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## **Suspension**

- 13.** All allowances will be withheld from any Councillor who has been suspended and any allowance paid must be reimbursed with the exception of any payment in arrear in respect of entitlement prior to the time of suspension.

## **Updating**

- 14.** This Scheme shall be updated on 10 May 2018 in line with the level of the Retail Price Index in any year when there is no independent review.

## Schedule 1

### Special Responsibility Allowances

A Special Responsibility Allowance at the amount specified below shall be paid per annum to those Councillors who have the special responsibilities in relation to the Council as specified below:-

	SRA (£)
Leader of the Council	10,000
Deputy Leader of the Council * halved where shared	2,500*
Leader of the Opposition Group # pro rata based on the total membership of groups where applicable	2,500#
Chairman of Policy, Finance & Development, Service Delivery, Development Control	3,500
Vice Chairman of Policy, Finance & Development, Service Delivery, Development Control	1,150
Chairman of Council (Mayor)	3,500
Vice Chairman of Council (Deputy Mayor)	1,000
Chairman of Licensing & Regulatory Committee	2,500
Vice Chairman of Licensing & Regulatory Committee	1,000
Generic Task Group Chairman Allowance (pro rata if the Group disbands)	1,000
Change Management Committee Chairman	1,000
Community Engagement Forum Chairman	1,000
Children and Young Peoples' Forum Chairman	1,000
Community Safety Partnership Chairman (where it is a Member of the Council)	1,000
Place Shaping Working Group Chairman	1,000
Health and Wellbeing Board Chairman	1,000
Residents' Forum Chairman(s)	1,000
Members Standards Complaints – Adjudication Panel (up to 4 hours*, over 4 hours** per attendance)	50* or 100**
Member of Licensing Panel (up to 4 hours*, over 4 hours** per attendance)	30* or 60**
Member of Internal Interview Panel (up to 4 hours*, over 4 hours** per attendance)	50* or 100**
Representative on Outside Body (up to 4 hours*, over 4 hours** per attendance)	30* or 60**

**NOTE:** Where daily rates are paid, time to be calculated from time when leaving home to time when returned to home.

## Schedule 2

### Travelling and Subsistence Allowances

#### A. Travelling

1. Motor Car – 52.2p per mile regardless of engine size \*  
Motor Car Passengers - 3.0p per mile for the first passenger and 2.0p per mile for the second and subsequent passengers up to 4 (to whom a travelling allowance would otherwise be payable)
2. Motor Cycle - 26p per mile
3. Bicycle - 10p per mile
4. Toll, ferry and parking fees (including overnight garaging) - actual cost on production of a receipt
5. Taxis - actual fare (plus reasonable gratuity) either in case of urgency or where no public transport is reasonably available
6. Public Transport - second class or any available cheap day fare unless there are exceptional circumstances approved by the Chief Financial Officer for first class fare.

\*Mileage rate for Council officers.

#### B. Subsistence

1. Absence not involving absence overnight – up to the following limits on production of a receipt
  - (a) Breakfast (leaving home before 7.30am) £ 6.50
  - (b) Lunch (absent between 12 noon and 2pm) £ 8.00
  - (c) Tea\* (arriving home after 5.30pm) £ 6.00
  - (d) Evening Meal\* (arriving home after 8.30pm) £12.00

\*only one of these may be claimed

2. Absence overnight covering continuous period of 24 hours – reasonable cost of accommodation and meals on production of a receipt
3. Main meals on trains (i.e. breakfast, lunch or dinner) - reasonable cost (inc. VAT) on production of a receipt (in lieu of the subsistence allowance for the appropriate meal period)

## Schedule 3

### **GUIDANCE FOR USE OF DELEGATED POWERS BY CHIEF EXECUTIVE IN RESPECT OF MEMBERS CONFERENCES/SEMINARS/MEETINGS**

#### **Introduction**

1. Under the Scheme of Delegation, the Chief Executive has been granted delegated authority, in consultation with the Leader of the Council, to approve attendance by Members at conferences, seminars or meetings which have not previously been approved by the Council.
2. In exercising his/her delegation the Chief Executive must have regard to these guidelines.

#### **Guidelines**

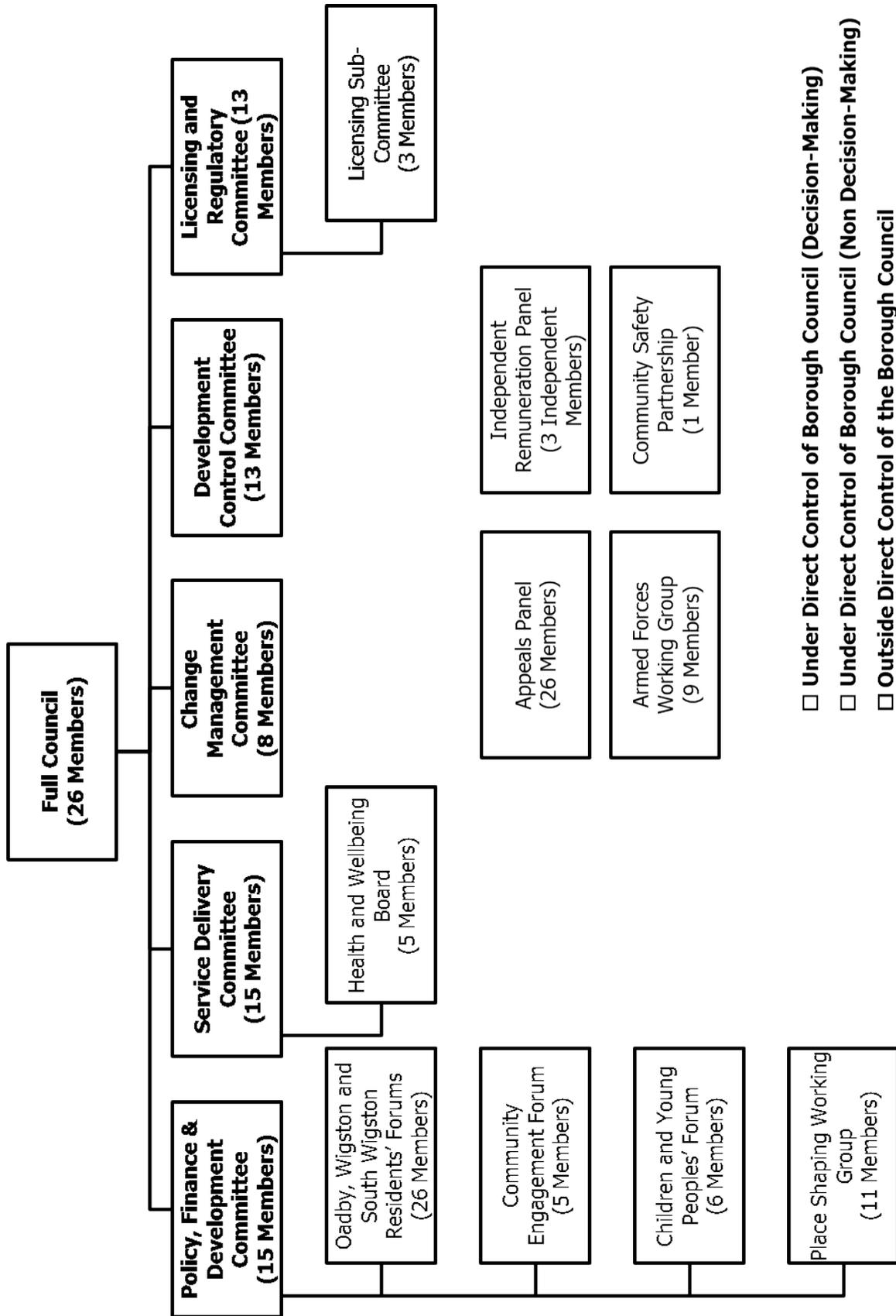
3. The Chief Executive must ensure that there is sufficient budgetary provision taking into account:-
  - a) The financial provision required for the support and development needs of all Members for the financial year in question.
  - b) The cost and quality of the seminar/conference/meeting where applicable.
4. The Chief Executive must ensure that:-
  - a) The meeting/conference/seminar is relevant to the Member's role and responsibilities at the Council, (i.e. by virtue of membership of a Committee, Sub Committee, Task Group, Panel or Outside Body) or, his/her position as Chairman or Vice-Chairman of a Committee, Sub-Committee, Task Group, Panel or Outside Body, OR
  - b) Attendance would be beneficial to the Council or non-attendance would be prejudicial to the Council or its standing in the wider community, OR

The conference/seminar/meeting provides necessary or relevant training or education to the Member in his or her capacity as a Borough Councillor.

# PART 7

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## COMMITTEE STRUCTURE



# PART 8

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## MANAGEMENT & DEPARTMENTAL STRUCTURE

