

<u>Area of Review</u>	<u>Proposal and Rationale</u>	<u>Sections of the Constitution to be revised</u>
<b>Strategic Alliance Joint Committee – Terms of Reference</b>	<p>At its meeting on 21st May 2018, Executive considered and endorsed a Scrutiny report in relation to a review carried out on the Strategic Alliance Joint Committee by the Customer Service &amp; Transformation Scrutiny Committee.</p> <p>The Scrutiny report set out various recommendations of which one was that the Terms of Reference for the Strategic Alliance Joint Committee was reviewed to ensure that the Committee’s remit remained fit for purpose and was monitoring and developing the work of the Alliance.</p> <p>The Scrutiny report was further considered by the Strategic Alliance Joint Committee on 12<sup>th</sup> June 2018 and it was agreed that the Terms of Reference be revised with a number of amendments being made.</p>	<p><b>Part 3 - Responsibility for Functions</b></p> <p><b>Page 59 of the Current Version</b></p>
<b>Threshold for consideration of tenders by Executive</b>	<p>The proposal is to align the threshold for the requirement for tenders to be submitted to Cabinet with the thresholds for Key Decisions. Currently the threshold for tenders to be determined by Cabinet is £50,000. This was set at the same time as the Key Decision threshold.</p> <p>There is no legal basis on which to determine the level of tenders that must be determined by Executive, however, the level of key decisions is considered to be the appropriate level. As tenders will relate to revenue expenditure, the threshold would be £75,000.</p>	<p><b>Executive Function (18) within Part 3 The Functions Scheme (On page 28 of the current version)</b></p> <p>The Contract Procedure Rules would also need to be amended to reflect this change</p>

<p><b>The Council's Governance arrangements for discharging its Licensing responsibilities</b></p>	<p>Different authorities have responded to the need for specific Licensing Act and Gambling Act governance arrangements in a variety of ways. A common approach has been to simply establish two committees, covering the different legal strands of responsibility.</p> <p>It is proposed that Council be asked to do this by establishing a 'General Licensing Committee', which would deal with taxi and scrap metal licensing etc. and a 'Licensing and Gambling Acts Committee', with responsibility for licensed premises and club / gaming machine permits etc.</p> <p>It is important to ensure that the different aspects of licensing continue to be dealt with holistically under the new governance arrangements. For this reason it is recommended that both committees have the same membership of 15 Members, so that their Members can continue to oversee all aspects of the licensing function.</p> <p>In practice, the committees would meet two or three times a year on the same date. The General Licensing Committee would take place first, followed immediately by the Licensing and Gambling Acts Committee. Consequently, it would continue to feel like a single meeting.</p> <p>The functions of the new committees would have to be incorporated in to the Council's Constitution: It is suggested that the functions of the General Licensing Committee be:</p> <ul style="list-style-type: none"> <li>(a) To consider all licensing matters not covered by the Licensing Act 2003 and the Gambling Act 2005, including Private Hire and Hackney Carriage Drivers, Vehicles and Operators;</li> <li>(b) To make any minor changes and updates to the Council's Hackney Carriage and Private Hire Vehicles, Drivers and Operators Policy following adoption by Council;</li> <li>(c) To make any minor changes and updates to other relevant licensing policies as required</li> </ul>	<p><b>Part 3 – Responsibility for Functions</b></p> <p><b>Page 37 in current version.</b></p>
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	<p>It is also suggested that the functions of the Licensing and Gambling Acts Committee be:</p> <ul style="list-style-type: none"> <li>(a) To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005;</li> <li>(b) To make any minor changes and updates to the Statements of Policy under both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements;</li> <li>(c) To recommend to Council to resolve whether to issue a Casino Licence.</li> </ul> <p><b>Sub Committee Arrangements</b></p> <p>Both of the new committees would have their own sub-committees, which would discharge specific responsibilities of the parent committees.</p> <p>The General Licensing Sub-Committee (which is likely to face an ongoing high volume of taxi licensing work) will meet monthly – as the current Licensing Sub-Committee (Taxis) generally does. These meetings would be included in the Council’s schedule of meetings. The Licensing and Gambling Acts Sub-Committee, by contrast, would have a far more limited workload and therefore meet less frequently. Its meetings would be organised as and when required.</p> <p>Again, The functions of the sub-committees would have to be incorporated into the Council’s constitution. It is suggested that the functions of a General Licensing Sub Committee be:</p> <ul style="list-style-type: none"> <li>(a) To consider all hackney carriage and private hire licensing issues which are referred to it;</li> </ul>	
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	<ul style="list-style-type: none"><li>(b) To consider matters concerning the discharge by the Council of its licensing function under the Local Government (Miscellaneous Provisions) Act 1982 (as amended);</li><li>(c) To consider scrap metal sites and operators licences.</li></ul> <p>The suggested functions of a Licensing and Gambling Acts Sub-Committee should be:</p> <ul style="list-style-type: none"><li>(a) To consider matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003;</li><li>(b) To consider matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005.</li></ul>	
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<p><b>Joint Employment Committee and Joint Appeals Committee</b></p>	<p>Proposals had been put to Council for the JEC and the JAC to amalgamate to form a Joint Employment and Appeals Committee (JEAC). The JEAC would be set as an 8 Member Committee (4 from each council (BDC/NEDDC) and appointing the additional Executive Member representative to the Committee).</p> <p>The rationale for the change is that in the current arrangements, any appeal against a decision by the JEC would be made by the JAC. The JACs membership also comprises both council leaders and deputies and the Leader of the principal opposition in each Council. An appeal cannot be heard by the same Members that heard the original disciplinary or capability case so revised arrangements are required.</p> <p>Further, amendment to the Scheme of Delegation to officers is also proposed to enable dismissal decisions regarding members of SAMT to be made by the Chief Executive Officer, or the Strategic Directors in his absence. The would amend paragraph 10.28 (ii) as follows:</p> <p style="text-align: center;"><i>To determine all staffing matters including but not limited to:</i></p> <p style="text-align: center;">...</p> <p style="text-align: center;"><i>(ii) the appointment, dismissal, suspension, or discipline of staff, save that in relation to the Chief Executive Officer, Strategic Directors and Heads of Service, this does not include the appointment and, <b>in the case of statutory officers</b>, their dismissal.</i></p> <p>This has the effect of removing the power to dismiss statutory officers only from the delegation, leaving all other dismissal decisions within the scope of the power.</p> <p>Standards Committee had considered the proposals on the 11<sup>th</sup> March 2019 and had recommended putting in place the proposed arrangements on a temporary basis pending a formal review as part of the Review of the</p>	<p><b>Part 3 Responsibility for Functions – Joint Employment Committee (Page 61 of the current version).</b></p> <p><b>Part 4.10</b></p>
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	<p>Constitution in 2019/2020. In addition, UECC had considered the proposals on the 25<sup>th</sup> March and concurred with the views of the Standards Committee.</p>	
<p><b>Councillors' Conduct – Speaking at Meetings</b></p>	<p>It is proposed that the procedure rules for Councillors when they speak at Council meetings be revised to require Councillors to state their name before speaking and also to use the microphones. It is also proposed that the requirement to stand be removed.</p> <p>Requiring Councillors to state their names before speaking would assist the public and all Members in following the meeting. It is also important for Members to use the microphones to ensure that they can be heard by all participants and observers in the meeting.</p> <p>The requirement for Members to stand could also be considered as discriminatory against Members with a disability or mobility problems, who may struggle to stand, particularly if they need to stand and sit down at regular intervals during a meeting.</p> <p>Council Procedure Rule, rule 21.1, would be amended as follows:</p> <ul style="list-style-type: none"> <li>• When a Councillor speaks at Council, <b>firstly they should announce their name and Ward or Cabinet Portfolio (if more appropriate), and he/she must address the meeting through the Chairman and stand where possible.</b></li> </ul>	<p><b>Part 4 – Council Procedure Rules – Rule 21.1</b></p> <p><b>(Page 91 of the current version)</b></p>

<p><b>Recording of Executive Decisions to reflect Key Decision Limits</b></p>	<p>The proposal is to align the threshold for the reporting of officer decisions with the thresholds for Key Decisions. There are statutory requirements for local authorities to publish records of officer decisions in order to promote transparency. The regulations state that officer decisions must be recorded in circumstances that ‘materially affect the [Council’s] financial position’. The Access Procedure Rules currently state that the threshold above which decisions need to be recorded and published is £50,000.</p> <p>The regulations regarding Key Decisions state that a key decision is one which is likely to incur expenditure or make savings which are ‘significant having regard to the Council’s budget for that service or function’.</p> <p>It is considered that these two definitions should be interpreted as the same threshold and therefore it is proposed that the requirements to record and publish officer decisions will only be triggered where the following thresholds are met or exceeded:</p> <ul style="list-style-type: none"> <li>• Revenue - £75,000</li> <li>• Capital - £150,000</li> </ul> <p>This will provide a simpler set of rules for officers to follow rather than having different thresholds for different procedures and processes.</p> <p>Records will still be maintained of decisions below these levels as required.</p>	<p><b>Part 4.2, paragraph 4.2.20 of the Access to Information Rules</b></p> <p><b>(Page 100 of the current version)</b></p>
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<p><b>Budget and Policy Framework Rules – Inclusion of informing Portfolio Holders</b></p>	<p>A request has been made for the relevant Portfolio Holder to be informed in the following circumstances:</p> <p><u>Decisions outside the Budget or Policy Framework:</u>  4.3.4 (2) – If the Executive and any officers, area committees or joint arrangements discharging functions want to make such a decision, they shall take advice from the Monitoring Officer, the Chief Finance Officer and the Head of Paid Service as to whether the decision they want to make would be contrary to the Budget and Policy Framework, or contrary to or not wholly in accordance with the Budget <b>AND INFORM THE RELEVANT PORTFOLIO HOLDER.</b></p> <p><u>Virements:</u>  4.3.6 - Once a budget has been approved, Executive or budget managers shall be entitled to vire across budget heads within the budget framework with the exception of salary related budgets <b>AND REQUIRED TO INFORM THE RELEVANT PORTFOLIO HOLDER WHEN THE VIREMENT IS IN EXCESS OF £25,000.</b> Virements from salary related budgets can only be utilised for the use of agency and consultancy work necessary to maintain agreed service levels. Managers within the Accountancy Section shall be entitled to vire budgets for housekeeping purposes within each service area.</p> <p>4.3.6 (2) - No officer may vire funds from the Transformation Reserve, authorisation of which is restricted to the Section 151 Officer.</p>	<p><b>Part 4.3 Budget and Policy Framework</b></p> <p><b>(pages 103 and 104 in current version)</b></p>
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<p><b>Procurement Rules – Inclusion of informing Portfolio Holders</b></p>	<p>A request has been made for the relevant Portfolio Holder to be informed in the following circumstances:</p> <p><u>Engagement of Consultants:</u> 1.8.12 (4) - Procurement plans and/or tenders prepared by external consultants on behalf of the Council <b>must</b> be referred to the Monitoring Officer, Chief Finance Officer, for approval and advice <b>AND THE RELEVANT PORTFOLIO HOLDER INFORMED.</b></p>	<p><b>Part 4.8 Procurement Rules</b></p> <p><b>(page 146 in current version)</b></p>
<p><b>Scheme of Delegation for officers</b></p>	<p>A request has been made for the following amendments to this section of the Constitution:</p> <p><u>Introduction:</u> 4.10.1 (1) – Removal of mention of NEDDC 4.10.1 (4) - Officers shall <b>MUST</b> consult the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this.</p> <p><u>Transfer of Functions:</u> 4.10.7 (2) - Where a service is restructured, the Chief Executive Officer shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer <b>AND INFORM THE RELEVANT PORTFOLIO HOLDER.</b></p> <p><u>Chief Executive’s Delegations:</u> 4.10.10 (2) - To take such action as he/she considers appropriate in an emergency following consultation with the Leader and/or Deputy Leader as he/she considers the circumstances will allow <b>AND, WHERE APPLICABLE, INFORM THE RELEVANT PORTFOLIO HOLDER.</b> Any decisions taken under this paragraph shall be reported by the Chief Executive Officer to the next meeting of Council explaining the reasons for the decision.</p>	<p><b>Part 4.10 Scheme of Delegation for officers</b></p> <p><b>(pages 155, 157, and 160 in the current version)</b></p>

	<p>4.10.10 (5) - If there is an urgent need for a commercial decision, the Chief Executive Officer, following consultation with the Leader and/or Deputy Leader <b>AND THE RELEVANT PORTFOLIO HOLDER</b> shall make the decision and endorsement will be sought from the Executive or Council as appropriate.</p>	
<p><b>Section 151 Officer Delegations</b></p>	<p>Amendments to the delegation scheme are suggested so as to ensure that the Section 151 Officer has some authority over expenditure from the Transformation Fund and so that the use of earmarked reserves are restricted to authorisation by the Section 151 Officer. This in practice would be as simple as adding the S151 as a signatory on Delegated Decisions of this nature.</p> <p>The changes to the constitution are proposed to be:</p> <p>1 – addition of a further restriction to delegations to Heads of Service (page 157) as follows:</p> <p><b>(5) Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Financial Regulations. The use of the Invest to Save Reserve (NEDDC) or the Transformation Reserve (BDC) can only be authorised by the Section 151 Officer.</b></p> <p>2 – amendment to general powers delegated (page 159):</p> <p>9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate <b>where expenditure is within approved budgets.</b></p> <p>9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property <b>where expenditure is within approved budgets.</b></p>	<p><b>Scheme of Delegation for Officers</b></p> <p><b>(page 155 - 175)</b></p>

	<p>3 – to add a new delegation for the Section 151 (page 168):</p> <p><b>13.10 To authorise the use of earmarked reserves (Invest to Save Reserve – NEDDC or Transformation Reserve – BDC).</b></p>	<b>Budget and Policy Framework Rules (page 104)</b>
<b>Proper Officer Provisions - Elections</b>	The Scheme of Delegation for officers under the Representation of the People’s Act 1983 currently delegates to the Elections Manager for NEDDC only the role of Deputy Acting Returning Officer for a Parliamentary Election. This is an oversight and will need to include the Elections Manager for BDC.	<b>Part 4.10 Scheme of Delegation – Representation of the People’s Act 1983 S.24 (page 172 of the current version)</b>
<b>Proper Officer Provisions</b>	A number of the regulations specified under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 relating to Proper Officer Provisions were not titled correctly within the Constitution and several of the regulations that had Proper Officer Provisions had been omitted from the lists detailed at pages 170 to 175 of the Council’s Constitution.	<b>Part 4.10 Pages 170-175 of the current version.</b>
<b>Social Media Guidance for Councillors</b>	<p>The introduction of a guidance document for Social Media for Councillors would give helpful suggestions and clarification to Members on how they should conduct themselves on the use of Social Media.</p> <p>The Council currently did not issue any guidance on the use of Social Media for Councillors and with Social Media increasingly becoming a more popular form of communication for Elected Members to engage with residents, there was a need for guidance to enable protection for both Councillors and the Authority.</p>	<b>Part 5 – Codes and Protocols</b>

	<p>It was noted that this was not a formal policy nor protocol but a document based on best practice designed to encourage the use of Social Media sensibly.</p> <p>The draft social media guidance for Councillors can be summarised as follows:-</p> <ul style="list-style-type: none"> <li>(a) The guidance is designed to encourage the use of social media sensibly and responsibly and to ensure that use does not adversely affect the Council or its business, nor be damaging to the Councils reputation and credibility or otherwise violate any council policies.</li> <li>(b) The guidance is to advise Councillors with particular regard to issues such as standards, libel, copyright, data protection, bias and pre-determination as well as encouraging good manners online.</li> <li>(c) The guidance makes explicit reference to how aspects of the Code of Conduct for Members will apply to online activity in the same way as they do to any other councillor's use. This is important especially where an individual has a social media account and they comment both as a councillor and as an individual.</li> </ul>	
<p><b>Members Code of Conduct</b></p>	<p>The Members' Code of Conduct was adopted by Council in 2012 following the introduction of the Localism Act but had not been formally reviewed since. The Monitoring Officer has carried out a review with proposed changes. In summary these changes are:</p> <ol style="list-style-type: none"> <li>1. General Conduct – additions to the general conduct expected of Members to ensure that areas around equalities, safeguarding and conduct when speaking to the media would be addressed;</li> <li>2. Training – a section has been added to set out the requirement to attend essential training with a list of training and the frequency of attendance;</li> </ol>	<p><b>Part 5 – Codes and Protocols</b></p>

	<p>3. Predetermination / Bias – an explanation has been included as to what constitutes predetermination or bias and details added around what a Member is required to do should they have any concerns; and</p> <p>4. Member Interests – greater and clearer explanation as to what constitutes a Disclosable Pecuniary Interest (DPI) with notes contained within an Appendix to assist Members. This includes sensitive interests and the rules concerning non-participation where there was a DPI or how to request a dispensation.</p>	
<p><b>Members Code of Conduct (Declarations of Interest)</b></p>	<p>As part of the review of the Declarations of Interest Form it was noted that one interest Members were not required to declare was whether or not they held any Premises, Hackney Carriage, Private Hire or similarly related licenses granted to them either by the Council or by another Local Authority. Because this information is not registered, the Authority would not then know how many Elected Members or their partners and spouses have held these licenses or would do in the future. It was therefore suggested that this was a requirement that now needed to be included within the Code of Conduct and on the Declarations of Interest Form in order to be transparent and in line with the seven principles of public life, in particular the principal of integrity.</p>	<p><b>Part 5 – Codes and Protocols</b></p>

