



**Bolsover District Council**  
**Constitution**



# BOLSOVER DISTRICT COUNCIL CONSTITUTION

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# **PART 1 SUMMARY AND EXPLANATION**

## **1. The Council's Constitution**

Bolsover District Council has agreed a new Constitution which 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.

## **2. How the Council Operates**

The Council is composed of 37 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 agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council. The Council's current arrangements allow the Leader to appoint the Executive although the Council may choose to do this. The Council holds the Executive to account by appointing Scrutiny Committees to question decisions and review policies.

## **3. How Decisions Are Made**

### **(1) The Executive**

The Executive is the part of the Council, which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council and up to nine other Councillors appointed by the Council. When major decisions are to be discussed or made, these are published in the Executive's List of Key Decisions in so far as they can be anticipated.

If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend except where confidential or exempt matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision, which is outside the Budget and Policy Framework, this must be referred to the Council as a whole to decide.

## (2) Scrutiny Committees

There are three themed Scrutiny Committees which support the work of the Executive and the Council as a whole. The three committees are supported by an overarching Scrutiny Management Board. A separate Budget Scrutiny Committee provides a forum for scrutiny members to review and scrutinise the Council's financial position.

Scrutiny allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These inquiries may lead to reports and recommendations, which advise the Executive and the Council as a whole on its policies, budget and service delivery.

Scrutiny Committees also monitor the decisions of the Executive. They can 'call-in' a decision, which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsiders the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## 4. The Council's Staff

The Council has people working for it (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 relationships between officers and Members of the Council.

## 5. Citizens' Rights

Citizens 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.

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.

## **PART 2 ARTICLES OF THE CONSTITUTION**

### **Article 1 - The Constitution**

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

Bolsover District 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 Bolsover District Council.

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

The purpose of the Constitution is to establish the framework for the political and corporate governance of the Council.

### **Article 2 - Members of the Council**

#### **2.1 Composition and Eligibility**

##### **(1) Composition**

The Council will comprise 37 members, called Councillors or elected Members.

##### **(2) Eligibility**

Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

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

The regular election of Councillors will be held on the first Thursday in May every four years from 2011. 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 ordinary election.

#### **2.3 Roles and Responsibilities of all Councillors;**

##### **(1) Key roles**

All Councillors will:-

- (i) be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (ii) act in accordance with their roles and responsibilities as in Part 5 of the Constitution – Codes and Protocols;
- (iii) represent their communities and bring their views into the Council's decision-making process, becoming the advocate of and for their communities;
- (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (v) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics;
- (viii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (ix) effectively represent the interests of their ward and of individual constituents; and
- (x) respond to constituents' enquiries and representations, fairly and impartially.

(2) Rights and Duties

These are dealt with in detail in Part 5 – Codes and Protocols and Part 4.2, Access to Information Procedural Rules.

## 2.4 Members' Code of Conduct

Councillors will at all times observe the Council's Members' Code of Conduct and the Protocols on Member/Officer Relations etc. set out in Part 5 of this Constitution.

## 2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## Article 3 - Citizens and the Council

### 3.1 Citizens' Rights

Citizens have the following rights:

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

#### (1) Petitions

- (i) Citizens on the electoral roll for the area have the right to sign a petition to request a referendum for an elected mayor form of governance arrangements.
- (ii) The Council has also adopted a Petition Scheme which will enable citizens to submit petitions to the authority.

#### (2) Information

Citizens have the right to:-

- (i) attend meetings of the Council, the Executive and its Committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- (ii) find out from the List of Key Decisions what decisions will be taken by the Executive and when;
- (iii) see reports and background papers and any records of decisions made by the Council, the Executive and its Committees, except where confidential or exempt information is likely to be disclosed; and
- (iv) inspect the Council's accounts and make their views known to the external auditor, at the appropriate time.

#### (3) Participation

Citizens have the right to:-

- (i) Contribute to investigations by Scrutiny Committees when invited;
- (ii) Vote at local elections if they are registered.

#### (4) Complaints

Citizens have the right to complain to:-

- (i) the Council itself under its Complaints Scheme and if dissatisfied with the outcome to the Ombudsman.
- (ii) the Monitoring Officer about breaches of the Members' Code of Conduct.

### 3.2 Citizens' Responsibilities

Citizens must not harass, be violent, abusive or threatening to Councillors or Council employees and must not wilfully harm things owned by the Council, Councillors or Council employees.

The Council will take appropriate action where necessary.

### 3.3 Consultation with Citizens

The Council is fully committed to engaging with all stakeholders in respect of its functions and decisions which are being made. To achieve this it has a Citizens' Panel, which the Council now consults.

### 3.4 Other Methods of Consultation

Other methods of consultation and engagement are also routinely used. If citizens wish to be involved in any part of the process contact should be made with the Customer Services at the Council.

## Article 4 - The Council

### 4.1 Definitions

- (1) The Budget and Policy Framework

The following plans and strategies of the Council make up the Policy Framework:

Borrowing and Investment Strategy  
Capital Strategy  
Corporate Plan  
Crime and Disorder Reduction Strategy  
Health and Well-Being Strategy  
Housing Strategy  
Licensing Policy  
Local Plan  
Pay Policy Statement  
Sustainable Community Strategy  
Treasury Management Strategy

(2) Budget

The Budget includes: the allocation of financial resources to different services and projects; proposed contingency funds, the Council Tax base, setting the Council Tax, the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Council's approval of the Budget will be dealt with in accordance with the Budget and Policy Framework Procedure Rules.

#### 4.3 Council Meetings

There are three types of Council meeting:

- (1) The Annual Meeting;
- (2) Ordinary Meetings;
- (3) Extraordinary Meetings;

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

### Article 5 - Chairing the Council

#### 5.1 The Role and Function of the Chairman

- (1) The Council will elect the Chairman annually.
- (2) The Chairman of the Council, and in his/her absence the Vice-Chairman, will have the following roles and functions:-
  - (i) To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary subject to appropriate advice;

- (ii) 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;
- (iii) 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 members to account;
- (iv) To promote public involvement in the Council's activities;
- (v) To be the conscience of the Council; and
- (vi) To attend such civic and ceremonial functions as the Council and Chairman determines appropriate.

## Article 6 - Scrutiny Committee

### 6.1 Establishment of Scrutiny Committee

The Council will appoint three Scrutiny Committees, a Scrutiny Management Board and Budget Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and regulations under section 32 of the Local Government Act 2000. The Council will determine the Terms of Reference of the Scrutiny Committees and the Scrutiny Management Board.

### 6.2 General Role

Within the Terms of Reference, the three Scrutiny Committees have the following functions:-

- (1) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (2) make reports and/or recommendations to the Council and/or the Executive in connection with the discharge of any functions;
- (3) consider any matter affecting the area or its inhabitants;
- (4) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive; and
- (5) assist the Council and the Executive with the development of future policies and strategies.



## 6.3 Specific Functions

### (1) Finance

Each of the three Scrutiny Committees, Scrutiny Management Board and Budget Scrutiny Committee may exercise overall responsibility for the finances, if any, made available to them.

### (2) Annual Report

The Chair of the Scrutiny Management Board must report annually, by way of a Chairman's report to Council, on their work and make recommendations for future work programmes and amended working methods if appropriate.

### (3) Officers

All senior officers of the Council will support the Scrutiny Committees.

### (4) Petitions

Deal with petitions referred to it under Part 8 of the Constitution that contain at least 350 signatures requiring a relevant employee to give evidence at a Scrutiny Committee on a matter for which the officer is responsible as part of their job.

## 6.4 Proceedings of the Scrutiny Committees

Each of the three Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## Article 7 - The Executive

### 7.1 The Role of the Executive

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law, or under this Constitution.

### 7.2 Form and Composition

The Executive will consist of the Leader together with the Deputy Leader and a maximum of 8 other Councillors appointed to the Executive by the Leader.

### 7.3 The Leader

The Leader will be a councillor elected to the position of Leader by the Council at the Annual Council Meeting for either an annual or four year term following the ordinary elections until:-

- (1) he/she resigns from the office; or
- (2) he/she is no longer a Councillor; or
- (3) he/she is removed from office by resolution of the Council.

### 7.4 The Deputy Leader

The Deputy Leader will be a councillor appointed to the position of Deputy Leader by the Leader. The Deputy Leader will be appointed to the position until:

- (1) he/she resigns from office; or
- (2) he/she is no longer a Councillor; or
- (3) he/she is removed from office by the Leader if he/she thinks fit;
- (4) the next ordinary elections.

### 7.5 Other Executive Members

Other Executive members shall hold office until:-

- (1) they resign from office; or
- (2) they are no longer Councillors; or
- (3) they are removed from office, either individually or collectively.

### 7.6 Proceedings of the Executive

- (1) Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.
- (2) From time to time the Executive will meet informally in accordance with the rules in this Constitution. These meetings are called "Cabinet" meetings.

## 7.7 Responsibility and Functions

The Council will maintain a list in Part 3 of this Constitution setting out whether the Executive, individual Executive members, officers or joint arrangements are responsible for the exercise of particular executive functions.

## Article 8 – Regulatory and other Committees

### 8.1 Regulatory and other Committees

The Council will appoint Committees to discharge the functions described in Part 3 of this Constitution. These committees include committees for Licensing and Planning functions.

## Article 9 - The Standards Committee

### 9.1 Standards Committee

The Council meeting may establish a Standards Committee.

### 9.2 Composition

- (1) The Standards Committee will have a membership of six Councillors as determined by Council and two co-opted members. It will be politically balanced.
- (2) One of the co-opted members shall act as Chairman of the Standards Committee and this appointment will be made at the Annual Meeting of the Council.
- (3) The Councillors will be appointed to the Standards Committee at the Annual Meeting of the Council each year. The co-opted members will be appointed until the next Annual Council Meeting. The Council may agree to extend this period as it sees fit.

### 9.3 Role and Function

The Standards Committee will have the roles and functions as set out in Part 3 of the Constitution.

## Article 10 - Area Committees and Forums

### 10.1 Area Committees

- (1) The Council may appoint such area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery and more efficient, transparent and accountable decision making.
- (2) The Council will consult with relevant parish or town councils when considering whether and how to establish area committees.

### 10.2 Present Position

At the present time the Council has not appointed any area committees.

## Article 11 - Joint Arrangements

### 11.1 Joint Arrangements

- (1) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities or to advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- (2) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities.
- (3) Except as set out below, the Executive may only appoint Executive Members to a joint committee and those Councillors need not reflect the political composition of the local authority as a whole.
- (4) The Executive may appoint members to a joint committee from outside the Executive if the joint committee has functions for only part of the area of the Council, and that part area is smaller than two-fifths of the Council by area or population. In such cases, the Executive may appoint to the joint committee any Councillor who is a member for a ward, which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.
- (5) 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.

## 11.2 Access to information

- (1) The Access to Information Rules in Part 4 of this Constitution apply.
- (2) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information arrangements is the same as that applied to the Executive.
- (3) If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.
- (4) Not all functions can be delegated in this way unless prevented by law.

## 11.3 Delegation to and from other Local Authorities

- (1) The Council may delegate non-executive functions to another local authority or, in appropriate circumstances, the Executive of another local authority.
- (2) The Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (3) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.
- (4) Not all functions can be delegated in this way unless prevented by law.

## 11.4 Contracting Out

In certain circumstances where legislation permits, functions may be contracted out.

## 11.5 Strategic Alliance Joint Committee

The Council has established a Joint Committee with North East Derbyshire District Council called the Strategic Alliance Joint Committee whose role it will be to take forward the strategic alliance transformation programme.

The Joint Committee will comprise nine members from either side and chairmanship will rotate annually between both councils. The Joint Committee will have no decision-making powers but may make recommendations back to its respective councils.

## Article 12 – Officers

### 12.1 Management Structure

Appointment of staff cannot be the responsibility of the Executive. Appointment of staff below Assistant Director level must be the responsibility of the Head of Paid Service or nominee. Councils must include a standing order on the appointment of Directors, the people who can or must be involved in the appointment of officers and disciplinary action against the Head of Paid Service, the Chief Finance Officer and Monitoring Officer by virtue of the Local Authorities (Standing Orders) Regulations 1993 and 2001.

#### (1) General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions, subject to receiving reports from the Head of Paid Service, and comply with procedural rules in Part 4 of the Constitution.

#### (2) Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council has designated the following posts:-

<u>Post</u>	<u>Designation</u>
Chief Executive Officer	Head of Paid Service
Executive Director – Operations	Chief Finance Officer
Assistant Director – Governance and Monitoring Officer	Monitoring Officer

The duties of both the Monitoring Officer and Chief Finance Officer (apart from the administration of the financial affairs of the Council) must be carried out personally, but can be carried out by a deputy nominated by them in cases of absence or illness. It is the function of the relevant officer to appoint such deputy, not the Council.

#### (3) Structure

The Council upon advice from 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.

## 12.2 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## 12.3 Functions of the Chief Executive Officer and Head of Paid Service

### (1) Discharge of Functions by the Council

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

### (2) Restrictions and Functions

The Head of Paid Service may not be the Monitoring Officer or the Director of Corporate Resources.

### (3) Proper Officer for Access to Information

The Chief Executive Officer in conjunction with the Monitoring Officer is to ensure that the Council, Executive or Committee decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

### (4) Advising whether the Executive's Decisions are within the Budget and Policy Framework

The Chief Executive Officer in conjunction with the Monitoring Officer and the Director of Corporate Resources will advise whether decisions of the Council, Executive or Committees are in accordance with the Budget and Policy Framework.

## 12.4 Functions of the Monitoring Officer

### (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.

(2) Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and the Director of Corporate Resources, the Monitoring Officer will report to Council or the Executive in relation to an executive function, if the Monitoring Officer 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.

(3) Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(4) Conducting Investigations

The Monitoring Officer will administer the process for determining complaints against Members.

(5) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions and in relation to maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.

(6) Restrictions on Posts

The Monitoring Officer cannot be the Director of Corporate Resources or the Head of Paid Service.

## 12.4 Functions of the Chief Finance Officer

(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 Council or to the Executive in relation to an executive function and the Council's external auditor if he 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.



(2) Administration of Financial Affairs

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

(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.

(4) Providing Advice

The Chief Finance Officer will provide advice on scope of powers and authority to take decisions and in relation to 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.

(5) Give Financial Information

The Chief Finance Officer will have the responsibility for publishing financial information to the media, members of the public and the community.

12.5 **Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Director of Corporate Resources**

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

## Article 13 - Decision Making

### 13.1 **Responsibility for Decision Making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

### 13.2 **Principles of Decision Making**

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

- (1) proportionality (i.e., the action must be proportionate to the desired outcome);
- (2) due consultation and the taking of professional advice from officers;
- (3) respect for human rights;
- (4) a presumption in favour of openness;
- (5) clarity of aims and desired outcomes;
- (6) regard to the Council's duties with regard to equal opportunities;
- (7) an explanation of options that were considered and reasons for the decision; and
- (8) consideration of all relevant factors;
- (9) be made in the best interests of the District as a whole;

### 13.3 Types of Decision

#### Decision Making

Council, Executive and Committee will make their decisions as referred to in Part 3 of the Constitution and these will be carried out as in accordance with procedures in Part 4.

### 13.4 Decision Making by Council Bodies acting as Tribunals

The Council 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 and/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.

## Article 14 - Finance, Contracts and Legal Matters

### 14.1 Financial Management

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

## 14.2 Contracts

Every contract made by the Council will comply with the Contracts Standing Orders set out in Part 4 of this Constitution.

## 14.3 Legal Proceedings

The Assistant Director – Governance and Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

## 14.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive Officer and Head of Paid Service or other person authorised by that Officer, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## 14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director – Governance and Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Assistant Director – Governance and Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the Chief Executive Officer, the Assistant Director – Governance and Monitoring Officer or some other person authorised by either.

# Article 15 - Review and Revision of the Constitution

## 15.1 Duty to Monitor and Review the Constitution

The Standards Committee, on the advice of the Chief Executive Officer, Monitoring Officer and the Chief Finance Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given effect.

## 15.2 Changes to the Constitution

### (1) Approval

Changes to the Constitution will only be approved by the Council after consideration of the proposal by Standards Committee.

### (2) Minor amendments

The Chief Executive Officer may approve any minor amendments to the Constitution (in accordance with his delegated power) put to him by the Monitoring Officer.

### (3) Procedure for amendment of the Constitution

Proposals from a Councillor or a member of the public or an officer to change part or parts of the Constitution must be submitted in writing to the Monitoring Officer for consideration. The Monitoring Officer will consider the proposals and if the Monitoring Officer is of the opinion that the proposal is not lawful then the proposal shall be rejected by the Monitoring Officer. The Monitoring Officer shall advise the proposer as to the reason for the decision. Otherwise the Monitoring Officer shall consult the Chief Executive Officer and Chief Finance Officer on the proposal and shall prepare a report, incorporating the comments of the Chief Executive Officer and the Chief Finance Officer for consideration by the Standards Committee and the Council.

## Article 16 - Suspension, Interpretation and Publication of the Constitution

### 16.1 Suspension of the Constitution

#### (1) Limit to Suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.

#### (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 are 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.

(3) Rules Capable of Suspension

The following Rules may be suspended in accordance with Article 16.1;

- any part of the Contracts Standing Orders but only following the advice of the three statutory officers;
- any part of the Financial Regulations, but only following the advice of the Chief Finance Officer; and
- any part of the Council Procedure Rules as specified therein.

16.2 Interpretation

The ruling of the Chairman of the Council 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 and to the advice of the Chief Executive Officer, Monitoring Officer and Chief Financial Officer.

16.3 Publication

- (1) The Chief Executive Officer will ensure that a version of this Constitution is available for Members on the web site and that the Leader and Deputy Leader have one paper copy and that paper copies are deposited in the Group Offices.
- (2) The Chief Executive Officer will ensure that copies of the Constitution are available for inspection at The Arc and other appropriate locations, and on the Council's website and can also be purchased by members of the local press and the public on payment of a reasonable fee.
- (3) The Chief Executive Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary within three months of the adoption of this Constitution or of any change to this Constitution approved by the Council.



## **PART 3 RESPONSIBILITY FOR FUNCTIONS**

### **3.1 Responsibility for Functions**

Section 101 of the Local Government Act 1972 as amended by the Local Government Act 2000 permits the Council to arrange any of its functions to be carried out by:-

- The Executive,
- Any Committee of the Council,
- Another local authority.

The following lists the allocation of functions between the above parts of the Council:-

### **3.2 Council Functions**

These are as follows:-

1. The adoption and any amendment to the Constitution,
2. The approval of the Budget and Policy Framework as defined in the Budget and Policy Framework Rules in Part 4 of the Constitution including;
  - The adoption (with or without modification) of the plan or strategy,
  - The giving of instructions requiring the Executive to reconsider any draft plan or strategy submitted to the Executive for consideration,
  - The amendment of any draft plan or strategy submitted to the Council by the Executive for consideration.
3. Any application to the Secretary of State in respect of any Housing Land Transfer.
4. Calculations relating to and setting of Council Tax.
5. Setting the level of Council House rents.
6. The appointment and dismissal of the Chief Executive Officer and Head of Paid Service
7. The appointment and dismissal of Chief Officers and Deputy Chief Officers.
8. Consideration of a report by the Head of Paid Service on management of the Council or by Chief Finance Officer or Monitoring Officer in relation to a Council function.
9. Appointment and Membership of Committees.

10. Election/Appointment of Chairman and Vice-Chairman of the Council.
11. The appointment of Leader of the Council.
12. The appointment of and any amendment to Terms of Reference of Committees and Sub-Committees and Working Groups.
13. Authorisation of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings in respect of Council Tax, NNDR and Community Charge.
14. In accordance with the provisions of section 101(4) of the Local Government Act 1972, where it is expedient to do so to exercise the powers or duties in relation to any matter contained in the Terms of Reference of any Committee, Sub-Committee or other Council Body other than the Executive.
15. To make determination in respect of the Council's Borrowing and Investment Strategy.
16. The approval of the Council's Draft Published Accounts.
17. National and Provincial Council decisions and recommendations.
18. Approval of and amendment to the Members' Allowances Scheme including the level of allowances within the scheme following the consideration of report from the Independent Remuneration Panel.
19. Determining the amount of any allowance payable in respect of the Chairman and Vice Chairman of the Council's expenses, allowances for attending conferences, travelling and subsistence allowances under the Local Government Act 1972.
20. Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Budget and Policy Framework or where the decision maker is minded to make it in a manner which would be contrary or not wholly in accordance with the Budget and Policy Framework.
21. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
22. The function of specifying a value or description for the purposes of Regulation 8 of the Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 in respect of Contracts Standing Orders.



23. The authorisation of applications by the Executive under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 (Programme for Disposals) and sections 32 and 43 of the Housing Act 1985 for the disposal of housing land other than under Right to Buy legislation.
24. The approval for the purposes of public consultation in accordance with regulation 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999 of draft proposals associated with the preparation of alterations to or the replacement of a development plan.
25. All other matters which by law must be reserved to the Council, including those functions which cannot be the responsibility of the Executive, but which can be delegated to a Committee by the Council. These functions are listed D-I in the Appendix at the back of this section.
26. Debate petitions to the Authority which contains 1% of the population of the District (700 signatures).

### **3.3 Local Choice Council Functions**

1. All regulatory functions under the Derbyshire Act 1981.
2. The determination of an appeal made against any decision made by or on behalf of the Council.
3. Any function related to contaminated land.
4. The discharge of any function relating to the control of pollution or the management of air quality.
5. The service of an Abatement Notice in respect of statutory nuisance.
6. The passing of a resolution that the Noise and Statutory Nuisance Act 1993 should apply.
7. The inspection of the area for statutory nuisance.
8. The investigation of any complaint as to the existence of statutory nuisance.
9. The making of a compulsory purchase order pursuant to any of the statutory powers enabling the Council so to do and including the exercise by the Council of such powers on behalf of a Parish Council where so requested be delegated to the Chief Executive Officer, in consultation with the Leader, Deputy Leader and the Assistant Director – Governance and Monitoring Officer.
10. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.

11. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
12. Town Police Clauses Act 1847 section 21 – Temporary Street Closures.
13. The licensing of markets to operate within the District including the level of fee.
14. The designation of Clearance Areas and Renewal Areas.
15. The making and revocation of appointments to outside bodies where the appointments relate to Council functions.

### **3.4 Executive Functions**

1. The making and revocation of appointments to outside bodies where the appointments relate to Executive functions.
2. Any function under the Derbyshire Act 1981 other than those relating to licensing, registration or regulatory matters.
3. The formulation or preparation of plans or strategies for consideration by Council where the plan or strategy is required to be approved by Council.
4. The amendment, variation, revocation of such plan or strategy required to give effect to a requirement of the Secretary of State or Minister of the Crown in relation to a plan submitted for his approval.
5. The making of applications for disposal of land (following authorisation by the Council) under section 135 of the Leasehold Reform, Housing & Urban Development Act 1993 (Programme for disposals) and sections 32 and 43 of the Housing Act 1985 for disposal of housing land other than under Right to Buy legislation.
6. The implementation of the requirements of the Health and Safety at Work Etc. Act 1974 in respect of the Council as an employer and all its operations.
7. The appointment, terms of reference and membership of sub-committees to deal with matters within the Executive's terms of reference.
8. The provision of such resources as may be necessary for the proper operation of the Council provided the resources are within the Budget and Policy Framework.
9. The level of grant aid and other assistance to Parish Councils and voluntary organisations of a cultural, sporting or other philanthropic nature.

10. The management of all the Council's properties and land including (for the avoidance of doubt) the purchase and disposal of freeholds and leaseholds, the letting of Council houses in accordance with the Housing Act 1996 and the granting of contractual licences.
11. The approval of the level of any fee, charge, rent or other payment due to the Council provided they are within the Budget and Policy Framework.
12. The implementation and monitoring of the Council's Treasury Management policies and practices.
13. Agreeing any agency arrangements with any local authorities or other bodies in so far as they relate to executive functions.
14. To monitor and enforce the effective implementation and review of the Council's Single Equality Scheme.
15. The management of the IT Strategy for the Council.
16. The opening and consideration and, if appropriate acceptance subject to scrutiny, of tenders for works in excess of £50,000.
17. The promotion of economic development and employment opportunities in the District.
18. Monitoring the finances of the Council.
19. The granting of discretionary relief for NNDR/Community Charge/Council Tax including the management of the Council Tax and Housing Benefit Schemes.
20. The collection of sundry and other debts, administration of mortgages and determination of any matter relating to the Council's insurance cover.
21. Monitoring level of homelessness and Council's responsibilities for this under the Housing Act 1996 - Part VII.
22. The maintenance of good relations with the Council's tenants.
23. The development of sports and recreational facilities and opportunities within the District and the development and promotion of tourism.
24. The co-ordination of and assistance to the arts provided throughout the District.
25. The fostering of community development and liaison with Parish Councils and voluntary bodies within the District.
26. The management of any Council markets including the level of rents for market stalls and any other level of charges relating to markets.
27. The development of international partnerships and friendships.

28. All other functions not specifically designated as Council functions and not required by law to be exercised by the Council.
29. Regular monitoring of Ombudsman and Corporate Complaints.
30. Regular monitoring of Freedom of Information Act 2000 requests for information.
31. Responsibility for the implementation and monitoring of its treasury management policies and practices.
32. To respond to the views of the Council on petitions which have been debated at Council where the petition relates to an executive function or executive matters.

### **3.5 Individual Member Responsibilities**

1. The Executive will be responsible for guiding the Council in the formulation of its aims and objectives. Within the Budget and Policy Framework, which is approved by Council, the Executive has responsibility for the implementation of the Council's aims and objectives.
2. Each Member of the Executive will be involved in the activities of all the Council's Departments, focusing on those issues relative to the cross cutting nature of the cabinet responsibilities they undertake.
3. The Leader can appoint an Executive of up to nine other members at the first Annual Meeting following the elections. The Leader will allocate each Executive Member a Portfolio responsibility to lead on.

## **CABINET MEMBERS – ROLES AND RESPONSIBILITIES**

	Leader	Cabinet Member	Cabinet Member	Cabinet Member	Cabinet Member	Cabinet Member	Cabinet Member
<b>Portfolio</b>	Finance and Policy	Customer Services	Community Safety	Environment	Regeneration	Social Inclusion	Housing
<b>Corporate Aims and Cabinet Responsibilities</b>	All	Customer Focussed Services Providing excellent customer service	Community Safety Ensuring that communities are safe and secure	Environment Promoting and enhancing a clean and sustainable environment	Regeneration Developing healthy, prosperous and sustainable communities	Social Inclusion Promoting fairness, equality and lifelong learning	Regeneration Developing healthy, prosperous and sustainable communities
<b>Service Plans</b>	1/ Medium Term Financial Plan	1/ CSPD 2/ Contact Centres 3/ Revenues and benefits	Community and Street Services	1/ Planning 2/ Environmental Health	1/ Regen 2/ CEPT	1/ Leisure	Housing Services
<b>Scrutiny Committee</b>	Scrutiny Management Board	Improvement	Safe and Inclusive	Sustainable	Sustainable	Safe and Inclusive	Safe and Inclusive

## 3.6 Committee Terms of Reference

### (1) Scrutiny Management Board

1. To develop and approve an Annual Work Plan for the Sustainable Communities Scrutiny Committee, the Improvement Scrutiny Committee and the Safe and Inclusive Scrutiny Committee, plus any reviews for the Scrutiny Management Board.
2. In developing the Annual Work Plans, the Scrutiny Management Board will focus on the following:-
  - The Council's Corporate Plan and priorities
  - The Council's budget setting process
  - Areas of poor performance identified within service provision
  - Policy Development activity at the earliest possible opportunity
3. To organise and hold an Annual Overview and Scrutiny Conference to consider proposals for the three Overview and Scrutiny Committees Annual Work Plans for the forthcoming corporate year.
4. To agree the inclusion of additional reviews in the Annual Work Plan of any of the Scrutiny Committees mid year.
5. To agree that any reviews on the new Annual Work Plan may be commenced prior to the start of the new corporate year to which the Annual Work Plan relates but following the Annual Scrutiny Conference.
6. Regularly to review progress of each of the Scrutiny Committees against the Annual Work Plans.
7. To carry out the Scrutiny Review of Health.
8. To receive annual reports from the Chairs of the three Overview and Scrutiny Committees on the work of the Committees through the previous year and of each of the Scrutiny Committees against the Annual Work Plans.
9. Membership of the Scrutiny Management Board will include the Leader of the Council as a non voting member of the Board with the Deputy Leader as substitute.

## (2) IMPROVEMENT SCRUTINY COMMITTEE

1. The performance of all the Council's overview and scrutiny functions relating to the corporate aims of Customer Focused Services and Strategic Organisational Development.
2. To scrutinise and monitor the performance of the Executive and the holders of the relevant Portfolios of Finance and Policy and Customer Services.
3. The consideration of any Executive decision relating to the corporate aims of Customer Focused Services or Strategic Organisational Development called in by Members in accordance with this Constitution.
4. The monitoring of the Corporate Plan targets in relation to the Customer Focused Services or Strategic Organisational Development corporate aims.
5. The performance management monitoring of the performance of the Council including reviewing performance against service plans and indicators.
6. To carry out the reviews in the Committee's four year Annual Work Plan in a timely and efficient manner.
7. To carry out additional reviews to those in 6 above provided the review is within the area of reference of this Scrutiny Committee and provided the Scrutiny Management Board has agreed to the review being carried out.
8. The consideration or examination of existing or proposed Council policy, strategy or plan relating to the Customer Focused Services and Strategic Organisational Development corporate aims and within the remit of the Executive.
9. To deal with any Councillor Call for Action relating to the Customer Focused Services and Strategic Organisational Development corporate aims or Finance and Policy and Customer Services Portfolios.

### (3) SAFE AND INCLUSIVE SCRUTINY COMMITTEE

1. The performance of all the Council's overview and scrutiny functions relating to the corporate aims of Community Safety and Social Inclusion.
2. To scrutinise and monitor the performance of the Executive and the holders of the Portfolios of Community Safety, Social Inclusion and Housing.
3. The consideration of any Executive decision relating to the corporate aims of Community Safety and Social Inclusion called in by Members in accordance with this Constitution.
4. The monitoring of the Corporate Plan targets in relation to the Community Safety and Social Inclusion corporate aims.
5. The performance management monitoring of the performance of the Council including reviewing performance against service plans and indicators.
6. To carry out the reviews in the Committee's Annual Work Plan in a timely and efficient manner.
7. To carry out the annual Review of the Bolsover Community Safety Partnership.
8. To carry out additional reviews to those in 6 and 7 above provided the review is within the area of reference of this Scrutiny Committee and provided the Scrutiny Management Board has agreed to the review being carried out.
9. The consideration or examination of existing or proposed Council policy, strategy or plan relating to the Community Safety and Social Inclusion aims and within the remit of the Executive.
10. To deal with any Councillor Call for Action relating to the Community Safety and Social Inclusion corporate aims or the Community Safety, Social Inclusion and Housing Portfolios.



(4) SUSTAINABLE COMMUNITIES SCRUTINY COMMITTEE

1. The performance of all the Council's overview and scrutiny functions relating to the corporate aims of Regeneration and Environment.
2. To scrutinise and monitor the performance of the Executive and the holders of the Portfolios of Regeneration and Environment.
3. The consideration of any Executive decision relating to the corporate aims of Regeneration or Environment called in by Members in accordance with this Constitution.
4. The monitoring of the Corporate Plan targets in relation to the Regeneration and Environment corporate aims.
5. The performance management monitoring of the performance of the Council including reviewing performance against service plans and targets and indicators.
6. To carry out the reviews in the Committee's Annual Work Plan in a timely and efficient manner.
7. To carry out additional reviews to those in 6 above provided the review is within the area of reference of this Scrutiny Committee and provided the Scrutiny Management Board has agreed to the review being carried out.
8. The consideration or examination of existing or proposed Council policy, strategy or plan relating to the Regeneration and Environment corporate aims and within the remit of the Executive.
9. To deal with any Councillor Call for Action relating to the Regeneration and Environment corporate aims or Portfolios.

(5) BUDGET SCRUTINY COMMITTEE

1. To receive the Cabinet/Executive's Budget proposals and scrutinise them in accordance with the Budget and Policy Framework Procedure Rules in the Council's Constitution.
2. To make recommendations to the Cabinet/Executive in respect of those Budget proposals in accordance with the Budget and Policy Framework Procedure Rules in the Council's Constitution.
3. To monitor the Council's Budget (General Fund, Capital Programme and Housing Revenue Account) on a quarterly basis.
4. To raise questions with the relevant Portfolio Holders and officers in relation to financial issues arising out of the quarterly monitoring of Budgets.
5. To make recommendations to the Cabinet/Executive in respect of financial issues arising out of the Budget Monitoring.
6. To refer to the relevant Scrutiny Committee any performance or other non financial issues arising out of the quarterly monitoring of the Council's Budget.
7. To enable the three Scrutiny Chairs' to present update information from their respective Committees.

**Powers of all scrutiny committees**

8. *To receive regular reports from the Committee's representative on the relevant LSP thematic group.*
9. *The appointment of such sub-committees or working groups as it considers appropriate to fulfil these scrutiny functions and the terms of reference and membership of such sub-committees.*
10. *Where the Committee seeks to discontinue or appoint sub-committees other than as set out in this Constitution, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the Chief Executive Officer and then to the next meeting of the Council by the Chair of the relevant Scrutiny Committee, so that the Constitution may be amended accordingly.*
11. *To put in place a system to ensure that referrals from this Scrutiny Committee to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the time limits set out in this Constitution.*

12. *In the event of reports to the Executive exceeding time limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business, at the request of the Executive, to make decisions about the priority of referrals made.*
13. *To receive an annual report from the Chairman of the Committee and approve for referral to the Scrutiny Management Board.*
14. *To deal with petitions that contain at least 350 signatures requiring a relevant employee to give evidence at Scrutiny Committee on a matter for which the officer is responsible as part of their job;*

*Relevant accountable employees; A petition to hold a relevant accountable employee to account is for the following posts:*

*Head of Paid Service )  
Monitoring Officer ) Statutory officers  
Section 151 Officer )*

*Executive Directors*

15. *To deal with requests from petition organisers to review the process undertaken by the Authority in response to a petition and determining the appropriate course of action to deal with it.*

(6) **STANDARDS COMMITTEE**

1. Promoting and maintaining high standards of conduct by Members and co-opted Members of the Council.
2. Assisting Members and co-opted Members of the Council to observe the Bolsover Members' Code of Conduct.
3. Advising the Council on the adoption or revision of a Code of Conduct.
4. Monitoring the operation of the Bolsover Members' Code of Conduct.
5. Advising, giving training and arranging to train Members and co-opted Members of the Council on matters relating to the Bolsover Members' Code of Conduct.
6. Member Training (including the attendance of Members at courses) in relation to matters affecting their conduct and probity.
7. All matters relating to dispensations for Members to speak and vote where the Members concerned have interests.
8. To conduct determination hearings into complaints against Members.
9. To promote and maintain high standards of conduct within Town/Parish Councils and to assist them in following their own Codes of Conduct.
10. To deal with complaints against Town and Parish Councillors in accordance with 8 above.
11. To grant exemptions for politically restricted posts.
12. Responsibility for the Regulation of Investigatory Powers Act 2000 (RIPA) policy and procedures, to include monitoring, revisions and approval.

**TO RECOMMEND TO COUNCIL WITH REGARD TO:-**

13. Overseeing the Council's "whistle blowing" policy and arrangements and to amend them as appropriate.
14. Changes required to the Constitution as a result of the monitoring and reviewing undertaken by the Committee.

## (7) AUDIT COMMITTEE

### 1. Statement of Purpose

The purpose of the Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Authority's financial and non financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment. The Audit Committee will also oversee the Authority's corporate governance arrangements.

### 2. Reporting Framework

The Audit Committee will report directly to the Council, and provide information to the Executive for action, whilst maintaining its independence.

### 3. Membership and Structure of Meetings

The Audit Committee will have a membership of six plus one co-opted member and reflect the political composition of the Council. A quorum will constitute at least three members of the Committee.

The Chair and Vice Chair of the Committee will be elected from its membership.

The Audit Committee will meet at least four times per year.

### 4. Principal Responsibilities

- (1) To ensure that the Council has a sound system of internal control which facilitates the effective exercise of the Council's functions to include the following:-
  - i) Arrangements for the assessment and management of risk within the Authority and ensuring they are embedded within the organisation.
  - ii) Approving and modifying the terms of reference and strategy for internal audit.
  - iii) Receiving and approving the annual internal audit plan and reviewing the external audit plan.
  - iv) Receiving quarterly reports on the progress against the annual audit plan.
  - v) Reviewing and adopting the Annual Governance Statement.
  - vi) Reviewing the Council's anti-fraud policy.
- (2) To consider the Council's Code of Corporate Governance and approve the annual statement in that respect.

- (3) To review, scrutinise and approve the Draft Statement of Accounts as soon as possible after 30<sup>th</sup> June and prior to review by External Audit and report such to Council.
- (4) To consider the External Auditors findings from their review of the Statement of Accounts.
- (5) To consider and approve, after review by External Audit, if the review is available, the Statement of Accounts and report such to Council. The date by which this must be achieved is 30<sup>th</sup> September each year.
- (6) To review and adopt the detailed and summary Annual Governance Statement in light of the Internal Audit Annual review, report on the effectiveness of Internal Audit, Governance letters and the financial details shown in the statement of Accounts. In addition when these items are scheduled for consideration the Leader, Deputy Leader and the appropriate Cabinet member would be invited to attend the Audit Committee and participate in the debate and discussion, but no voting rights would be associated with the invitation.
- (7) To review the Council's internal audit function and monitor performance.
- (8) To monitor and ensure implementation of internal and external audit recommendations.
- (9) To be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

**(8) LICENSING COMMITTEE**

**TO EXERCISE THE POWERS AND DUTIES OF THE COUNCIL WITH REGARD TO:-**

1. Application, renewals, variations, transfers, cancellations or revocations of the following licences including conditions:-
  - (i) Private Hire Operators Licences,
  - (ii) Hackney Carriage/Private Hire Drivers Licences,
  - (iii) Street Trading Licences under the Local Government (Miscellaneous Provisions) Act 1982,
  - (iv) Licensing issued under the Licensing Act 2003,
  - (v) Scrap Metal sites and operators.
2. Any action required to enforce the decisions of the Committee or one of its sub committees or any action ancillary to the functions delegated to this Committee.
3. The appointment of sub committees to hear matters as detailed in the Licensing Policy issued by the Council pursuant to its duties under the Licensing Act 2003.
4. The approval or refusal of grant applications submitted pursuant to the Housing Acts.
5. Adjudication on Certificate of Title to ex council properties, each case being considered on its individual merits.
6. The approval, refusal or deferral of an application under the minor works provisions of the Local Government and Housing Act 1989.
7. The licensing of Animal Establishments and all animal welfare issues under relevant legislation.
8. Any matter relating to the control of sex establishments pursuant to the passing of a resolution under section 2 of the Local Government (Miscellaneous Provisions) Act 1982.
9. Any matter relating to the functions of the Council required by the Licensing Act 2003 or consequent secondary legislation.
10. Determining applications for Gaming Machine Licences in accordance with the Licensing Act 2003.
11. The delegation of such matters within its terms of reference as may be appropriate to the Chief Executive or other appropriate officer.
12. Matters relating to Motor Salvage Operators Licences.
13. The licensing of houses in multiple occupation.

14. Hearing all applications for premises licences, applications for a variation to a licence, applications for a provisional statement and applications for a club gaming/club machine permits under the Gambling Act 2005 where representations have been received and have not been withdrawn.
15. Hearing all reviews of premises licences and any cancellations of club gaming/club machine permits.
16. Hearing all applications for a transfer of a licence under the Gambling Act 2005 where representations have been received from the Gambling Commission.
17. Making of any decision to give a counter notice to a temporary use notice under the Gambling Act 2005.
18. Any hearing delegated to the Licensing Committee under the provisions of the Licensing Act 2003 or the Gambling Act 2005 may be conducted by a sub-committee thereof.

**TO RECOMMEND TO THE COUNCIL WITH REGARD TO:-**

19. Policies for the licensing of private hire and hackney carriage vehicles and drivers and private hire operators including standard conditions and the fixing of hackney carriage vehicle fare scales.
20. The provision, siting, designation and establishment of Hackney Carriage Stands.
21. The fee for any licence referred to above which the Council is authorised to grant or renew.
22. Matters relating to Hackney Carriage Bylaws.
23. Policies under the Licensing Act 2003.
24. Policies under the Gambling Act 2005



(9) **PLANNING COMMITTEE**

**TO EXERCISE THE POWERS AND DUTIES OF THE COUNCIL WITH REGARD TO:-**

1. The control of development under planning legislation including inter alia historic buildings, conservation, advertisement control, hazardous substances control and enforcement of legislation, subject to:-

Where the Planning Committee resolve to determine a planning application contrary to the recommendation of the Development Control Manager, the resolution adopted shall make reference to the material considerations taken into account by the Committee which warrant such a decision, and those material considerations shall be recorded in the minutes.

2. Tree Preservation Orders, the need for planning agreements and obligations, notices under section 215 Town and Country Planning Act 1990 (land adversely affecting the amenity of the neighbourhood), Article 4 Directions and the Hedgerows Regulations 1997.
3. Grants for the repair of historic buildings.
4. Consultation and public participation on the Statement of Community Involvement and supplementary planning documents included in the Local Development Scheme.
5. Consultation on pre-submission issues and options for development plan documents included in the Local Development Scheme.
6. Respond to consultations on the preparation of development plan documents, supplementary planning documents, local development schemes, statements of community involvement, and annual monitoring reports, and their amendment and review, from adjoining and nearby district and metropolitan district councils, provided that the response is consistent and compatible with the policies of the Council contained in the Council's adopted or preferred option planning documents, failing which the consultation shall be referred to Council.
7. The preparation and approval of the Annual Monitoring Report.
8. The operation of any function of the Council as a Local Planning Authority not otherwise covered, including commenting on development plan documents prepared by adjoining authorities, and government consultations on the planning legislation.
9. The delegation of such matters within the terms of reference as may be appropriate to the Chief Executive or other appropriate officer.
10. To determine the open space requirements to be incorporated within new development proposed in an application for planning permission provided these are in accordance with the Council's sports and recreation facilities policies.

11. To issue Notices under Section 31 of the Clean Neighbourhoods and Environment Act 2005.

**TO RECOMMEND TO THE COUNCIL WITH REGARD TO:-**

11. Proposals to prepare and review the Regional Spatial Strategy and Sub-Regional Spatial Strategy.
12. The Local Development Scheme and its review.
13. Approval of preferred options and the final Development Plan documents for submission to the Secretary of State, and the adoption of development plan documents.
14. The submission to the Secretary of State, and the adoption, of the Statement of Community Involvement and its review.
15. The adoption of development plan documents and supplementary planning documents.
16. The designation of conservation areas.
17. Schemes for any town centre development including pedestrianisation and new road schemes.
18. The provision of public open space facilities on development proposed in planning applications where the provision would be contrary to the Council's sports and recreation facilities policies.

(10) HIGH HEDGES COMMITTEE

**TO EXERCISE THE POWERS AND DUTIES OF THE COUNCIL WITH REGARD TO:-**

1. The handling of complaints and remedial action in respect of high hedges under Part 8 of the Anti-Social Behaviour Act 2003, regulations and orders made under that Act, in accordance with procedures approved by the Council.

**TO RECOMMEND TO THE COUNCIL WITH REGARD TO:-**

2. Procedures, fees and resource allocation in respect of the implementation of Part 8 of the Anti-Social Behaviour Act 2003 concerning high hedges.

## (11) UNION/EMPLOYEE CONSULTATION COMMITTEE

### 1. OBJECTS

The general objectives of this Union/Employee Consultation Committee are:-

- (i) To bring together representatives of Management and employees in consultation with the object of furthering the aims of and improving the efficiency of the Council.
- (ii) To afford a regular basis of consultation and negotiation as appropriate on matters relevant to these objectives and also on matters appertaining to employee relations, working and other arrangements and terms and conditions of employment which are not reserved for negotiation at national, provincial or other agreed local level.
- (iii) Thus, to give the employees concerned a wider interest and greater responsibility in these matters.

### 2. FUNCTIONS

In pursuance of these general objectives the following are cited as specific matters for consideration by the Committee:-

- (i) Operational matters which are for Management to decide but which Management should explain to the employees with the objective of affording them an opportunity of seeking views and thus encouraging a sense of personal involvement, e.g. organisational and reorganisation and provision of equipment and use.
- (ii) Monitoring that, at every point where decisions are made about individuals including their engagement, promotion, training, treatment, remuneration, hours and other conditions there are no signs that:-
  - (a) Prejudice about sex, ethnic origin, age disability sexual orientation or religion/belief or any other prejudice against a minority group are influencing decisions.
  - (b) Indirect discrimination, e.g. in the form of non essential age limits or qualifications criteria, or word of mouth recruitment is having an adverse impact on women, ethnic minorities, people with disabilities or older people or any other minority group.
- (iii) Ensuring that necessary data is recorded to ensure monitoring is possible.
- (iv) Administrative matters on which Management should keep the employees informed as to plans and intentions particularly in regard to changes, which will affect them. This will involve consultation with a view to assisting Management in decision making or negotiation according to the subject. Examples of the two types of classification are:-

### 3. Consultation on:-

- (i) Current and probable business developments.
- (ii) Restructuring of employment and possible redundancies.
- (iii) Decisions likely to lead to substantial changes in work organisation or contractual relations, including collective redundancies or business transfers.
- (iv) Content and conduct of local training programmes, procedure for selection and promotion, physical and social welfare amenities, formulation and application of disciplinary rules and other people management policies.

Consultation is defined by ACAS as the process by which management and employees or their representatives jointly examine and discuss issues of mutual concern. It involves seeking acceptable solutions to problems through a genuine exchange of views and information. Consultation does not remove the right of managers to manage – they must still make the final decision – but it does impose an obligation that the views of employees will be sought and considered before decisions are taken.

- (v) With regard to point (iii), consultation must take place with a view to reaching agreement.

### 4. Negotiation

- (i) Local terms and conditions of employment not reserved to the national, provincial or agreed local procedures; incentive bonus schemes and efficiency agreements; application of National and Provincial agreements and grievance procedure.

## 5. CONSTITUTION

### (1) MEMBERSHIP

- (i) The Committee shall comprise representatives of Management and Employees holding office for a period of one year and eligible for reappointment or re-election.
- (ii) The composition of the Employers' Side of the Committee shall be six elected Members (including the Portfolio Holder for Social Inclusion) with voting rights and substitutes in the event of nominated Members being unable to attend. The Chief Executive, Assistant Director - Human Resources and Payroll and Chief Finance Officer shall attend in an advisory capacity without voting rights; together with such other officers of the Council as may be appropriate having regard to matters to be discussed.
- (iii) The Employees Side of the Committee shall comprise six representatives selected by the local branch of the Trade Union representing the employees, together with full-time Trade Union officials (if required).

- (iv) The Trade Unions shall submit the names of their representatives forming the employees' side to the Committee to the Chief Executive Officer of the Council not later than the beginning of each meeting.
- (v) The Committee shall appoint a Chairman and Vice Chairman from among the Committee. When the Chairman is appointed from one side of the Committee the Vice-Chairman will be appointed from the other side. The Chairmanship and Vice Chairmanship of the Committee will rotate annually between each side. These Officers will also act as Chairman of their respective sides of the Committee.
- (vi) The Chief Executive Officer will act as Secretary to the Joint Committee.
- (vii) The Members of the Committee shall hold office for one year and shall be eligible for re-appointment. Any vacancy that occurs shall be filled as it arises.

## (2) ADVISERS

- (i) Either side shall have the right to have in attendance upon them, persons with a specialised knowledge, in a consultative or advisory capacity but without the right to vote. Such attendant shall be notified to the Secretary of the Employers' Side who will arrange for notices of meetings, agendas and minutes to be forwarded to such representatives unless requested otherwise.

## (3) PROCEDURE

- (i) The tenure of office of the Committee shall be from May each year to the following May (the Annual Meeting of the Council to the following Annual Meeting) (one year).
- (ii) Regular meetings shall be convened during working hours at three monthly intervals and held at The Arc, Clowne.
- (iii) Meetings may be called by the Chairman at any time at the request of either side submitted through their respective Chairmen.
- (iv) Employees will be granted time off with pay to attend meetings and will be entitled to payment in the event of meetings continuing beyond normal working hours.
- (v) Separate meetings of the Employers' Side and of the Employees Side of the Committee shall take place immediately prior to the meeting of the Union/Employee Consultation Committee and facilities for this purpose will be provided at the venue of the meeting.
- (vi) The Employees Side shall submit to their respective secretaries' items which they wish to be included on the agendas of regular meetings, and they will be responsible for forwarding this information to the Chief Executive Officer not later than fourteen days prior to a meeting.
- (vii) In the event of a scheduled meeting being due and there being no items from either side, following consultation with the Chairman and Vice Chairman, the meeting be cancelled and members advised accordingly.

- (viii) The agenda for business of regular meetings shall be circulated by the Chief Executive Officer to each member and to any consultative or advisory representative not later than 10 days before a meeting. The matters to be discussed at any meetings of the Committee shall be stated on the agenda with a notice summoning the meeting provided that any other business may be considered if admitted by a majority vote of each side. Nominated Trade Union Officers shall be provided with six copies of the agenda and reports to circulate to their Members as appropriate and to their full-time Trade Union Officials.
- (ix) Four members of the Employers' Side and four members of the Employees Side of the Committee shall together constitute a quorum.
- (x) Recommendations shall be reached only by a majority of each of the two sides voting separately.
- (xi) An individual employee wishing to raise with the Committee any question within the function shall do this through his/her appropriate representative on the Committee.
- (xii) If the Committee cannot agree to a negotiable issue, officers of the Trade Union shall negotiate with the appropriate administrative officers of the Council. Failing agreement appropriate matters may thereafter be referred by either side the provincial joint secretaries if necessary.
- (xiii) The draft minutes of the Committee to be agreed between the Chairman and Vice Chairman of the Committee prior to submission to the Council and circulated to members of the Committee.
- (xiv) Both sides accept that this agreement is binding in honour upon them but both expressly agree that it is not intended to constitute a legally enforceable agreement between them. It is further agreed that the parties to the agreement will use their best endeavours to ensure that the spirit and intention of the agreement is honoured at all times.

## (12) SAFETY COMMITTEE

1. The overall purpose of the Safety Committee is to promote cooperation between the council and its employees in developing and carrying out measures to manage health and safety risks and to secure the health and safety of employees, service users, contractors and any others who may be affected by the work of the Council.
  - (i) To promote the development of a safety culture throughout Bolsover District Council.
  - (ii) Reviewing the adequacy of and effectiveness of Bolsover District Council's Corporate Health and Safety Policy and any task specific or local health and safety policies, practices, procedures or safe systems of work.
  - (iii) Reviewing accident and industrial disease information and trends, to identify unhealthy or unsafe conditions and practices, along with recommendations for remedial action.
  - (iv) Review of health and safety information, risk assessments, audit reports, safety inspections and other monitoring information, making appropriate recommendations for remedial action.
  - (v) Analysis of information, reports and correspondence from enforcing authorities (Health and Safety Executive, fire service etc.).
  - (vi) Consideration of reports from safety representatives.
  - (vii) To receive reports from the Health and Safety Adviser in relation to point (vi)
  - (viii) To approve new health and safety policies and procedures and amendments to existing policies and procedures.
  - (ix) To review arrangements for health and safety information and training.
  - (x) To review the impact of proposed or new legislation, codes of practice or legal judgements.
  - (xi) To consider any other health and safety matters raised by committee members.
  - (xii) To resolve any issues referred from the Joint Safety Management Forum.
2. MEMBERSHIP
  - (i) The Committee shall comprise representatives of Management and Employees holding officer for a period of one year and eligible for reappointment or re-election.



- (ii) The composition of the Employers Side of the Committee shall be 5 elected Members with voting rights. The Assistant Director - Human Resources and Payroll and the Health and Safety Adviser shall attend in an advisory capacity without voting rights; together with such other officers of the Council as may be appropriate having regard to matters to be discussed.
- (iii) The Employees Side of the Committee shall comprise 5 representatives selected by the local branch of the Trade Union representing the employees.
- (iv) The Union Side shall submit the names of their representatives forming the Employees side to the Committee to the Chief Executive Officer of the Council not later than the beginning of each meeting.
- (v) The Committee shall appoint a Chairman and Vice Chairman from among the Committee. When the Chairman is appointed from one side of the Committee the Vice-Chairman will be appointed from the other side. These Officers will also act as Chairman of their respective sides of the Committee.
- (vi) The Governance Team will act as Secretary to the Joint Committee.
- (vii) The Members of the Committee shall hold office for one year and shall be eligible for re-appointment. Any vacancy that occurs shall be filled as it arises by the relevant side.

### 3. ADVISORS

- (i) Either side shall have the right to have in attendance upon them, persons with a specialised knowledge, in a consultative or advisory capacity but without the right to vote. Such attendance shall be notified to the Secretary of the Employers' Side who will arrange for notices of meeting, agendas and minutes to be forwarded to such representatives unless requested otherwise.

### 4. PROCEDURE

- (i) Regular meeting shall be convened during working hours at 3 monthly intervals and held at The Arc, Clowne.
- (ii) Meetings may be called by the Chairman at any item at the request of either side, such requests to be submitted through their respective Chairmen.
- (iii). Employees will be granted time off with pay to attend a reasonable number of meetings and will be entitled to payment in the event of meetings continuing beyond normal working hours.
- (iv) The Employees Side shall submit to their respective secretary's items which they wish to be included on the agendas of regular meetings, and they will be responsible for forwarding this information to the Governance Team not later than 14 days prior to a meeting.

- (v) In the event of a scheduled meeting being due and there being no items from either side, following consultation with the Chairman and Vice-Chairman, the meeting may be cancelled and Members advised accordingly.
- (vi) The agenda for business of regular meetings shall be circulated by the Chief Executive Officer to each Member and to any consultative or advisory representative not later than 10 working days before a meeting. The matters to be discussed at any meetings of the Committee shall be stated on the agenda with a notice summoning the meeting provided that any other business may be considered if admitted by a majority vote of each side. Nominated Trade union Officers shall be provided with 6 copies of the agenda and reports to circulate to their Members as appropriate and to their full-time Trade Union Officials.
- (vii) Two Members of the Employers' Side and two members of the Employees' Side of the Committee shall together constitute a quorum.
- (viii) An individual employee wishing to raise with the Committee any question within the function shall do this through his/her appropriate representative on the Committee.

(13) **BOLSOVER CONSERVATION AREA ADVISORY COMMITTEE**

1. **STATUS**

- (i) The Bolsover Conservation Area Advisory Committee ("the Committee") is a Joint Committee of Bolsover District Council, Derbyshire County Council and Old Bolsover Town Council ("the Councils") established under section 102(3) of the Local Government Act 1972.

2. **PURPOSE**

- (i) The purpose of the Committee is to consider conservation and design issues in Bolsover Conservation Area and to advise the councils upon them.

3. **MEMBERSHIP**

The Committee shall comprise of the following members:-

- (i) 8 members appointed by Bolsover District Council (Chairman and Vice Chair of Planning and all Bolsover Members);
- (ii) 2 members appointed by Derbyshire County Council
- (iii) 2 members appointed by Old Bolsover Town Council
- (iv) The Committee will have the power to co-opt members from local groups active in the area who have an interest in the proceedings of the Partnership Committee.

4. **FUNCTION**

- (i) The Committee shall have no Executive function.

5. **RULES AND PROCEDURES**

Qualification and Period of Office

- (i) The Chairman and Vice Chairman of the Committee shall be elected annually by the Committee. Both Chairman and Vice Chairman shall continue to hold office until their successors are appointed.
- (ii) Upon ceasing to be a Member of the appointing Council any Member will cease to be a member of the Committee.
- (iii) If both the Chairman and Vice Chairman are absent from any meeting the remaining members shall elect one of their members to be chairman for the meeting.

6. **Secretariat**

- (i) The Clerk to the Committee shall be an officer of Bolsover District Council who will provide the secretariat to the Committee and convene meetings and record minutes.

7 Frequency of Meetings

- (i) The Committee shall meet twice a year with such further meetings as the Chairman or any two members of the Committee may consider necessary.
- (ii) At least 5 clear days notice will be given of the business to be conducted at the meetings except in the case of an emergency in which event such notice shall be given as is reasonably practicable in the circumstances.

8. Quorum and Voting

- (i) The quorum for any meetings of the Committee shall be 2.
- (ii) Voting shall be by simple majority of all those present and entitled to vote.

9. Nature of Meetings

- (i) Meetings of the Committee shall be held in public unless Members of the Committee wish to discuss matters of a confidential or sensitive nature in which event they shall have the right to exclude members of the press and public.
- (ii) The Committee shall apply the provisions of section 100 of the Local Government Act 1972 (Access to Information).

10. AMENDMENT

- (i) The Constitution and Terms of Reference may be amended at any time by resolution of the Committee subject to the express approval of the Councils.

11. EXPENSES

- (i) The expenses incurred by the Committee shall be defrayed by the Councils in the same proportions as their representation on the Committee. All expenses and allowances to which a Member of the Committee may be personally entitled shall be met by the Council which that Member represents.

(14) PLEASLEY PARK AND VALE CONSERVATION AREA JOINT ADVISORY COMMITTEE

1. STATUS

- (i) The Pleasley Park and Vale Conservation Area Advisory Committee ("the Committee") is a Joint Committee of Bolsover District Council and Mansfield District Council ("the Councils") established under section 102(3) of the Local Government Act 1972.

2. PURPOSE

- (i) The purpose of the Committee is to consider conservation and design issues in Pleasley Park and Vale Conservation Area and to advise the Councils upon them.

3. MEMBERS

The committee shall comprise of the following members:

- 5 members appointed by Bolsover District Council ;
  - 4 members appointed by Mansfield District Council;
- (i) The Committee will have the power to co-opt members from local groups active in the Pleasley Park and Vale Conservation Area who have an interest in the proceedings of the Partnership Committee.

4. FUNCTION

- (i) The Committee shall have no executive function.

5. RULES AND PROCEDURES

(1) Qualification and Period of Office

- (i) The Chairman and Vice-Chairman of the committee shall be elected annually by the Committee. Both Chairman and Vice-Chairman shall continue to hold office until their successors are appointed and shall continue to be members of the Committee notwithstanding (ii) below.
- (ii) Upon ceasing to be a Member of the appointing Council any member will cease to be a member of the Committee.
- (iii) If both the Chairman and Vice-Chairman are absent from any meeting the remaining members shall elect one of their members to be chairman for the meeting.

(2) Secretariat

- (i) The secretariat for the Committee shall be shared by the Councils. The clerk to the Committee will alternate between the Councils.

(3) Frequency of Meetings

- (i) The Committee shall meet twice a year with such further meetings as the Chairman or any two members of the Committee may consider necessary.
- (ii) At least five clear days notice will be given of the business to be conducted at a meeting.

(4) Quorum and Voting

- (i) The quorum for any meetings of the committee shall be 3.
- (ii) Voting shall be by simple majority of all those present and entitled to vote.

(5) Nature of Meetings

- (i) Meetings of the committee shall be held in public unless members of the committee wish to discuss matters of a confidential or sensitive nature in which event they shall have the right to exclude members of the press and public in accordance with (ii) below.
- (ii) The Committee shall apply the provisions of section 100 of the Local Government Act 1972 (Access to Information).

6. AMENDMENT

- (i) The Constitution and terms of reference may be amended at any time by resolution of the Committee subject to the express approval of the Councils.

7. EXPENSES

- (i) The expenses incurred by the Committee shall be defrayed by the Councils in the same proportions as their representation on the committee. All expenses and allowances to which a member of the committee may be personally entitled shall be met by the Council, which that member represents.

## (15) HOUSING ALLOCATIONS REVIEW PANEL (HARP)

Objective - To ensure that housing decisions are made fairly and transparently.

1. The HARP panel will be made up of three members:
  - The Housing Needs Manager
  - The Housing Enforcement Manager
  - A Housing Needs Officer or a Tenancy Management Officer (on a rota)
2. The Housing Needs Manager or the Housing Enforcement Manager must be in attendance.
3. The panel will seek information from others as needed. This will include the housing team for the area. However, neither the applicants nor their advocates will be able to attend the meeting.
4. The panel will meet monthly, or as needed to consider urgent cases. The panel will have several functions including:
  - (i) to consider applicants to be barred from the waiting list. To set timescales or conditions that would allow the person to be reconsidered.
  - (ii) to confirm the level of priority given to applicants to be considered for smaller accommodation.
  - (iii) to consider cases whose housing needs are not met through the normal guidance. For example families who need additional rooms to cope with medical conditions, or families who are suffering from harassment or serious Anti-Social Behaviour.
  - (iv) to ensure that the authority makes best use of its housing stock by making direct allocations to unusual properties (examples may be properties with extensive adaptations).
5. The Panel will be able to consider unusual and emergency applications. For example people with multiple and complex housing needs, those who have a need to be rehoused in a particular type of property, or to ensure that the council makes best use of particular properties or adaptations.
6. The panel will be able to make the following decisions:
  - (i) To award absolute priority to an applicant – to ensure they are awarded a particular property.
  - (ii) To award additional points to reflect the needs of the applicant.
  - (iii) To waive the normal rules on property size and location.
  - (iv) To request additional information or clarification. This may include seeking independent advice or medical or other complex issues.

- (v) To award no priority.
7. Minutes will be kept of each meeting and decisions noted. Over time it is hoped that this will ensure that decisions made are robustly checked against other decisions.
  8. Applicants will be informed of their case within 10 working days of each meeting.
  9. Information and trends from the panel will inform future revisions of the allocations policy. Anonymous summaries of decisions made will be circulated to the portfolio holder for housing.
  10. A list of cases to be considered by the HARP panel will be circulated to local members prior to the scheduled meeting of the Panel. If the panel is meeting to consider an urgent case officers will attempt to contact appropriate members by telephone or e-mail. If the case involves any councillor of the authority (either as an applicant or other personal involvement) members will not be asked for comments. (Such cases must always be authorised by the Head of Housing or an Officer member of the Senior Management Team)) Members will only be asked to comment on cases where;
    - (i) Applicants may be barred from the register
    - (ii) Cases where housing needs are not met through normal guidance.
  11. All decision letters from the panel should inform the applicant of their right to appeal any decision, and of the role that elected members can play as advocates in this process. Any appeal should be considered initially by the Head of Housing. If he/she believes there may have been an error in the process of the panel, or receives 'significant' new information he/she can refer the case back to the Panel to reconsider.
  12. Any other appeal will be considered by an Appeal Board consisting of:
    - The Head of Housing
    - The Portfolio Holder for Housing
    - An Officer member of Senior Management Team

(Note: In cases that are within the Portfolio Holder's ward, the Portfolio Holder will be excluded from the Appeal Board with their place taken by another member of the Executive)
  13. The Appeal Board will look at individual cases and determine if the panel has made a decision that :
    - (i) Is consistent with other decisions made by the panel
    - (ii) Has taken account of all the information made available.
    - (iii) Taken into account information it shouldn't have taken into account



The Appeal Board can decide either to uphold the original panel decision or to ask the panel to reconsider the case. The Appeal Board cannot make any other decision.

## 3.7 JOINT ARRANGEMENTS

The following joint arrangements are in place:-

- (1) Chesterfield and District Joint Crematorium Committee and Market town and town centre project - Details of their Terms of Reference may be obtained from the Chief Executive Officer.
- (2) JOINT WORKING PROTOCOL

This protocol sets out the agreed principles for the undertaking of joint working between Chesterfield Borough Council, North East Derbyshire District Council and Bolsover District Council.

### 1. INTRODUCTION

- (i) This protocol forms the basis for joint working and the joint provision of services to the citizens of Chesterfield Borough, North East Derbyshire and Bolsover District Councils. The protocol sets out the framework and key issues to be considered in the development of the joint provision of services.

### 2. INFLUENCES AND DRIVERS

- (i) There are a number of statutory and non-statutory influences/drivers which highlight the need for the joint provision of services:-
  - White Paper on Strong Local Leadership Quality Public Services.
  - Best Value (Local Government Act 1999).
  - Community Strategies (LGA 2000).
  - Circular 03/03 on Best Value and Performance Improvement.
  - Comprehensive Performance Assessment – focus on ‘Use of Resources’
  - Best Practice in UK (e.g. Beacon Councils) and elsewhere.
  - Gershon Report on Public Service Efficiency 2004.
  - Government Spending Review 2004 – 2.5% target for efficiency gains and annual efficiency statement (AES).
  - Local Strategic Partnerships.
  - Development of the role of regional forums.Delivering Efficiency in Local Services, 2004.

### 3. CONTEXT

- (i) This protocol has been approved by the Borough/District Councils of Chesterfield, North East Derbyshire and Bolsover. Its implementation will be monitored (and revised as appropriate) by a Steering Group consisting of:-

- The Leaders, Deputy Leaders and Chief Executive Officers of Chesterfield Borough Council, North East Derbyshire and Bolsover District Councils.
- The group will be facilitated and administered by the Strategic Support Policy and Head of Best Value, Quality and Improvement Officers of the Councils with other members and officers as appropriate.

The Directors of each Council as appropriate.

- (ii) The members of the Steering Group are committed to the provision of improved services to the citizens of all three Councils. The group considers that this will, in certain instances, be best achieved by the joint provision of services, joint working and the development of common standards and protocols. To assist that aim it requires that all Service Reviews be undertaken with the objective that joint working/service provision between the three Councils could be possible and should therefore be positively promoted.
- (iii) Reports on the final outcomes of all joint Service/Efficiency including Best Value Reviews and joint service initiatives are to be submitted for consideration to the Steering Group.
- (iv) Joint consultation exercises are to be undertaken on all appropriate Service Reviews whether the reviews are joint or not joint undertakings.
- (v) All proposals for the setting up of any new services are in the first instance to be subject to an investigation into the suitability of providing such services, as a joint service for all three Councils
- (vi) All three Councils agree to operate all reviews in an open and transparent manner. This will include the sharing of all information

#### 4. SERVICE/EFFICIENCY REVIEW TEAMS

- (i) Joint Review teams will follow the framework set out in the Service Review 'Toolkit' and include officers from each Council. All Members of the teams will need to work together effectively and pull together a range of expertise and knowledge of each Council.

#### 5. EXAMPLES OF JOINT WORKING

- (i) Chesterfield and North East District Derbyshire District Councils having commenced the partnership in 2001 have already undertaken a wide range of joint working initiatives. Examples include: provision of a Joint Tourism Service/Joint Economic Development and Tourism/Joint Land and Property Register Strategy; a Joint Community Strategy; successful joint publicity campaigns e.g. on recycling, healthy communities/youth and grant applications; dog/pest control services; provision of printings function; Joint Best Value Reviews; Adoption of Joint PIs and standards.
- (ii) The three Councils have, in April 2005, now commenced a programme of investigating joint working on a number of further service areas including Building Control, Internal Audit, Procurement and Corporate Services.

## 6. CONCLUSION

- (i) This protocol is agreed by both Chesterfield Borough Council and North East and Bolsover District Councils as the framework to progress the aims set out in the document.
- (ii) It is intended to assist Members and Officers of all three Councils in implementing the provision of joint Best Value Reviews and services.

## (3) JOINT BOARD

### 1. INTRODUCTION

- (i) Since the signing of the Protocol, the Executives of Bolsover and North East Derbyshire District Councils and of Chesterfield Borough Council has each agreed that a Joint Board with formal decision making powers should replace the member-level Steering Group referred to in the Protocol.
- (ii) Each Council's Executive has authorised its Leader to decide all matters relating to joint working, in consultation with the Leaders of the other two Executives. The scope of this authorisation is set out in Part Three of this constitution. Other Executive members are authorised to act in the absence or unavailability of the Leader as shown in Part Three. The authorisation covers matters leading up to and following any decision to operate joint working or a shared service, but that decision itself is reserved to each authority's full Executive meeting.
- (iii) This type of member-level governance for joint working is a variation of the DCLG's option of Simultaneous Executive Meetings (SEM's).
- (iv) Any decision of the three Leaders (or their reserve executive members) shall bind the three executives only if all three Leaders (or their reserve executive members) agree. In the case of any project affecting two of the three councils, both Leaders must agree, and the third Leader has consultative status only.
- (v) The Joint Board shall be the overall member-level governance body for each approved shared service. The Board may approve alternative types of operating model in any appropriate shared service (eg a local authority company).

### 2. OFFICER SUPPORT AND JOINT UNION CONSULTATION

The Board shall from time to time decide on the nature and resourcing of officer support and union consultation arrangements. These are currently:

- (i) Chief Executive's Joint Working Group

Comprising the chief executive of each authority, other relevant officers and consultants. This Group's function is to discuss and co-ordinate joint working issues and to put forward proposals for the Joint Board's consideration. Administrative services for this group are currently provided by Bolsover District Council at their own expense.

(ii) Other Officer Working Groups

The Joint Board may authorise other officer joint officer working groups in relation to specific joint working proposals and projects.

3. ADMINISTRATIVE AND DEMOCRATIC SERVICES FOR THE JOINT BOARD

The Joint Board shall from time to time decide its arrangements for administrative and democratic services consistent with those applying in each authority. At present the arrangements are:

(i) Pre- Meeting Procedures:

Democratic Services are at present provided by Chesterfield Borough Council, at their own expense.

The relevant proper officer (currently CBC) shall determine whether or not any report for the joint board is to be marked as likely to disclose exempt or confidential information, in consultation with the proper officers of the other two authorities.

The responsible Democratic Services Officer (currently CBC) will send agenda and written reports for Joint Board meetings to the relevant Democratic Services Officer in each of the other 2 authorities at least 7 working days before each meeting of the Joint Board, to allow public reports to be made available to the public under regulation 9 of the Local Authorities (Executive Arrangements) (England) Regulations 2000.

Any question of exemption from call-in on the grounds of urgency or any other reason (in accordance with each authority's rules) shall be decided before the Joint Board meets by the Chief Executives of each authority in consultation with their Leaders.

(ii) Joint Board Meetings

The Joint Board shall meet every 2 months, unless it decides otherwise.

Unless it otherwise decides, the Board shall meet in public, except when considering exempt or confidential items. In the case of all items, (whether or not exempt or confidential), the Board may invite any person to attend and speak for the purpose of decision making and consultation.

Chesterfield Borough Council's Leader's non-executive support members may attend Board meetings and may speak.

For the purposes of consultation, each of the three Leaders, hosting a meeting at their own authority, will Chair that meeting (or their reserve executive members)

The three Chief Executives, or their representatives shall attend Board meetings, with appropriate Directors, Strategic Support Policy and Best Value, Quality and Improvement (or equivalent) Officers of the 3 Councils and other members or officers as agreed by the Board

Overview and Scrutiny members may attend Joint Board meetings as observers as mentioned below.

(iii) Joint Board: Records of Decision and Call-in

Within 2 working days of the date of a decision, the Democratic Services Officer (currently CBC) will forward a formal Record of Executive Decision, signed by each Leader (or reserve member) to a nominated officer in each of the other two authorities. The relevant officers in each authority will then be responsible for:

- Compliance with the access to information regulations on publication of executive decisions
- Reporting the Record of Decision to each authority's executive, and
- Call-in procedures

The decision shall be subject to the call-in procedures in each authority, provided that the decision shall not be implemented by any authority until the expiry of 9 working days from the date of the decision. (9 working days is the call-in period of Bolsover DC, which is the longest of the three authorities' call-in periods).

If no valid request for call-in is received under any of the three authorities' call-in procedures, the decision may then be implemented.

If there is a valid request for call-in under any of the authorities' call-in procedures, the decision shall not be implemented until that authority's call-in procedure has been completed.

#### 4. TERMS OF REFERENCE AND FUNCTIONS OF THE JOINT BOARD

In general terms these are as described in the Leader's delegation in Part 3 of this constitution. Specific terms of reference within that general delegation include:

- Matters referred to in the Joint Working protocol above,
- Decisions on the operating model for any shared service (e.g. Lead Authority, local authority company)
- Procurement Issues
- Organisational and staffing issues which are executive functions
- Options Appraisal
- Monitoring the operation of approved shared services

The Joint Board may recommend that any issue which is a non-executive function (e.g. terms and conditions of employment of particular staff) be referred to the appropriate authority's non-executive decision-making body (e.g. employment committee).

## 5. OVERVIEW AND SCRUTINY

Each authority may arrange for one of its overview and scrutiny members to attend meetings of the joint Board as an observer, substitutes being allowed. In due course, the authorities may consider joint member-level arrangements for general overview and scrutiny of joint working, so as to avoid duplication of overview and scrutiny functions.

## 6. DISPUTE RESOLUTION

If there is a dispute or inability to reach a decision on a specific item at any joint officer working group, then that item will be referred to the Chief Executives group for decision. In the event of continuing disagreement the matter would be referred to the Joint Board, and from there if necessary to the respective Councils' Executives.

# (4) STRATEGIC ALLIANCE JOINT COMMITTEE

## 1. Terms of Reference:

The Alliance Joint Committee is a joint committee of both North East Derbyshire District Council and Bolsover District Council.

Membership of the committee comprises of 9 councillors from each Council including the leader and deputy leader of each Council. Each block of 9 seats per Council will be assigned on the political proportionality of that Council.

The committee shall be quorate if 4 or more members from each Council are in attendance at the meeting

Unless determined otherwise by both Councils the Alliance Joint Committee will not be a decision-making body save where specific delegations have been made to it by the Councils. At present, the Council have delegated to the Alliance Joint Committee the power to form panels for the interview and appointment of Joint Directors.

Either Leader of the Council will chair the committee. Chairmanship will normally rotate annually. In the event of the absence of both leaders the committee will elect a chairman for that meeting alone by a majority show of hands.

Voting will be by a simple majority of those present on a show of hands. The chair of the committee will not have a casting vote on any matter. In the event of an equality of votes, the matter will be referred to each Council.

The frequency and scheduling of meetings will be as determined by the committee.

## Functions:

- To develop a Strategic Transformation Programme for approval by the Councils.
- To monitor the implementation of the Strategic Transformation Programme.
- To develop an Action Plan for the implementation of the Strategic Transformation Programme for approval by the Councils.
- To make recommendations or reports in respect of the Strategic Alliance to either the Executives or full Council meetings of each Council where appropriate.
- To be the primary body for resolving any disputes that may arise over the interpretation of the Strategic Transformation Programme or over any joint arrangements within the Alliance.
- To deal with any matter in relation to the Alliance or joint working arrangements and to take such decisions under any power delegated to it by the Councils including decisions in respect of the appointment and terms and conditions of joint employees of the Councils.
- To appoint such sub-committees, working groups or panels as it considers appropriate to carry out these functions and to decide the terms of reference and membership of such sub-committees, working groups or panels.

## (5) SHARED SERVICES SCRUTINY PANEL

Bolsover District Council  
Chesterfield Borough Council  
North East Derbyshire District Council

- (i) The Joint Scrutiny Panel will be made up of 9 members (3 from each authority). They will be responsible for the scrutiny function of the joint working/shared services. The terms of reference will be agreed by each authority's Scrutiny Committee and the Joint Scrutiny Panel.
- (ii) Appointment - The Joint Scrutiny Panel of each authority will nominate 3 members to make up the joint committee



(iii) Role - The Joint Scrutiny Panel will be responsible for overview and scrutiny arrangements for the three shared services of Building Control, Procurement and Internal Audit, and other areas of joint working (Crematorium, Home Improvement Agency) or additional shared services developed, covering the following elements:

- Monitoring – regularly receiving progress reports and updates against targets or objectives, and offering challenge and/or recommendations;
- Holding decision-makers to account - challenging decisions and performance;
- Adding value as a consultee – being consulted/engaged on policy proposals, draft strategies and proposed decisions;
- In-depth or spotlight reviews – a project based approach to reviewing an issue and gathering evidence to inform a report and recommendations – could be undertaken if the above activity identifies a need to;
- Monitoring progress for completed reviews and consultations

The Joint Scrutiny Panel may;-

- Conduct research, community and other consultation in the analysis of policy issues and possible options
- Consider and encourage community participation in the scrutiny function;
- Question members of the Joint Board and the Consortium/Service Managers about their views on issues and proposals affecting the area;
- Liaise with other external organisations operating on the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- Review and scrutinise the performance of the joint services in relation to its policy objectives, performance targets and/or particular service areas;
- Question members of the Joint Board and the Consortium/Service Managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decision, initiatives or projects;
- Make recommendations to the Joint Board arising from the outcome of the scrutiny process.

The Joint Scrutiny Panel may create a working group as required.

The Joint Scrutiny Panel may scrutinise the finances for the joint services.

The Joint Scrutiny Panel will report annually, by way of a report to the Joint Board and each Council, on their workings and make recommendations for future work programmes and amended working methods as appropriate.

(iv) Meetings of the Panel

The Joint Scrutiny Panel will meet quarterly for the business stated. Additional meetings will be arranged as required.

The date and time of each meeting will be agreed by the group.

The Joint Scrutiny Panel is not subject to statutory Access to Information rules, it may meet in private but where ever possible shall allow access to the public.

The host authority will be responsible for issuing the papers and producing the meeting notes to all the attendees.

(v) Quorum

The quorum for the Joint Scrutiny Panel shall be 3 members with a minimum of 1 representative per authority.

(vi) Chair of the Joint Scrutiny Panel

The Chair of Joint Scrutiny Panel will be rotated amongst each authority. The host authority members will agree the chair for each meeting.

Any working group created will elect their chair.

(iii) Agenda items

The Joint Scrutiny Panel shall consider the following:

- Minutes of the last meeting;
- Declarations of interest (including whipping declarations);
- Reports from the three shared services;
  
- Feedback from any reviews;
- Consideration of any matter that may be referred to each authority's Scrutiny Committee for a decision in relation to call in of a decision;
  
- Responses of the Joint Board to reports of the Scrutiny Committee;
- Business otherwise set out on the agenda for the meeting;
- Communication that will be issued from the group.

(viii) Additional items for the agenda

- Identifying and overseeing shared scrutiny reviews for the 3 authorities;
- Member development opportunities.

(xi) Members of the Joint Scrutiny Panel

Each member of the Joint Scrutiny Panel will also be responsible for:

- Updating their respective authorities on the services;
- Presenting reports on the services to their respective authorities;
- Identifying and overseeing shared reviews for the 3 authorities;
- Contributing to member development activities for scrutiny.

(x) Work Programme

The Scrutiny Panel will determine what items it will include in its work programme and in doing so shall take into account the wishes of Scrutiny Members. Cabinet Members will not decide the Joint Scrutiny Panel Work Programme. However, the Joint Scrutiny Panel will consider whether to include requests on the agenda from any other relevant stakeholder.

(xi) Call In

The Joint Scrutiny Panel will have no 'call in' powers. However the members of the panel may identify joint service items to call in by their respective authority.

(xii) Review of the Panel

The Joint Scrutiny Panel will review its progress and the terms of reference on an annual basis as part of the annual report to the Joint Board.

## (6) SHARED SERVICES CONSULTATION PROTOCOL

### 1. INTRODUCTION

- (i) The decision to consider forming a shared service will be taken initially at a political/officer level based on a desk top outline business case presented to the Joint Board/Committee. The triggers for initial discussions are varied but may include:

- (i)
- A peer review of the service highlighting areas for improvement that may be achieved through sharing of resources/expertise.
  - A vacancy/vacancies resulting from employee turnover, which provides a catalyst for a review of the way in which the service is provided.

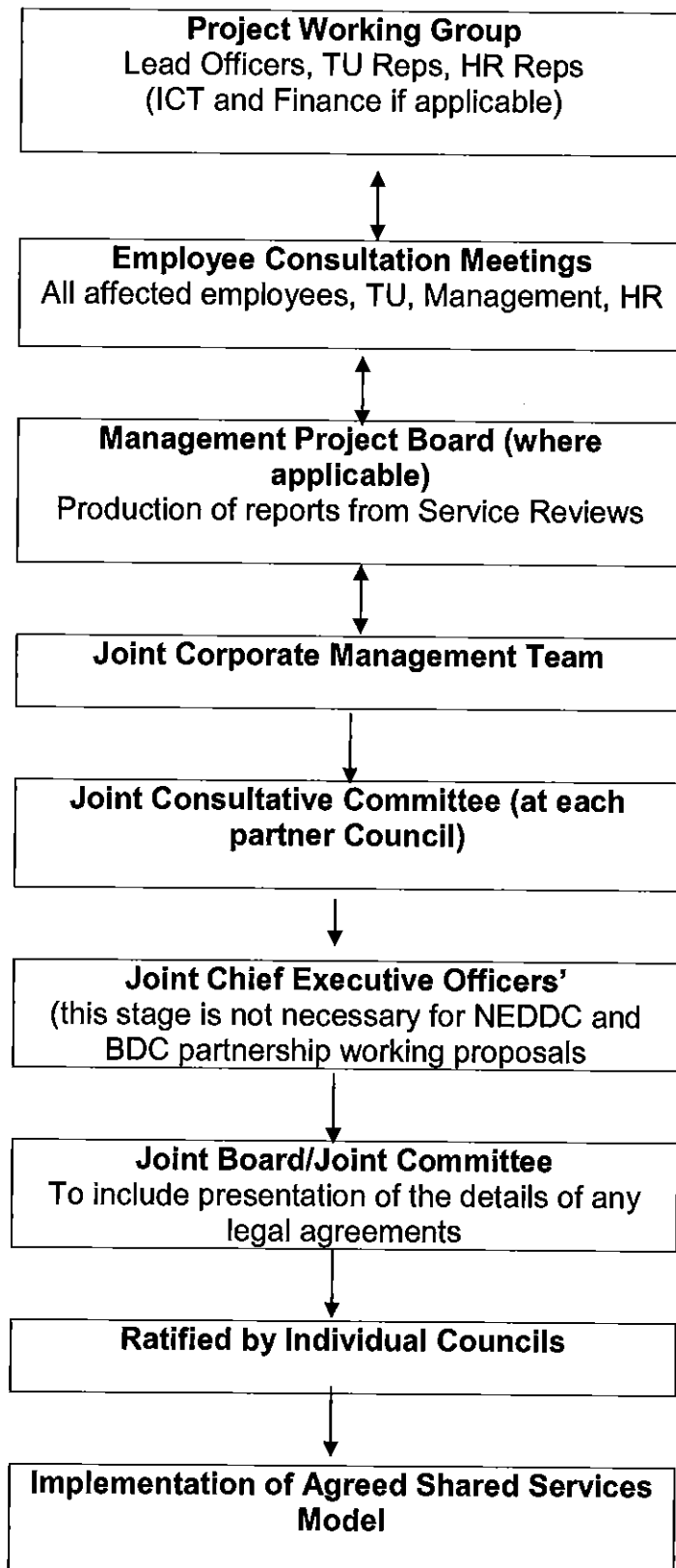
Employee/management ideas of how a service could be more cost effective/efficient if delivered in partnership.

- (ii) Once the initial desk top outline business case has been considered by the Joint Board/Joint Committee a full business case will be produced, during which the following will need to be determined:
- What work/service is to be included?
  - Which model of joint working is to be used, e.g. Joint Appointments, Lead Authority, Third Party Entity or just sharing of expertise?

The production of a full business case will be undertaken by a project working group which will include lead officers from the service, trade union representatives and HR representatives. Trade union representatives will have access to a full time officer for advice. Other representatives from services such as IT and Finance will also be included where this will assist the production of the business case.

- (iii) The project working group will be provided with mandatory guidance for a range of models for joint service working which will include:
- HR advice on the implications of each model, in particular in relation to TUPE and secondments.
  - Communications and consultation advice relevant to the model

The flowchart below sets out the process to be followed once approval has been given from the Joint Board/Joint Committee to proceed to a full business case appraisal. It needs to include a stage for preparation of legal agreements whether formal agreement and/or SLA. This would be carried on in parallel but would need finalising before the individual Councils approve the arrangements.



## (6) MEMBERS DELEGATION

### LEADER OF THE COUNCIL

#### 1. GENERAL

- (a) Delegated powers to distribute funding in relation to the Working Neighbourhood fund.

#### 2. JOINT WORKING

- (a) Subject to the Conditions of Delegation listed below to decide all matters relating to joint working and shared services with Chesterfield Borough Council and North East Derbyshire District Council and the power to delegate the making of any such decision to officers.

#### 3. CONDITIONS OF DELEGATION

- (a) Decisions under this delegation shall be made:

1. In consultation with the Executive members of Chesterfield Borough Council and North East Derbyshire District Council where necessary.

2. Within the overall budget approved from time to time by each Authority

3. In the absence or unavailability of the Leader, by the Deputy Leader, and in the absence or unavailability of both the Leader and Deputy Leader, by an Executive member nominated by the Leader

4. In accordance with:

- the principles of the Joint Working Protocol dated March 2006 and
- the Terms of Reference for joint meetings of the duly authorised executive members of Chesterfield Borough Council, Bolsover District Council and North East Derbyshire District Council

5. Any decision to enter into any formal joint working or shared services agreement shall not be within the scope of this delegation, and shall be reserved to the individual Councils.

#### MEMBERS GENERALLY

The determination in accordance with the approved scheme of all applications for grants made under the Bolsover District Voluntary and Community Small Grants Fund up to an aggregate value per Member as decided in the budget for the relevant year.

APPENDIX

MISCELLANEOUS LICENSING AND REGULATORY FUNCTIONS	
(1)	(2)
Function	Provision of Act or Statutory Instrument
<b>A. Functions relating to town and country planning and development control</b>	
1. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8)
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
5. Duties relating to the making of determinations of planning applications.	Section 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)
8. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990

10.	Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990
11.	Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
12.	Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990
13.	Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990
14.	Power to service a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
15.	Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990
16.	Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990
17.	Power to determine applications for hazardous substances consent and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c.10)
18.	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act
19.	Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990
20.	Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c.9)
21.	Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act.
22.	Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and Regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas)



		Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97
23.	Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
24.	Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
25.	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
26.	Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
27.	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
<b>B.</b>	<b>Licensing and registration functions (in so far as not covered by any other paragraph of this Appendix)</b>	
1.	Power to issue licences authorising the use of land as a caravan site (site licences).	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c.62)
2.	Power to licence the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49)
3.	Power to licence hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict.c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. C. 55) and Section 15 of the Transport Act 1985 (c.67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
4.	Power to licence drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976

5.	Power to licence operators of hackney carriages and private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
6.	Power to register pool promoters	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c.2)
7.	Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963
8.	Power to licence inter-track betting schemes	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963
9.	Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c.65)
10.	Power to register societies wishing to promote lotteries	Schedule 1 to the Lotteries and Amusements Act 1976 (c.32)
11.	Power to grant permits in respect of premises where amusements with prizes are provided	Schedule 3 to the Lotteries and Amusements Act 1976
12.	Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c.13)
13.	Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c.54).
14.	Power to issue liquor licences.	The various licences under the Licensing Act 2003.
15.	Power to licence sex shops and sex cinemas	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16.	Power to licence performances of hypnotism.	The Hypnotism Act 1952 (c.46)
17.	Power to licence premises for acupuncture, tattooing, ear piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982
18.	Power to licence pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c.53)
19.	Power to licence market and street trading	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c.vii) and section 6 of the London Local Authorities Act 1994 (c.xii)

20.	Power to licence night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c.53), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994
21.	Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c.66)
22.	Power to licence dealers in game and the killing and selling of game	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c.32); sections 2 to 16 of the Game Licensing Act 1860 (c.90), section 4 of the Customs and Inland Revenue Act 1883 (c.10), sections 12(3) and 27 of the Local Government Act 1874(c.73) and section 213 of the Local Government Act 1972 (c.70)
23.	Power to register and licence premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c.16)
24.	Power to licence scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c.69)
25.	Power to licence premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c.60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11)
26.	Power to licence pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c.35); section 1 of the Animal Boarding Establishments Act 1963 (c.43); the Riding Establishments Act 1964 and 1970 (1964 c.70 and 1970 c.70); section 1 of the Breeding of Dogs Act 1973 (c.60) and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999
27.	Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c.38)
28.	Power to licence zoos.	Section 1 of the Zoo Licensing Act 1981 (c.37)
29.	Power to licence dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976 (c.38)
30.	Power to licence knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646)

31.	Power to licence persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c.31) and section 2 of the House to House Collections Act 1939 (c. 44)
32.	Power to grant consent for the operation of a loudspeaker	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40)
33.	Power to issue licences for the movement of pigs	Article 12 of the Pigs (Records, Identification and Movements) Order 1995 (S.I. 1995/11)
34.	Power to licence the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995
35.	Power to licence collecting centres for the movement of pigs	Article 14 of the Pigs (Records, Identification and Movement) Order 1995
36.	Power to issue a licence to move cattle from a market	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871)
37.	Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35)
38.	Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
39.	Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)
40.	Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)
41.	Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520)
42.	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)
43.	Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994)
44.	Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998

45.	Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
46.	Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
47.	Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828)
49.	Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991
<b>C. Functions relating to health and safety at work</b>		
Functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work Etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer.		Part 1 of the Health and Safety at Work Etc. Act 1974 (c.37).
<b>D. Functions relating to elections</b>		
1.	Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983 (c.2).
2.	Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
3.	Functions in relation to parishes and Parish Councils.	Part II of the Local Government and Rating Act 1997 (c.29) and subordinate legislation under that Part.
4.	Power to dissolve small Parish Councils.	Section 10 of the Local Government Act 1972.
5.	Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6.	Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7.	Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and 4(4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c.10).
8.	Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.

9.	Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10.	Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11.	Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12.	Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13.	Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14.	Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15.	Power to make temporary appointments to Parish Councils.	Section 91 of the Local Government Act 1972.
16.	Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215)
17.	Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000 (c.2).
<b>E.</b>	<b>Functions relating to name and status of areas and individuals</b>	
1.	Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.
2.	Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3.	Power to confer title of honorary alderman/woman or to admit to be an honorary freeman/woman.	Section 249 of the Local Government Act 1972.
4.	Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972.
<b>F.</b>	<b>Power to make, amend, revoke or re-enact bylaws.</b>	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978
<b>G.</b>	<b>Power to promote or oppose local or personal Bills.</b>	Section 239 of the Local Government Act 1972.
<b>H.</b>	<b>Functions relating to pensions etc.</b>	
1.	Functions relating to local government pensions etc.	Regulations under section 7, 12, or 24 of the Superannuation Act 1972 (c.11).

<b>I.</b>	<b>Miscellaneous functions</b>	
1.	Power to create footpaths and bridleways.	Section 26 of the Highways Act 1980 (c.66).
2.	Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980.
3.	Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.
4.	Duty to approve Council's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1006/590)
5.	Powers relating to the preservation of trees.	Section 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892).
6.	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
7.	Power to make Standing Orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.
8.	Power to appoint staff.	Section 112 of the Local Government Act 1972.
9.	Power to make Standing Orders as to contracts.	Section 135 of the Local Government Act 1972.
10.	Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.

# **PART 4 RULES OF PROCEDURE**

## **4.1 COUNCIL PROCEDURE RULES**

### **4.1.1 Meetings of the Council**

#### **(1) Extraordinary Meetings**

An Extraordinary Meeting of the Council may be called, for a specific purpose at any time, by;

- (i) the Chairman of the Council,
- (ii) five Members in accordance with the provisions contained in Appendix A,
- (iii) the Council by Resolution, the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

#### **(3) Cancellation of Meetings**

- (i) If the meeting is to be cancelled before the notice and summons has been sent out, this is to be agreed with the Chairman and Vice-Chairman of the Council and the Leader of the Council or Deputy Leader in his absence.
- (ii) No meeting of the Council shall be cancelled if the notice and summons has already been sent out.

#### **(4) Time and Venue of Meetings**

All meetings of the Council will be in accordance with the Meetings Schedule or at such other time and/or place as may be determined by the Chairman or, in the Chairman's absence, the Vice-Chairman in advance of the summons to the meeting being sent.

#### **(5) Notice of and Summons to Meetings**

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



#### 4.1.2 Quorum

The quorum at a Meeting of the Council is one quarter of Members. If the meeting is inquorate, it shall stand adjourned in accordance with the provisions contained in Appendix C.

#### 4.1.3 Chairman and Vice Chairman

(1) Election of Chairman

The Chairman of the Council shall be elected annually by the Council from among the Members.

(2) Appointment of Vice Chairman

The Council shall appoint a member of the Council to be the Vice-Chairman of the Council.

(3) In the Absence of Chairman and Vice Chairman

In the absence of both Chairman and Vice-Chairman, those Members present will choose one of their number to preside at the meeting, and that person shall have the powers of the Chairman of the Council in relation to the conduct of the meeting. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

#### 4.1.4 Record of Attendance

(1) Member Leaving a Meeting

A member leaving a meeting before its conclusion must first indicate to the Chairman their intention to leave.

(2) Attendance Register

An Attendance Register shall be circulated at each meeting of the Council and Members shall record their attendance at the meeting by signing the Register, and the names of Members attending the meeting will be recorded in the Minutes.

#### 4.1.5 Admission to Meetings

(1) Public

Meetings of the Council shall be open to the public except where the public and press may be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 17 - Disturbance by Members of the Public.

(2) Officers

The Chief Executive Officer, the Chief Finance Officer and the Monitoring Officer shall have the right to speak at meetings of the Council where it is appropriate to the dispatch of business that they should do so. Other Officers may, with the consent of the Chairman, speak at meetings of the Council when it is appropriate to the dispatch of business that factual information should be laid before the Council.

4.1.6 Order of Business at Annual Meeting of Council

The annual meeting will;

- (1) elect the Chairman of Council,
- (2) appoint the Vice Chairman of Council,
- (3) elect a person to preside if the Chairman of Council is not present,
- (4) elect the Leader either annually or for a four year term at the first Annual Meeting after an ordinary election
- (5) receive the announcement of the appointment of the Deputy Leader and members of the Executive by the Leader,
- (6) receive the announcement of the allocation of the Portfolios to the Executive members,
- (7) appoint at least one Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution),
- (8) agree the scheme of delegation - 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),
- (9) consider any business set out in the notice convening the meeting.
- (10) decide which Committees to establish for the municipal year,
- (11) decide the size and terms of reference for those Committees,
- (12) decide the allocation of seats to political groups in accordance with the political balance rules and subject to the time limits and procedure in Appendix B,

- (13) receive nominations of Members to serve on each Committee and outside body and appoint to those Committees and outside bodies except where appointment to those outside bodies has been delegated by the Council or is exercisable only by the Executive.

#### 4.1.7 Order of Business at Ordinary Council Meeting

- (1) Subject to what follows, the order of business at every Ordinary Meeting of the Council will be:-
- (2) to elect a Member (other than a Member of the Executive) to preside if the Chairman and Vice-Chairman are absent,
- (3) to deal with any business required by statute to be done before any other business,
- (4) to receive any declarations of interest from Members,
- (5) to approve as a correct record and sign the Minutes of the last meeting of the Council,
- (6) to dispose of business (if any) remaining from a previous meeting,
- (7) to receive reports, minutes and recommendations from the Executive and the Council's Committees,
- (8) to consider Notices of Motion in the order in which they have been received,
- (9) to answer questions asked under Council Procedure Rule 4.1.10.
- (10) to determine other business, if any, specified in the summons including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of Scrutiny Committee for debate.
- (11) to receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting,
- (12) to receive reports about and receive questions and answers on the business of joint arrangements and external organisations,
- (13) the order of business (with the exception of items 4.1.7(2), 4.1.7(3) and 4.1.7(4) may be altered by the Chairman of the Council, or by a resolution following a Motion moved, seconded and put to the Meeting without debate.

#### 4.1.8 Order of Business at Extraordinary Meetings

The only business, which may be considered at an Extraordinary Meeting is such as is specified in the summons to the meeting.

#### 4.1.9 Use of Media and Other Communication Methods

Subject to Rule 4.1.17, a person may report on or provide commentary on the proceedings of a meeting using any means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later.

#### 4.1.10 Questions

At ordinary meetings of the Council, questions may be asked by either a Member of the Council or a member of the public in accordance with the following rules of procedure.

##### (1) Questions upon an item of a report

A Member of the Council may ask the Leader, a member of the Executive or the Chair of a relevant Committee any question without notice upon an item of the report of the Executive or a Committee when the item is being received or is under consideration by the Council.

##### (2) Questions by Members of the Council and by the Public on Notice

- (i) Subject to these rules a Member of the Council or a member of the public may ask the Chair, a Member of the Executive or the Chair of any Committee any question on any matter in relation to which the Council has powers or duties or which affect the District.
- (ii) A question may only be asked if it has been set out in writing and a copy of it has been delivered to the Chief Executive Officer no later than 10am, seven clear days before the day of the meeting. Questioners must name the Member of the Council to whom the question is to be put; questions by the public must give the name and address of the questioner.
- (iii) In respect of a question by a Member of the Council, the Chair of the Council may agree to waive the requirements for notice in Rule 2(ii) provided that the Member asking the question has:
  - The consent of the person to whom the question is to be put; and

- The question has been set out in writing and a copy of it has been delivered to the Chief Executive Officer no later than 9am on the day of the meeting.
- (iv) At any one meeting no person, Member of the Council or member of the public, may submit more than one question and no more than one question may be asked on behalf of one organisation. Questions will be asked in the date order notice of them was received, except that the Chair may group together similar questions.
- (v) Questions shall be put and answered without discussion, except where the Chair shall decide to allow a discussion, and the person to whom the question has been put may decline to answer. An answer may take the form of:
- a direct oral answer;
  - where information requested is contained in a publication of the Council, a reference to that publication;
  - a written answer, provided to the questioner and to all Members of the Council, either during the meeting at which the question is asked or prior to the next ordinary meeting of the Council.
- (vi) At the meeting, questions, other than supplementary questions, and questions by Members upon an item of a report, shall be taken as read.
- (vii) If a questioner is unable to be present the Chair 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.
- (viii) Upon receiving an answer the questioner may ask one supplementary question without notice of the Member to whom the question has been put. The supplementary question must arise directly out of the original question or the reply.

Answers to supplementary questions may take any of the forms set out in paragraph 4.1.10 (v) above.

- (ix) The Chief Executive Officer may reject a question in its entirety, or at a meeting the Chair may direct that a supplementary question is not valid and is to be rejected, if, in whole or part, it appears to him that:
- it is not about a matter for which the Council has a responsibility or which affects the District;
  - it is defamatory, frivolous or offensive;

- it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- it requires the disclosure of confidential or exempt information;
- it is substantially a statement or that its purpose is not primarily to seek information.

Rejected questions will include the reason for rejection.

- (x) The Chief Executive will cause a record to be made of each question, open to public inspection, and will as soon as is reasonably practicable send a copy of the question to the Member to whom it is to be put. Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

(3) Questions on Notice at Committees and Sub – Committees

Subject to Rule (3) 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 affect the District and which falls within the terms of reference of that Committee or Sub-Committee. These questions will be dealt with in the same way as questions at Council by Members and subject to the Chair's discretion.

4.1.11 Notices of Motion

- (1) A Notice of Motion, other than one listed in Rule 4.1.13, must be given in writing to the Chief Executive Officer at least seven clear days before the relevant Meeting and must be signed by the Member(s) giving the notice.
- (2) The Chief Executive Officer shall, on receipt, date and number each Notice of Motion and retain a record, which any Member may inspect; and set out in the summons for the Council Meeting all Motions which comply with the requirements of paragraph 4.1.11 (1) of this Rule, in the order they have been received, unless the Member has in writing either withdrawn a motion or stated a wish to move it at a later meeting.
- (3) Motions must relate to matters where the Council has powers or duties or to matters which affect the inhabitants of the District.
- (4) The Council will treat as withdrawn any Motion not moved at the Meeting at which it appears on the summons, unless its postponement is agreed.

#### 4.1.12 Motions and Amendments with Notice

- (1) All motions and amendments shall be proposed and seconded before being discussed.
- (2) If the Chairman so requires, a motion or amendment shall be put in writing by the Proposer and handed to the Chairman.
- (3) An amendment to a motion must be relevant to the motion and will be either:-
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration,
  - (ii) to leave out words,
  - (iii) to leave out words and insert or add others; or,
  - (iv) to insert or add words.

As long as the effect of (ii) to (iv) is not to negate the motion.

#### 4.1.13 Motions and Amendments without notice.

- (1) A Member may move without notice any of the following motions and amendments:-
  - (i) to elect a Chairman for that Meeting or the remainder of the meeting, where the Chair/Vice Chair is not present.
  - (ii) motions relating to the accuracy of the minutes,
  - (iii) to vary the order of the agenda,
  - (iv) subject to the limitation set out in paragraph (vii) below of this Rule, a motion arising out of consideration of an item on the agenda, provided that the motion is relevant to that item and does not introduce any new subject matter,
  - (v) that a matter be referred, or referred back, to a committee or an appropriate body or individual,
  - (vi) that a body be appointed, or a person be appointed to a body including the appointment of a committee or a Member to a committee except where appointment of the outside body is exercisable only by the Executive,
  - (vii) to adopt reports and recommendations of committees or officers, but a Member cannot move a Motion or amendment which amends a decision made under powers delegated by the Council,

- (viii) to withdraw a motion,
- (ix) to extend the time limit for speeches,
- (x) to amend a motion,
- (xi) to move on to the next business on the agenda,
- (xii) to put the question immediately to the vote,
- (xiii) to adjourn the debate,
- (xiv) to adjourn the meeting,
- (xv) to suspend one or more Council Procedure Rules,
- (xvi) to exclude the public from the Meeting under the Access to Information Rules,
- (xvii) under Council Procedure Rule 4.1.15(11)(vii) and 4.1.16(1) - not to hear a Member further,
- (xviii) under Council Procedure Rule 4.1.15 (11) (viii) and 4.1.16(2) - the Chairman to require a Member to leave the Meeting,
- (xix) to give any consent required by the Council's Constitution.

#### 4.1.14 Council and Committee Minutes

- (1) The Chairman will sign the minutes of the proceedings at the next suitable meeting and will move that the minutes of the previous meeting(s) be signed as a correct record.

When 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 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.

- (2) No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or it is raised then as soon as it has been disposed of, the Chairman shall sign the minutes.
- (3) Any Member of the Council wishing to speak shall first identify the minute to which he intends to refer.



- (4) The debate on any minute shall be concluded as to its accuracy before the Council debates any other minute of that Committee.
- (5) Where the Chairman is satisfied that there has been adequate discussion on any minute; s/he may decline to allow any further debate on it. When the discussion on a minute has concluded, the Chairman of the Committee shall reply to the discussion.
- (6) The signed copies of all minutes of the Council or Committees thereof shall be bound and retained in Governance.
- (7) Minutes will contain all motions and amendments in the exact order and form the Chairman put them.
- (8) Members may put questions for clarification, in respect of any Executive or Committee minutes contained within the latest minute book.
- (9) No amendments whatsoever may be moved to a Committee Minute where a decision has been taken by that Committee in pursuance of delegated powers.
- (10) Minutes shall be submitted to Council and signed by the Chairman at the next following Meeting of the Council unless that next Meeting is an Extraordinary Meeting.
- (11) Minutes shall be recorded as a suitable record in a book of loose leaf pages and contain all motions and amendments in the exact form and order the Chairman put them.

#### 4.1.15 Rules of Debate

(1) Respect for Chairman

- (i) Upon the Chairman arriving at the place of the meeting, all present shall stand and shall not sit until the Chairman has taken his seat.
- (ii) When the Chairman rises during a debate, any Member then standing must immediately stop speaking and sit down and the Council shall be silent.

(2) Standing when Speaking

A Member, when speaking, shall stand and address the Chairman.

(3) Chairman to Decide Order of Speaking

If two or more Members rise or indicate their wish to speak, the Chairman will call on one to speak and the other (or others) must then sit.

(4) Only One Member to Stand

While a Member is speaking, all other Members must remain seated and silent unless rising to a point of order or in personal explanation, in accordance with Council Procedure Rules.

(5) Speeches

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

(6) Reserving Speeches

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

(7) Content of Speech

A Member's speech must be directed solely to the matter under discussion or to a personal explanation or point of order.

(8) Length of Speech

A Member may not speak for more than five minutes, except by consent of the Council.

(9) When a Member May Speak Again on Motion

A Member who has spoken on any motion (and for this purpose each separate minute of a particular Executive, committee, sub-committee or joint committee, or any group of minutes being taken together will be regarded as a separate motion) shall not speak again until the debate on the motion has finished except:-

- (i) to speak once on an amendment moved by another Member,
- (ii) if the motion has been amended since the Member last spoke, to move a further amendment,
- (iii) if the Member's first speech was on an amendment moved by another Member, to speak on the main issue, whether or not that amendment was carried,

- (iv) in exercise of a right of reply,
- (v) on a point of order or by way of personal explanation.

(10) Debate on Amendment

- (i) Only one amendment may be moved and discussed at any time. No further amendment may be moved until the first amendment has been disposed of.
- (ii) If an amendment is lost a further, different, amendment may be moved.
- (iii) If an amendment is carried, the motion as amended takes the place of the original motion and becomes the substantive motion upon which any further amendments may be moved.
- (iv) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

(11) Motions Which May be Moved During Debate

When a motion is being debated, the only other motions which may be moved (either singly or combined and with any necessary added words) are:-

- (i) to withdraw a motion,
- (ii) to amend the motion,
- (iii) to adjourn the meeting,
- (iv) to adjourn the debate,
- (v) to move on to the next business,
- (vi) to put the question immediately to the vote,
- (vii) not to hear a Member further,
- (viii) to require a Member to leave the meeting,
- (ix) to exclude the public from the meeting under the Access to Information rules,
- (x) to suspend one or more Rules of the Constitution if permitted by the Constitution, (see 4.1.20.(1))
- (xi) to extend the time limit for speeches,

(xii) to give any consent required by these Council Procedure Rules,

(12) Closure Motions

(1) At the conclusion of a speech of another Member, a Member may move without comment that;

(i) The debate be adjourned.

(ii) The meeting be adjourned.

(iii) The Council proceed to the next business, or;

(iv) The question be now put.

(2) If the motion be seconded, the Chairman of the Council shall proceed as follows if in his opinion the question before the meeting has been sufficiently discussed;

(i) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(ii) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the mover of the original motion a right of reply before putting the motion to the vote.

(iii) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chairman will put the procedural motion to the vote without giving the mover of the original motion the right to reply.

(13) Amendment of Motion by Proposer

A Member may with the consent of the Council signified without discussion.

(i) Alter a Motion of which the Member has given notice, or

(ii) With the further consent of the Seconder, alter a Motion which the Member has moved

if (in either case) the alteration is one, which could be made as an amendment to the Motion. Council may signify its assent by a vote or otherwise as determined by the Chairman.

(14) Withdrawal of Motion by Proposer

A motion or amendment may be withdrawn by the Proposer with the consent of the Secunder and of the Council. The Council's consent will be signified without discussion.

(15) Withdrawn Motion

No Member may speak on a motion or amendment after the Proposer has asked to withdraw it unless permission has been refused.

(16) Right of Reply - Proposer of Motion Only

The Proposer of a Motion has the right to reply at the close of the debate on the Motion immediately before it is put to the vote.

(17) At the Close of a Debate on an Amendment

- (i) The Proposer of the original motion has the right to reply, but may not otherwise speak on it.
- (ii) The Proposer of the amendment has no right to reply to the debate on his or her amendment.

(18) Point of Order

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which that Member considers it has been broken. The ruling of the Chairman on the matter will be final.

(19) 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 Chairman on the admissibility of a personal explanation will be final.

#### 4.1.16 Disorderly Conduct

(1) Member Not to be Heard Further

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

(2) Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chairman 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.

(3) General Disturbance

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

#### 4.1.17 Disturbance by Members of the Public

If a member of the public interrupts the proceedings at any Meeting, the Chairman of the Council will warn the person concerned. If the interruption continues the Chairman of the Council shall order removal from the Council Chamber of that member(s) of the public. If there is general disturbance in any part of the Chamber open to the public the Chairman of the Council may call for that part to be cleared.

#### 4.1.18 Previous Decisions and Motions

(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 3 Members.

(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 3 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

#### 4.1.19 Voting

(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.

(2) Show of Hands

Members will vote by show of hands unless a recorded vote or ballot is demanded under Rules 4.1.19(4) or 4.1.19(5);

(3) Chairman's Casting Vote

- (i) In the case of equality of votes, the person presiding at the meeting shall have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.
- (ii) In the case of an equality of votes upon an original motion, amendment or a substantive motion, if the Chairman declines to give a second or casting vote, such motion or amendment shall thereupon fail and not be again moved at that meeting.

(4) Recorded Vote

If ten 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. A demand for a recorded vote will override a demand for a ballot.

Where matters affecting the Council's budget or Council Tax are considered by Council then a recorded vote will take place as a matter of course.

(5) Ballot

The vote will take place by ballot if 10 Members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

(6) Right to Require Individual Vote to be Recorded

Where any Member so requires immediately after a vote has been taken, the minutes shall record that Member's vote for or against the question or abstaining from voting.

(7) Appointments

Where three or more Members are nominated for any position to be filled by the Council but there is no majority of the votes cast in favour of one candidate, then the candidate who received the least votes must be eliminated from the voting and a fresh vote taken and so on until a majority of votes is given in favour of one person.

(8) Misunderstanding

In the case of any misunderstanding concerning Members voting a further vote shall be taken on the requisition of 10 Members or at the discretion of the Chairman.

#### 4.1.20 Suspension and Amendment of Council Procedure Rule

(1) Suspension

All of these Council Rules of Procedure except 4.1.19(6) and 4.1.14(2) 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.

(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.

#### 4.1.21 Access to Constitution for Members

A full version of the Constitution is available on the Council's web site.

#### 4.1.22 Application to Committees and Sub-Committees

All of the Council Rules of Procedure apply to meetings of Council. None of the rules apply to meetings of the Executive. Only Rules 4.1.1(2), 4.1.1 (3), 4.1.1(4), 4.1.1(5), 4.1.2, 4.1.3(3), 4.1.4, 4.1.5(1), 4.1.9, 4.1.10, 4.1.11, 4.1.12, 4.1.13 (other than 4.1.13(i), (ii) and (iv)), 4.1.14, 4.1.15, 4.1.16, 4.1.17, 4.1.18, 4.1.19, 4.1.20, 4.1.21, 4.1.23 apply to meetings of Committees and Sub-Committees, with appropriate amendments.



#### 4.1.23 Attendance at Committee Meetings by Members of the Council

(1) Attendance by Members of the Council who are not Members of the Committee or Sub-Committee

A Member of the Council may, with the approval of the appropriate Chairman, attend any meeting of a Committee or Sub-Committee and, if so invited by the Chairman of that Committee or Sub-Committee, may speak but not vote on business before that meeting.

(2) Occasions when Members who are not Members of the Committee or Sub-Committee may not attend

No Member of the Council shall attend any Standing Committee, Standing Sub-Committee or any other Committee, Sub-Committee or other body set up by the Council of which s/he is not a member whilst that Committee or Sub-Committee or other body is exercising any function which, in the opinion of the Chief Executive Officer, is engaged in interviewing candidates for any position with the Council or in exercising any appellate functions relating to appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council.

(3) Attendance for Exempt Items

In the event of any Committee or Sub-Committee deciding, in accordance with Access to Information Procedure Rules to exclude the public whilst any matter of a confidential or exempt nature is discussed, any member of the Council who is present who is not a Member of that Committee or Sub-Committee may remain unless the Committee or Sub-Committee ask him to leave or s/he is precluded by any other Rule or Code of Conduct issue from remaining. In the case of Sub-Committee and Working Party meetings, which are not ordinarily open to the press and public, it shall similarly be open to the Sub-Committee or Working Party to ask a non-member to leave.

#### APPENDIX 'A'

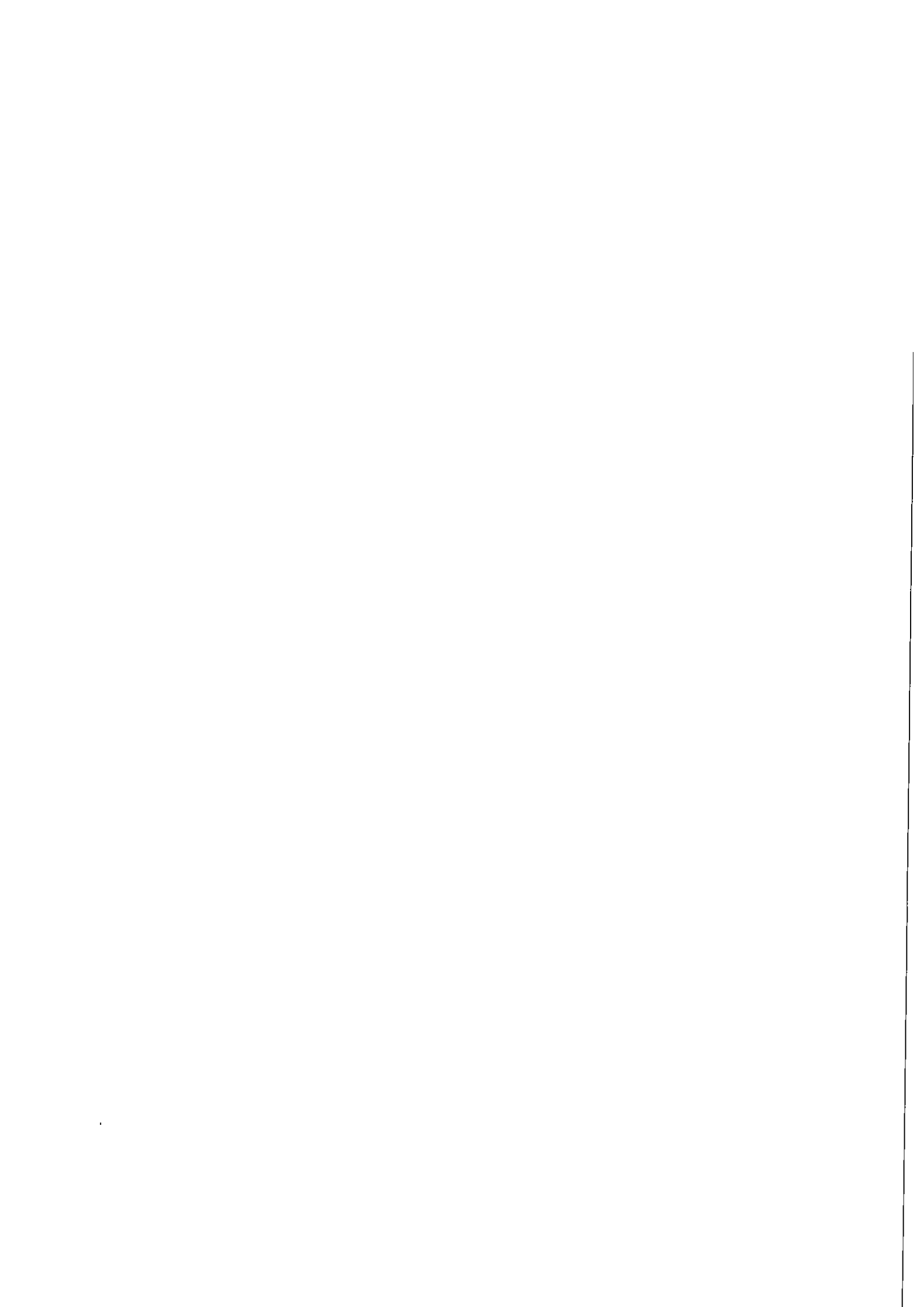
#### EXTRAORDINARY MEETINGS

- |     |  |
|-----|--|
| (1) | An Extraordinary Meeting of the Council may be called at any time by the Chairman. If the Chairman refuses to call an Extraordinary Meeting of the Council after a requisition for that purpose signed by five members of the Council has been presented to him, or if, without so refusing, the Chairman does not call an Extraordinary Meeting within seven days after the requisition has been presented to him, then any five members of the Council on that refusal or on expiration of those seven days, as the case may be, may forthwith call an Extraordinary Meeting of the Council. |
|-----|--|

(2)	No business shall be considered at any Extraordinary Meeting save such as is specified in a resolution of the Council or Committee as the case may be or on the direction of the Chairman or in the requisition presented to him by Members.
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APPENDIX 'B' <u>PROPORTIONALITY RULES</u>	
(1)	Eight working days in advance of the Annual Meeting of the Council, the Chief Executive Officer shall inform the Leader of each of the Political Groups showing what allocation of seats would in the Chief Executive's opinion best meet the requirements of section 15 of the Local Government and Housing Act 1989.
(2)	Proposed nominations to Committees by the Political Groups must be given to the Chief Executive Officer seven working days prior to the Annual Meeting of the Council, or as soon as practicable before the Annual General Meeting.
(3)	In years where no District Council elections are held, the procedure outlined above will be followed. In election years, the notice will be sent by the Chief Executive Officer as soon as practicable following the elections and the political parties to respond as soon as practicable in advance of the Annual Meeting.

APPENDIX 'C' <u>QUORUM</u>	
(1)	If within fifteen minutes after the time fixed for any meeting a quorum of Members is not be present, the Members present, or a majority of them, or if only one Member is present, then that Member, or if no Member be present, then the Chief Executive Officer, or next Senior Officer, shall adjourn such meeting to some other time before the next Ordinary Meeting, and an entry of such adjournment shall be made in the minute book.
(2)	If at any time, more than one third of Members of the Council become disqualified, then, until the number of Members in office is increased to not less than two thirds of the whole number of Members of the Council, the quorum of the Council shall be determined by reference to the number of Members of the Council remaining qualified instead of by reference to the whole number of Members of the Council.
(3)	If during any meeting of the Council the Chairman, after counting the number of Members present declares that there is not a quorum present, the meeting shall stand adjourned until the next ordinary meeting, unless an extraordinary meeting is convened for the purpose of completing the remaining business.
(4)	A quorum found to be present at any meeting of the Council shall be deemed to continue to be present at that meeting until found otherwise under (3) above.



## **PART 4 RULES OF PROCEDURE**

### **4.2 ACCESS TO INFORMATION PROCEDURE RULES**

#### Principles

The access to information rules which apply to Council meetings and committees of the Council are set out in sections 100A-H and schedule 12A to the Local Government Act 1972.

Slightly different access to information rules apply to the Executive, as set out in the Local Authorities (Executive Arrangements) (Meetings and Access To Information) (England) Regulations 2012.

#### 4.2.1 Scope

##### (1) Executive Arrangements

These rules apply to all meetings of the Council, Scrutiny Committee, the Standards Committee and regulatory committees and meetings of the Executive (together called meetings).

#### 4.2.2 Additional Rights to Information

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

#### 4.2.3 Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

#### 4.2.4 Notice of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at The Arc, Clowne.

#### 4.2.5 Access to Agenda and Reports Before the Meeting

- (i) The Council will make copies of agenda and reports, which are open to the public, available for inspection at the above address at least five clear days before the meeting.
- (ii) 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.
- (iii) Where reports are prepared after the summons has been sent out, the Chief Executive Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

#### 4.2.6 Supply of Copies

The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection,
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and,
- (c) if the Chief Executive Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item,
- (d) to any person on payment of a charge for postage and any other costs.

#### 4.2.7 Access to Minutes Etc., After the Meeting

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all avoiding the disclosure of exempt or confidential information;
- (b) 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;
- (c) the agenda for the meeting; and,
- (d) reports relating to items when the meeting was open to the public.

#### 4.2.8 Background Papers

##### (1) List of Background Papers

The officer with primary responsibility for preparing a report and requesting its inclusion on the agenda will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in the officer's opinion:-

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

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

##### (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.

#### 4.2.9 Summary of Public's Rights

These Rules constitute the written summary of the public's rights to attend meetings and to inspect and copy documents.

#### 4.2.10 Exclusion of Access by the Public to Meetings

##### (1) 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.

##### (2) 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.

(3) Meaning of Confidential Information

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

(4) Meaning of Exempt Information

Exempt information means information falling within the following 7 categories (subject to any condition):

<b>Schedule 12A</b>	
<b>Access to information : Exempt Information</b>	
	<b>Part 1</b>
	<b>Descriptions of Exempt Information : England</b>
1.	Information relating to any individual.
2.	Information which is likely to reveal the identity of an individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding the information).
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes –
a)	to give under any enactment a notice under or by virtue of which requirements are imposed on a person;
	or
b)	To make an order or direction under any enactment.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### 4.2.11 Exclusion of Access by the Public to Reports

If the officer with primary responsibility for preparing the report and arranging for its inclusion on the agenda thinks fit after consultation with the Chief Executive Officer and Monitoring Officer, the Council may exclude access by the public to reports which in that officer's 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.

#### 4.2.12 Application of Rules to the Executive

The following rules apply to the Executive. Where documents are required to be published for inspection under these Rules, that publication must be both at the Council's offices and on the Council's website.

#### 4.2.13 Procedures Prior to Consideration of Confidential or Exempt Items

- (1) At least 28 days before a meeting of the Executive, the Council will publish a notice setting out those items to be considered in private and the reasons why they will be considered in private.
- (2) Five days before a meeting of the Executive, the Council will publish a further notice stating the items that will be considered in private, the reasons for considering them in private, any representations received about why the item should be considered in public and the Council's response to those representations.
- (3) Where it is not possible to provide 28 days' notice of an item to be considered in private, the Executive may only consider that item in private if they have received written consent from the Chairman of the relevant Scrutiny Committee stating that the item is urgent and cannot be reasonably deferred. Where there is no such person, or if the Chair is unable to act, then the Chairman of the Council may provide permission or, in his absence, the Vice Chairman.
- (4) As soon as reasonably practicable after the Council has obtained agreement under paragraph 4.2.13(3) above they will publish a notice setting out why the item was urgent and could not be reasonably deferred.

#### 4.2.14 Key Decisions

A "key decision" is an executive decision, which is likely:-



(a) to result in the Council incurring expenditure which is, or the making of savings which are, to the value of £50,000 or more; or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.

#### 4.2.15 Publicity in Connection with Key Decisions

(1) Key Decisions to be taken at the forthcoming meeting of the Executive will be set out in the Council's List of Key Decisions published 28 days in advance of the meeting.

(2) Where, in relation to any matter:-

(a) the public may be excluded from the meeting at which the matter is to be discussed; or

(b) documents relating to the decision need not be disclosed to the public because they contain confidential or exempt information, the List of Key Decisions will contain particulars of the matter but may not contain any confidential or exempt information.

#### 4.2.16 General Exception

(1) If a matter which is likely to be a Key Decision has not been included in the List of Key Decisions then subject to paragraph 4.2.17 the decision may still be taken:

(a) where the Chief Executive has informed the Chair of the relevant Scrutiny Committee or, if there is no such person, each member of the Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;

(b) where the Chief Executive has made available at the offices of the Council for inspection by the public and published on the Council's website a copy of the notice given pursuant to sub-paragraph (a);

and

(c) after five clear days have elapsed following the day on which the Chief Executive made available the notice referred to in sub-paragraph (b).

(2) As soon as reasonably practicable after the Chief Executive has complied with paragraph 4.2.16(1) he must publish a notice setting out the reasons why compliance with paragraph 4.2.16(1) was impracticable.

#### 4.2.17 Cases of Special Urgency

- (1) If by virtue of the date by which a decision must be taken paragraph 4.2.16 (General Exception) cannot be followed, then the decision can only be taken if the Chief Executive obtains the consent of the relevant Chair of Scrutiny Committee, that the taking of the decision cannot be reasonably deferred. If there is no relevant Chair of the Scrutiny Committee, or if the Chair of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.
- (2) As soon as reasonable practicable after the Chief Executive has obtained agreement under paragraph 4.2.17(1) that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must publish a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

#### 4.2.18 Recording of executive decisions

After any meeting of the Executive or any of its Committees, whether held in public or private, the Chief Executive will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected as well as any conflicts of interest and dispensations noted.

#### 4.2.19 Recording of executive decisions made by individuals

- (1) An executive decision made by a member or officer which is a Key Decision will be recorded using the Council's delegated decision form available from the Governance Team.
- (2) Each decision will contain details of the decision, including the date it was made, reasons for the decision, any alternative options considered and rejected, any conflicts of interest recorded and dispensations noted.

#### 4.2.20 Additional rights of access to documents for members of local authorities

- (1) All Members are entitled to inspect any document, (except those available only in draft form), which is in the possession of or under the control of the Executive and contains material relating to any business previously transacted at an Executive meeting unless it contains exempt information under categories 1, 2, 4, 5 and 7 of Schedule 12A to the Local Government Act 1972.
- (2) The rights conferred by this section are in addition to any other rights that a member of the Council may have.

#### 4.2.21 Additional rights of access to documents for members of overview and scrutiny committees

- (1) Subject to Rule 4.2.21(2), a Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business transacted at a meeting of the Executive or an executive decision taken under delegated powers.
- (2) Scrutiny Committee is not entitled to;
  - (a) Any document in draft form;
  - (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Scrutiny Committee is reviewing or scrutinising or intends to scrutinise.

#### 4.2.22 Reports to the local authority where the key decision procedure is not followed

- (1) If a decision has been made by the Executive and it was not treated as a Key Decision but a Scrutiny Committee feels that it should have been then that Scrutiny Committee may require the Executive to submit a report to Council within a period specified by the Scrutiny Committee.
- (2) If Executive is of the view that the decision was not a Key Decision then they must provide their reasons for that opinion.

## 4.3 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### 4.3.1 The Budget and Policy Framework

The Council is responsible for the adoption of the Budget and Policy Framework as set out in Article 4 of this Constitution. The following is a list of the plans and strategies, which make up the Budget and Policy Framework:-

<b>Plan, Strategy or Budget</b>	<b>Body</b>
Borrowing & Investment Strategy	Audit Committee Budget Scrutiny
Budget	Cabinet Budget Scrutiny Executive
Capital Strategy	Audit Committee Budget Scrutiny
Corporate Plan	All Scrutiny Committees
Crime & Disorder Reduction Strategy	Safe & Inclusive Scrutiny
Health and Well Being Strategy	Improvement Scrutiny
Housing Strategy	Safe & Inclusive Scrutiny
Licensing Policy	Licensing Committee
Local Plan	Planning Committee
Pay Policy Statement	N/A
Sustainable Community Strategy	Sustainable Communities Scrutiny
Treasury Management Strategy	Audit Committee Budget Scrutiny

#### 4.3.2 The Framework for Executive Decisions

- (a) The Council will be responsible for the adoption of the Budget and Policy Framework. Once the Budget and Policy Framework is in place, it will be the responsibility of the Executive to implement it.
- (b) The Executive has the responsibility for proposing to the Council a budget and policies which will form part of the Budget and Policy Framework. It also has responsibility for making decisions within that Budget and Policy Framework.

#### 4.3.3 The Process for Developing the Framework

- (a) The Council will be responsible for the adoption of the Budget and Policy Framework. Once the Budget and Policy Framework is in place, it will be the responsibility of the Executive to implement it.
- (b) The body identified in the right-hand column above should be notified of plans to adopt any plan, strategy or budget that forms part of the Budget and Policy Framework and offered the opportunity to consider them.
- (c) The plan, strategy or budget together with any recommendations from the body will then be reported to Cabinet who will confirm the contents of the proposal before recommending it to Council.

#### 4.3.4 Decisions Outside the Budget or Policy Framework

- (a) Subject to the provisions of 6 (virement) the Executive and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Budget and Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Council, then that decision may only be taken by the Council, subject to 4.3.5 below.
- (b) If the Executive and any officers, area committees or joint arrangements discharging executive 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. If the advice of the three officers is that the decision would not be in line with the existing Budget and 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 5 below (urgent decisions outside the Budget and Policy Framework) shall apply.

#### 4.3.5 Urgent Decisions Outside the Budget and Policy Framework

- (a) The Executive, a committee of the Executive or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Budget and Policy Framework or not wholly in accordance with the Budget approved by Council if the decision is a matter of urgency. However, the decision may only be taken:-
- if it is not practical to convene a quorate meeting of the Council; and
  - if the relevant Chair of Scrutiny Committee agree that the decision is a matter of urgency.
- (b) In the absence of the relevant Chair of Scrutiny Committee the consent of the Chairman of the Council, and in the absence of both, the consent of the Vice-Chairman, will be sufficient.
- (c) 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.

#### 4.3.6 Virement

- a. Virements by the Executive must be taken in accordance with the Executive Procedure Rules.
- b. In implementing the Budget and Policy Framework the Executive must not exceed those budgets allocated to different services or projects as approved by the Council. However, the Executive is entitled to vire across different services or projects where each individual virement is greater than £10,000 but does not exceed £500,000. Beyond that limit approval of the virement by Council is required.

#### 4.3.7 In Year Changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Executive or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the Budget and Policy Framework may be made by those bodies or individuals except those changes:-

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) which are in relation to the Budget and 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.

#### 4.3.8 Call In of Decisions Outside the Budget and Policy Framework

- (a) Where the relevant Scrutiny Committee is of the opinion that an Executive decision is or, if made, would be contrary to the Budget and Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.
- (b) In respect of functions, which are the responsibility of the Executive, the three officers' report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the three officers' report and to prepare a report to Council in the event that the three officers conclude that the decision was a departure, and to the relevant Scrutiny Committee if the three officers conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the three officers is that the decision is or would be contrary to the Budget and Policy Framework or contrary to or not wholly in accordance with the Budget, the relevant Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the relevant Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the three officers. The Council may either:
  - (i) endorse a decision or proposal of the Executive as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or

- (ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or

- (iii) where the Council accepts that the decision or proposal is contrary to the Budget and Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the three officers.





## **4.4 EXECUTIVE PROCEDURE RULES**

### **4.4.1 Taking Executive Decisions**

- (a) Decisions of the Executive may be taken in the following ways:-
  - (i) By the Executive as a whole;
  - (ii) By a committee of the Executive;
  - (iii) By a member of the Executive
  - (iv) By an officer
  - (v) By an area committee;
  - (vi) By joint arrangements; or
  - (vii) By another local authority.
- (b) All decisions of the Executive will be taken by the Executive as a whole unless the Executive decides to delegate specific matters to any of the bodies listed in 4.4.1 (a) above.
- (c) Where a decision has been delegated by the Executive, that fact together with details of which body or person is making such decision, will be shown in Part 3 of this Constitution – “Responsibility for Functions” or Part 4.10 “Officer Delegation Scheme”. Where the decision is a key decision it will also be shown in the List of Key Decisions. Members’ delegations are set out in Part 3.
- (d) Even where the executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **4.4.2 The Council’s Scheme of Delegation and Executive Functions**

The Council’s scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

#### 4.4.3 Executive Meetings – When and Where?

- (a) The Executive will meet at the times set out in the schedule of meetings covering the forthcoming year and approved at the Annual Meeting of the Council. The Executive shall meet at The Arc, Clowne or another location to be agreed by the Leader.
- (b) The Chief Executive Officer or an officer acting on his behalf shall be responsible for calling meetings.
- (c) Meetings of the Executive will be held in public subject to the Access to Information Rules and legislative requirements.

#### 4.4.4 Quorum

The quorum for a meeting of the Executive or a committee of the Executive is one quarter of the total number of Members of the Executive or 3, whichever is the larger.

#### 4.4.5 Decisions Taken by the Executive

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

#### 4.4.6 Conduct of Executive Meetings

- (a) Who Presides?

If the Leader is present the Leader will preside. In the Leader's absence, then the Deputy Leader shall preside. If both the Leader and Deputy Leader are absent then a person must be appointed to preside by those present.

- (b) Rights to Attend

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

- (c) Business to be Conducted

At each meeting of the Executive the following business will be conducted:-

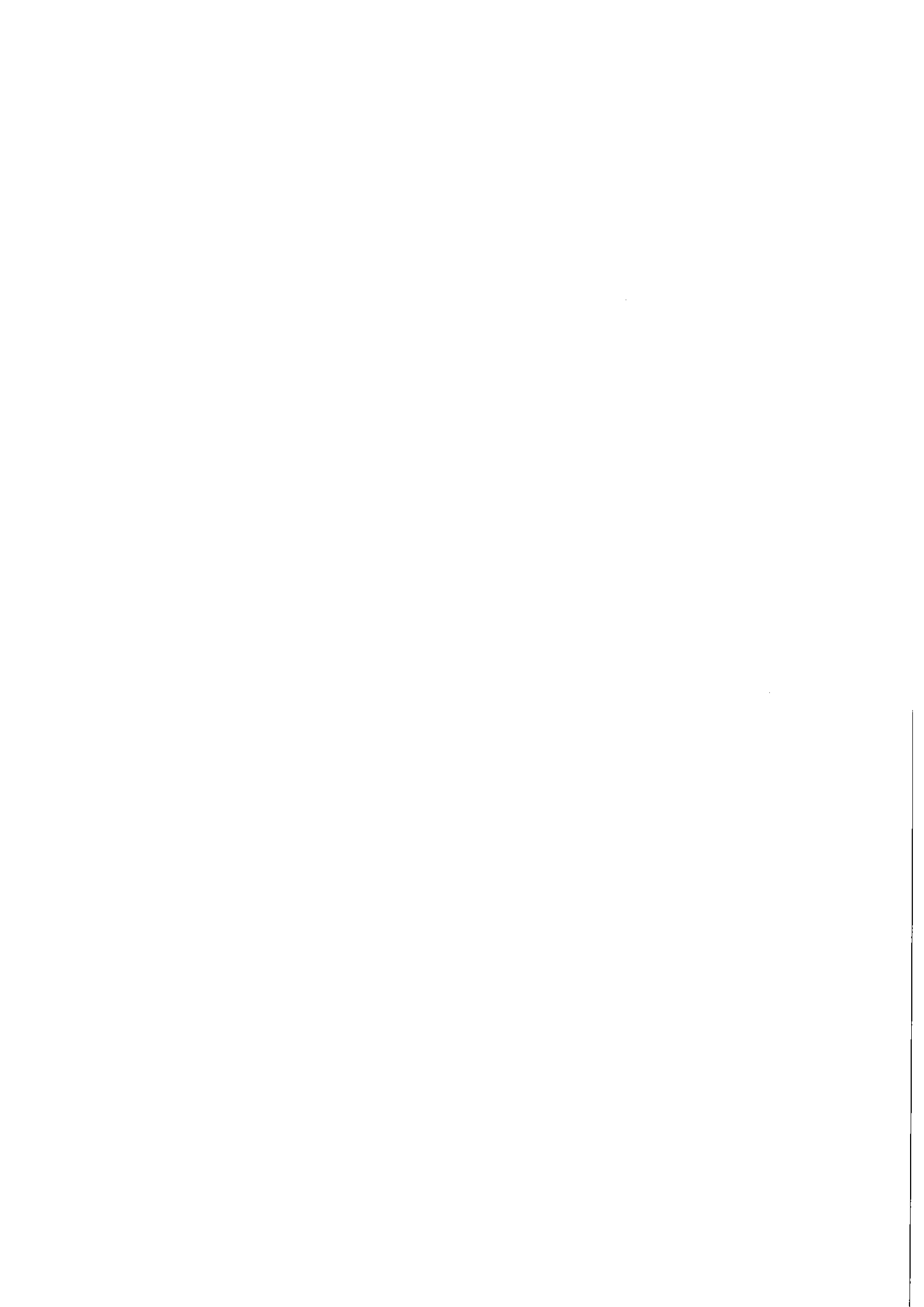
- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Executive (whether by Scrutiny Committee or the Council) for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from any of the Scrutiny Committees and,
- (v) matters set out in the agenda for the meeting.

#### 4.4.7 Who Can Put Items on the Executive Agenda?

The Chief Executive Officer and any of the following may require an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request in writing, the Chief Executive Officer will comply.

- (a) Any member of the Executive or Scrutiny Committee,
- (b) One of the Scrutiny Committees or the Council have resolved that an item be considered by the Executive.
- (c) The Section 151 Officer
- (d) Any Director or Assistant Director.

If there is no meeting of the Executive soon enough to deal with the issue in question, then the person[s] entitled to include an item on the agenda may also require that an extraordinary meeting be convened at which the matter will be considered.



## **4.5 SCRUTINY PROCEDURE RULES**

### **4.5.1 The Number and Arrangements for Scrutiny Committee**

- (1) The Council will have three Scrutiny Committees, which will perform all scrutiny functions on behalf of the Council. The three Scrutiny Committees will be the Sustainable Communities Scrutiny Committee, the Improvement Scrutiny Committee and the Safe and Inclusive Scrutiny Committee.

- (2) The Council will also have a Scrutiny Management Board, consisting of the Chairs and Vice Chairs of the 3 Scrutiny Committees and the Leader of the Opposition (OR ANOTHER Opposition Member) plus the Leader of the Council (or Deputy Leader as substitute) as a non-voting member.

There will also be a Budget Scrutiny Committee comprising the 30 members who are not members of the Executive.

- (3) The Terms of Reference of the Scrutiny Committees and the Scrutiny Management Board will be as outlined in Part 3 of this Constitution.

### **4.5.2 Who May Sit on Scrutiny Committee?**

All Councillors [except members of the Executive] may be members of the Scrutiny Committee. No member may be involved in scrutinising a decision in which that Member has been directly involved.

### **4.5.3 Co-optees**

Each Scrutiny Committee or each Scrutiny sub-Committee shall be entitled to recommend to Council the appointment of such non-voting co-optees as the Scrutiny Committee or Scrutiny sub-Committee considers appropriate.

### **4.5.4 Meetings of the Scrutiny Committee**

The Scrutiny Committee shall meet in accordance with the timetable of meetings approved by the Annual Meeting of Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting of one of the Scrutiny Committees meeting may be called by the Chief Executive Officer if considered necessary following consultation with the Chair of the relevant Scrutiny Committee.

#### 4.5.5 Quorum

The quorum for each Scrutiny Committee shall be one quarter of the members of the Scrutiny Committee.

#### 4.5.6 Who Chairs the Meetings of the Scrutiny Committees?

The Chair of each Scrutiny Committee, the Scrutiny Management Board and any sub-Committees will be drawn from among the Councillors sitting on the relevant Scrutiny Committee, Scrutiny Management Board or sub-committee.

#### 4.5.7 Work Plan

The Scrutiny Management Board will be responsible for setting the Annual Work Plan for each of the three Scrutiny Committees and in doing so it shall take into account the wishes of members of the three Scrutiny Committees including the wishes of those who are not members of the largest political group on the Council. The Annual Work Plan shall include matters on which there are requests from the Council or the Executive for advice.

#### 4.5.8 Agenda Items

- a) Any member of the relevant Scrutiny Committee shall be entitled to give notice to the Chief Executive Officer of an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive Officer will ensure that it is included on the next available agenda.
- b) The relevant Scrutiny Committee shall also respond, as soon as their work plan permits, to requests from the Council and if it considers it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the relevant Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the relevant Scrutiny Committee within one month of receiving them. Patch Management policies will be considered by the relevant Scrutiny Committee before going on to the Executive.

#### 4.5.9 Policy Review and Development

- a) The role of the Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

- b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Scrutiny Committee may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- c) The Scrutiny Committees, through specially set up working groups, if appropriate, may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### 4.5.10 Reports from the Scrutiny Committee

- a) Once it has formed recommendations on proposals for development, the relevant Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Scrutiny Management Board prior to consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- b) The Executive shall consider the report of the Scrutiny Committee at its next ordinary meeting following submission of the report to the Chief Executive. Where a report is submitted to the Council, the report shall be considered at the next ordinary meeting of the Council provided that the Executive has met in the meantime and had the opportunity to formulate its views on the report. If the Executive has not had that opportunity, the report will be considered at the following meeting of the Council.



#### 4.5.11 Making sure that Scrutiny Reports are Considered by the Executive

- a) Once the relevant Scrutiny Committee has completed its deliberations on any matter and the Scrutiny Management Board has considered the report a copy of its final report will be forwarded to the Chief Executive who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Chief Executive refers the matter to Council the Executive will have 6 weeks in which to respond to the Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a Scrutiny Committee and the Scrutiny Management Board on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Executive to the Scrutiny proposals.
- b) Scrutiny Committees will in any event have access to the Executive's List of Key Decisions and timetable for decisions. Even where an item is not the subject of detailed proposals from a Scrutiny Committee following a consideration of possible policy/service developments, the relevant Scrutiny Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

#### 4.5.12 Members and Officers Giving Account

- (a) Any Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service, the Chief Finance Officer, the Monitoring Officer and any Director or Assistant Director to attend before it to explain in relation to matters within their remit:
  - i. any particular decision or series of decisions;
  - ii. the extent to which the actions taken implement Council policy; and/or Service performance.
  - iii. and it is the duty of those persons to attend if so required.
- (b) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Chair of the requiring Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

#### 4.5.13 Attendance by Others

A Scrutiny Committee may invite people other than those people referred to in paragraph 4.5.13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Members and officers in other parts of the public sector and shall invite such people to attend. Attendance is entirely optional.

#### 4.5.14 Call In

- a) When a decision is made by the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council. All Members of the Council will be sent copies of the records of all such decisions, by the person responsible for publishing the decision.
- b) The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless two members call in the decision. Members shall call in a decision of the Executive in accordance with the procedure appended to these rules. The called in item will be considered by the relevant Scrutiny Committee at its next ordinary meeting.

In the event of a called in item being within the terms of reference of more than one Scrutiny Committee, it will be for the Scrutiny Management Board to determine which Scrutiny Committee the item will go to.

- c) The relevant Portfolio Holder shall be informed of the call-in of the relevant item and informed of the date at which the relevant Scrutiny Committee will consider the item, so that the Portfolio Member may attend that meeting of the relevant Scrutiny Committee to answer the call in.
- d) The members calling in the item shall be informed of the date at which the relevant Scrutiny committee will consider the item.
- e) If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or (if the decision appears to be outside the Policy Framework) refer the matter to the Council Meeting. If referred to the decision maker that person or body shall then consider amending the decision or not, before adopting a final decision.

- f) If following an objection to the decision, the Scrutiny Committee does not meet within 10 days of the decision to call-in or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 10 day period whichever is the earlier.
- g) If the matter was referred to the Council Meeting and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective. However, if the Council Meeting does object, it has no right to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council Meeting will refer any decision to which it objects back to the decision-making person or body, together with the Council Meeting's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- i) If the Council Meeting does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

#### 4.5.15 Call In and Urgency

- a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the relevant Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the relevant Scrutiny Committee, permission of the Chairman of the Council may be sought and in his absence, the Vice-Chairman's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

#### 4.5.16 The Party Whip

When considering any matter in respect of which a member of the relevant Scrutiny Committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the relevant Committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

#### 4.5.17 Procedure at Scrutiny Committee Meetings

##### (1) Business to be Considered

Scrutiny Committees shall consider the following business;

- i) minutes of the last meeting;
- ii) declarations of interest (including whipping declarations);
- iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
- iv) responses of the Executive to reports of the Committee.
- v) the performance information being presented to the Scrutiny Committee and
- vi) the business otherwise set out on the agenda for the meeting.

##### (2) Attendance by Portfolio Holders

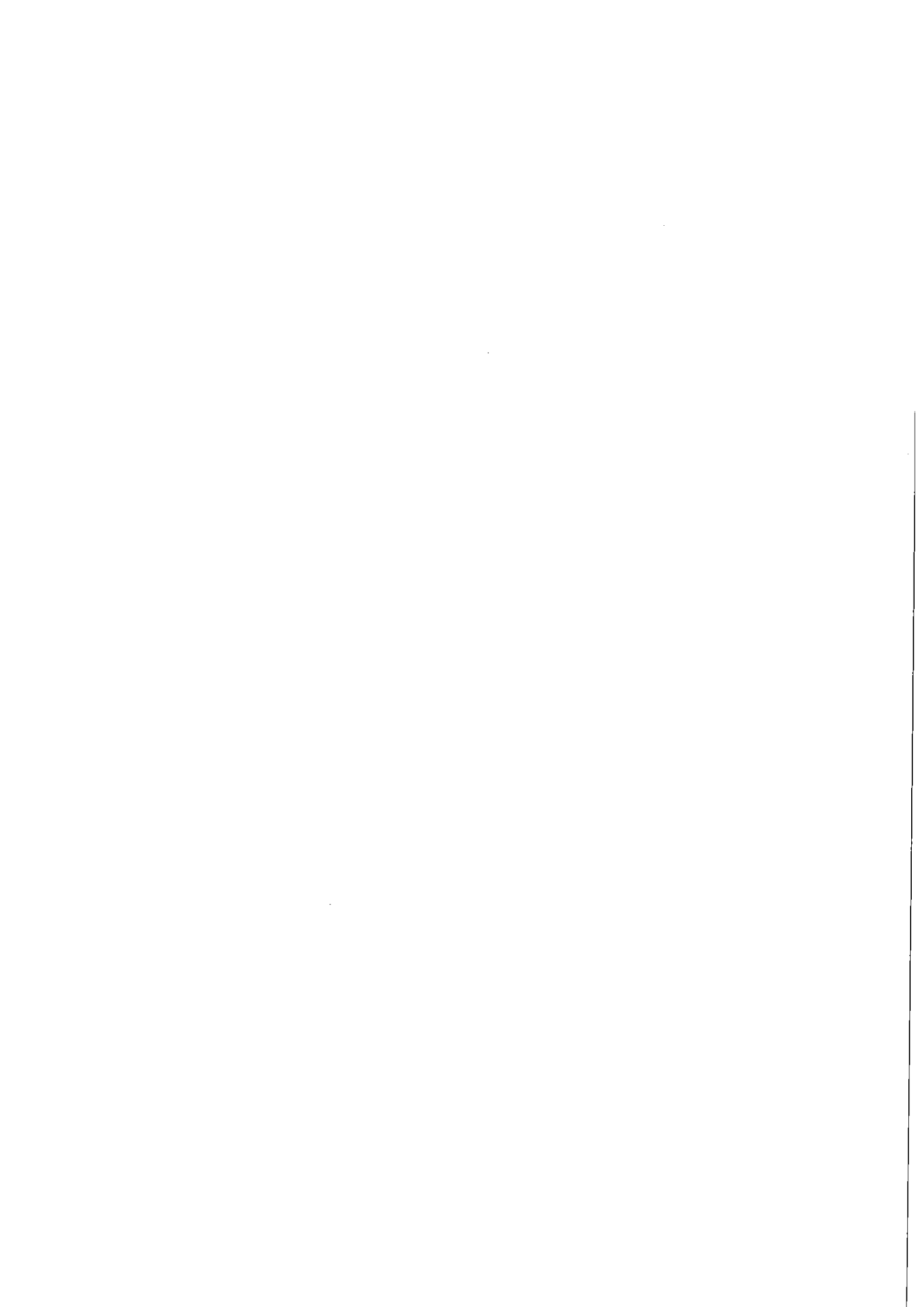
Portfolio Holders will attend a Scrutiny Committee meeting where performance management information relevant to the portfolio is being presented or by invitation of the Chair as part of a review.

##### (3) Report Following Review

Following any investigation or review, the relevant Committee shall prepare a report, for submission to the Scrutiny Management Board. The Scrutiny Management Board may then submit the report to the Executive and/or Council as appropriate and shall make its report and findings public.

#### 4.5.18 Annual Scrutiny Conference

Each year the Scrutiny Management Board will organise an Annual Scrutiny Conference to consider proposals for the three Scrutiny Committees Annual Work Plans. Portfolio Holders should be invited to attend this Conference.



## **4.6 PROCEDURE FOR CALL IN BY SCRUTINY COMMITTEE OF AN ITEM DECIDED BY THE EXECUTIVE**

### **4.6.1 Who Can Call In an Item**

Any Member of any of the three Scrutiny Committees.

### **4.6.2 Deadline Date for Calling In any Item Contained in the Executive Minutes**

The specific date will be given in the notification accompanying the Executive minutes, but the time scale for call in is five clear working days from the publication date of the minutes of Executive.

### **4.6.3 Number of Members Required to Call In an Item, Successfully**

Any two Scrutiny Committee members

### **4.6.4 Method by which Items May be Called In**

- In writing
- E mail - this may be done using a Members terminal within the Council Offices or where a member has the facility via the internet,
- By fax - as with written notifications, the faxed message may contain the signature of more than one Member,

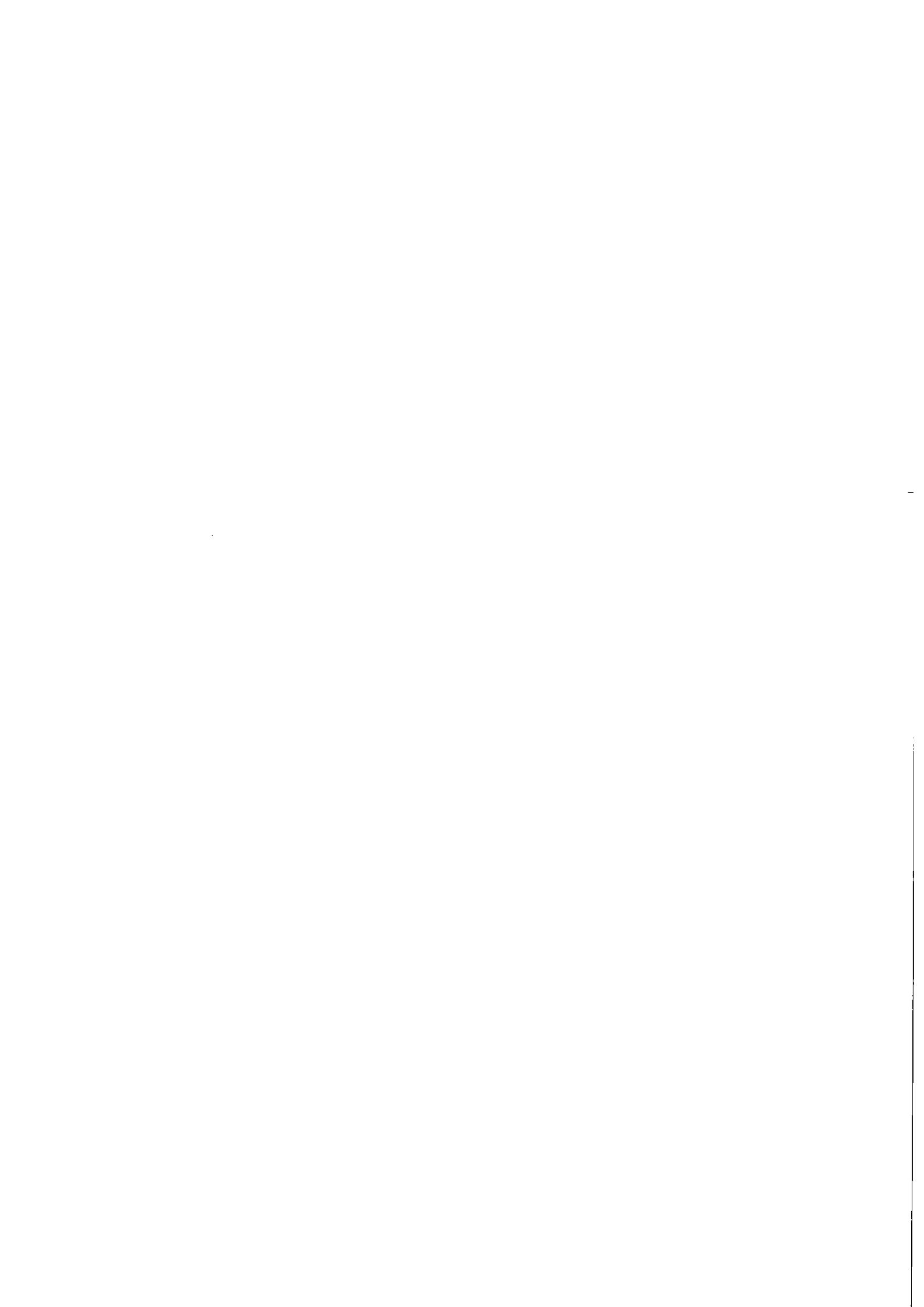
### **4.6.5 Recording of Called In Items**

The Governance Manager shall be responsible for keeping and maintaining a log of called in items. In practice this log will be kept by the Governance Officers who are authorised to accept notifications from Members.

A log shall be maintained in chronological order according to when requests are received. This log will be open for inspection by any Member of the Council, upon request.

### **4.6.6 What may be Called In**

Any item on an Executive agenda other than an agenda item which is part of the Budget and Policy Framework, or any decision made by the Leader or officers under delegated powers which are key decisions.



## **4.7 FINANCIAL REGULATIONS**

### **4.7.1 General**

- (1) The finances of the Council shall be subject to the regulations and control of the Executive and these regulations shall apply to all Directorates, Departments and officers of the Council.
- (2) Any officers of the Council receiving from a government department or other source any communication of any kind which has financial implications shall immediately notify the Chief Executive and the Chief Finance Officer who shall be consulted in connection with any correspondence or discussions involving finance.
- (3) Prior to the submission of any agenda item having a financial implication the relevant Assistant Director shall consult with the Chief Finance Officer and such report shall include a note of the Chief Finance Officer's advice.
- (4) No financial matter shall be considered by the Executive unless an item in relation thereto appears on the agenda for the meeting and there has been prior consultation between the Chief Executive, the Chief Finance Officer and the Assistant Director concerned.
- (5) Section 151 of the Local Government Act 1972, states ".every local 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". This officer is known as the Section 151 Officer or Chief Finance Officer.
- (6) Section 114 of the Local Government Finance Act 1988, requires the Chief Finance Officer to report on unlawful or potentially unlawful expenditure of a course of action likely to cause loss or deficiency.

### **4.7.2 Revenue Estimates**

- (1) The detailed form of revenue estimates shall be determined by the Chief Finance Officer consistent with the general direction of the Executive as outlined in the approved Budget Strategy.
- (2) Estimates of income and expenditure on revenue accounts, reserves and provisions for the subsequent financial year shall be prepared by the Chief Finance Officer in consultation with the Chief Executive and then referred to Strategic Alliance Management Team. All estimates shall be forwarded to the Executive to report thereon with its recommendations to the Council.



- (3) Executive shall upon receipt of the report of the Chief Finance Officer make recommendations to the Council on the approval of a three year medium term forecast and the amount of the Council Tax to be levied.
- (4) The three year medium forecast will be compiled using a prioritisation process for revenue bids which will assess:-
  - a) Contribution towards the Council's Corporate Aims
  - b) Statutory obligations
  - c) Financial implications (including VFM)
  - d) Risk
- (5) Any proposal to Executive or a committee, which would involve the incurring of expenditure during a year in respect of which the Council has approved a budget or a programme of capital expenditure shall be accompanied by a report of the Assistant Director concerned indicating the sufficiency or otherwise of the finance provision in the budget or programme.
- (6) Expenditure shall not be incurred or a reduction in income authorised unless it is included in the annual estimates or is covered by a supplementary estimate.
- (7) Strategic Alliance Management Team and Assistant Directors shall have the authority to transfer savings from one budget area towards additional expenditure in another budget area. Assistant Directors shall have the authority to vire in any one financial year, up to the value of £1,500 direct employee expenses excepted. Strategic Alliance Management Team shall have the authority to vire up to the value of £10,000. Above this limit the consent of the Executive shall be obtained.
- (8) Subject to Regulation 13, upon approval by the Council of the annual estimates the Executive or committee or Director or Assistant Director as appropriate shall be entitled to incur the expenditure authorised therein.
- (9) It shall be the responsibility of each appropriate officer to expend the budget allocation efficiently, effectively and economically and ensure that no approved estimates shall be overspent.
- (10) The Chief Finance Officer shall ensure that the Chief Executive and each Assistant Director and Director has detailed information of receipts and payments under each head of approved estimate and such other relevant information as agreed between them.

### 4.7.3 Capital Programmes

- (1) A capital programme covering a period of three years shall be prepared annually by the Chief Finance Officer in consultation with the Chief Executive and Strategic Alliance Management Team for inclusion in the Budget. All capital estimates shall be forwarded to the Executive who shall report thereon with recommendations to the Council.
- (2) The Capital Programme will be compiled using a prioritisation process for capital projects which will assess:-
  - a) Contribution towards the Council's Corporate Aims
  - b) Statutory Obligations
  - c) Financial implications (including VFM and external funding opportunities)
  - d) Risk
- (3) If an urgent and unforeseen item of capital expenditure becomes necessary the Executive shall be informed at the earliest possible stage and the project may only proceed after appropriate funding has been identified and approved.
- (4) No scheme shall commence until such a scheme and its associated revenue costs have been approved by Executive or Council.

### 4.7.4 Accounting

- (1) The Chief Finance Officer shall be responsible for keeping the accounts of the Council and all accounting procedures and financial records of the Council and its officers in a way approved by that officer.
- (2) It shall be the duty of the Chief Finance Officer to arrange for a satisfactory, and as far as possible, uniform accounting system to be adopted throughout the Council and the introduction or amendment of any books, forms or procedures and computer systems with regard to cash, stores or other accounts shall require the prior approval of the Chief Finance Officer. All such accounting records shall be in accordance with appropriate legislation, and relevant codes of accounting practice.
- (3) The Chief Finance Officer shall supervise and keep under review safe and efficient arrangements for the receipt of monies paid to the Council and the issue of monies payable by the Council and in particular, the following principles shall be observed in the allocation of accounting duties:-

- (a) 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.
  - b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- (4) The Chief Finance Officer shall be responsible for the preparation of the Council's Annual Accounts and shall prepare a Statement of Accounts to be approved by Council by the 30<sup>th</sup> June each year, in accordance with the Accounts and Audit Regulations 2003.

#### 4.7.5 Banking Arrangements

- (1) The Chief Finance Officer shall be authorised to operate such banking accounts as that officer thinks fit with the bankers approved from time to time by the Council but shall report each account opened to the Executive.
- (2) All arrangements regarding the Council's banking accounts with the bankers and for the issue of cheques shall be made by or under arrangements approved by the Chief Finance Officer.
- (3) All banking stationery, including cheques, shall be ordered on the authority of the Chief Finance Officer who shall make proper arrangements for safe custody.

#### 4.7.6 Income

- (1) The collection of all money due to the Council shall be under the supervision of the Chief Finance Officer. The Chief Executive, Directors and Assistant Directors shall provide the Chief Finance Officer with a list of officers authorised to sign accounts, or requests for accounts, on his behalf together with specimen signatures and a note of any restrictions applying thereto. Amendments to such lists shall be notified to the Chief Finance Officer on the occasion of any change. All accounts issued in respect of monies due to the Council shall be made through the Chief Finance Officer or under arrangements approved by that officer.
- (2) Each Assistant Director shall furnish the Chief Finance Officer with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required by that officer to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.

- (3) The Chief Finance Officer shall be notified promptly of all money due to the Council and shall be advised of proposals which may generate income prior to any contracts, leases, agreements or arrangements being entered into.
- (4) All official receipts, forms, books, tickets, order books and other documents representing monies worth shall be ordered, controlled and issued to Departments by the Chief Finance Officer.
- (5) All monies received on behalf of the Council in any Department shall be deposited promptly and intact with the Chief Finance Officer or otherwise as that officer directs. Money held or received by or on behalf of the Council shall not be borrowed or used to encash personal cheques or for any other purpose.
- (6) Every transfer of official money from one member of staff to another shall be evidenced in the records of the Departments concerned by entry of the amount and dated signature of the receiving officer.
- (7) Each officer who receives money on behalf of the Council or for which that officer is accountable to the Council shall keep an accurate and chronological account of all receipts and their deposit with the Chief Finance Officer, the Council's bankers or as otherwise directed by the Chief Finance Officer.
- (8) The Chief Finance Officer shall be empowered to write off sums up to and including £1,000 where recovery seems impossible or impracticable. Records supporting these write offs will be made available on request. Amounts in excess of £1,000 shall not be written off without the authority of the Executive.

#### 4.7.7 Insurance

- (1) The Chief Finance Officer shall effect all insurance cover including insurance reserves and provisions and negotiate all claims in consultation with other officers where necessary.
- (2) Directors and Assistant Directors shall give prompt notification to the Chief Finance Officer of all proposals involving properties, vehicles or other new risks which require to be insured and of any alterations affecting existing insurance.
- (3) Directors and Assistant Directors shall notify the Chief Finance Officer immediately of any loss, liability or damage or any event or circumstances likely to lead to a claim.
- (4) The Chief Finance Officer shall annually or at such other period as that officer may consider necessary review all insurance in consultation with the Chief Executive, Directors or Assistant Directors as necessary.

#### 4.7.8 Treasury Management and Trust Funds

- (1) All investments of money and all borrowings shall be made in the name of the Council and all securities shall be held in the custody of the Chief Finance Officer or other officer so designated.
- (2) The Chief Finance Officer shall be the Council's registrar of stock, bonds and mortgages and shall maintain records of all borrowing of money by the Council, except that the Chief Finance Officer shall be empowered to name the Council's bankers as registrar in respect of any particular issue when he deems this necessary.
- (3) All matters in connection with the borrowing of monies including bank overdraft within the limits approved by the Council and all other matters in connection with the raising or repayment of loans shall be carried out by the Chief Finance Officer subject to the approval of the Executive.
- (4) The investment or utilisation of monies on hand and other accumulations and the sale or realisation of investments shall be made by the Chief Finance Officer subject to the approval of the Executive.
- (5) All trust funds shall wherever possible be in the name of the Council and all officers acting as trustees by virtue of their official position shall deposit all securities relating to the trust with the Council's Bankers unless the deed provides otherwise in which case they shall notify the Chief Executive or Chief Finance Officer as appropriate of the circumstances.
- (6) This Council adopts CIPFA's "Code for Treasury Management in Local Authorities".
- (7) A Treasury Policy Statement setting out its strategy and procedures shall be adopted by the Council and thereafter its implementation and monitoring shall be delegated to the Executive.
- (8) All money (as defined in the Code) in the hands of the Council shall be aggregated for the purposes of Treasury Management and shall be under the control of the Officer designated for the purposes of Section 151 of the Local Government Act 1972.
- (9) All executive decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer through that officer to staff, who shall all be required to act in accordance with CIPFA's "Code for Treasury Management in Local Authorities".

- (10) The Chief Finance Officer shall report quarterly to the Executive on the activities of the Treasury Management operation and on the exercise of Treasury Management powers delegated to that officer. One such report shall comprise an Annual Report on the Treasury Management for presentation by 30th September of the succeeding financial year.

#### 4.7.9 Advance Accounts

- (1) The Chief Finance Officer shall provide such advance accounts as that officer considers appropriate for such officers of the Council as may need them for the purpose of defraying expenses. Such accounts shall be maintained on an imprest system and Officers holding these accounts shall maintain a record of their receipts and payments in the form and manner prescribed by the Chief Finance Officer.
- (2) Where the Chief Finance Officer considers appropriate an account shall be opened with the Council's bankers for use by the imprest holder who shall not cause such an account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holders banking account shall be reported immediately to the Chief Finance Officer.
- (3) No income received on behalf of the Council may be paid into an advance account but must be paid over to the Chief Finance Officer as provided in these regulations.
- (4) Payment shall be limited to minor items of expenditure of amount and nature approved by the Chief Finance Officer and shall be supported by a receipted voucher to the extent that officer may require.
- (5) An Officer responsible for an advance account shall give to the Chief Finance Officer a certificate as to the money held at 31st March each year and at any time as specifically requested, or before leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, account to the Chief Finance Officer for the amount advanced.

#### 4.7.10 Ordering of Work, Goods and Services

- (1) All orders for goods, work or services shall be in a form agreed by the Chief Finance Officer and must clearly show the nature and/or quantity of goods, materials, work or services to be supplied to the Council and the estimated cost. Official orders should be submitted via electronic methods where possible. All verbal orders must be confirmed by a written order not later than the next working day. All orders placed must comply with the Council's Procurement Strategy. The method of ordering via the internet or other electronic means will be subject to approval of the Chief Finance Officer. Each electronic order must have a commitment raised and a satisfactory audit trail.
- (2) No order shall be issued for work, goods or services, the cost of which is not covered by the approved annual estimates or by special financial provision.
- (3) Official orders shall be signed only by Directors, Assistant Directors or officers authorised by them. Directors and Assistant Directors shall be responsible for all official orders issued from their department. A list of Officers authorised to sign on behalf of the Council together with specimen signatures shall be supplied to the Chief Finance Officer by the appropriate Assistant Director with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Finance Officer on the occasion of any change.

#### 4.7.11 Payment of Accounts

- (1) Directors and Assistant Directors shall have authority to incur expenditure on routine matters and within approved estimates provided:
  - (a) it complies with Contracts Standing Orders and Financial Regulations,
  - (b) it is in accordance with approved Council policy,
  - (c) competitive tenders or quotations are obtained where appropriate and in all cases endeavour made to obtain the best value for money and the signature of the Assistant Director or such officer nominated by the Assistant Director, on any order, account or goods received note shall imply that these requirements have been met.

- (2) Directors and Assistant Directors issuing an order shall be responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment, voucher or account arising from sources within their area of responsibility. Such certification shall be in either electronic form where systems and policy permit or in manuscript by or on behalf of the Director or Assistant Director. Before certifying an account the certifying officer shall be satisfied that:-
  - (a) the work, goods or services to which the account relates have been received, carried out, examined and approved;
  - (b) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - (c) the expenditure has been duly authorised and is within the estimates as indicated by the expenditure code allocated;
  - (d) appropriate entries have been made in inventories, store records or stock books as required; and
  - (e) the account has not been previously passed for payment and is properly payable by the Council.
- (3) Duly certified accounts shall be passed without delay to the Chief Finance Officer who shall examine them to the extent that officer considers necessary, for which purpose that officer shall be entitled to make such enquiries and to receive such information and explanation as that officer may require.
- (4) Any amendment to an account shall be made in ink and initialled by the Officer making it, stating briefly the reasons where these are not self-evident. Any electronic invoice requiring amendment must be returned to the Supplier, or a Credit Note/Supplementary Invoice requested prior to payment.
- (5) Each Director and Head of Service shall, as soon as possible after 31st March and in any case not later than the date set by the Chief Finance Officer, notify the Chief Finance Officer of all outstanding expenditure relating to the previous financial year.
- (6) A list of officers authorised to sign on behalf of the Director and Assistant Directors, together with specimen signatures, shall be supplied to the Chief Finance Officer by the appropriate officer with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Finance Officer on the occasion of any change.



#### 4.7.12 Contracts for Building, Constructional or Engineering Works

- (1) Details of every Contract, Agreement, Award or other instrument involving the payment or receipt of money by the Council shall be forwarded to the Chief Finance Officer immediately after execution.
- (2) Where contracts provide for payment to be made by instalment, the Assistant Director shall arrange for the keeping of a contract register or registers to show the state of account on each contract between the Council and the Contractor, together with any payments and related professional fees.
- (3) Payments to Contractors on account of contract shall be made only on a certificate issued by the responsible Officer which shall show the total amount of the contract, the value of work executed to date, materials not fixed, retention money, amount paid to date, amount now certified due and the liability to value added tax.
- (4) Variations in amount, additional payments and any overspending on all contracts shall be notified to the Assistant Director and reported to the relevant Committee by the relevant Head of Service provided always that the variation, additional payment, or overspending exceeding ten thousand pounds or ten per cent of the contract sum whichever is the lower shall be reported forthwith to the relevant Committee, or the Executive as appropriate.
- (5) Variations to contracts must be covered by the issue, at the time, of a Variation Order, a copy of which must be forwarded to the Assistant Director and all relevant documents, including measurement and working papers and minutes of site meetings to be made available to the Assistant Director.
- (6) The final certificate, on completion of a contract, shall not be issued by the responsible officer until the Head of the Internal Audit Consortium has examined and reported on a detailed final account which with all vouchers and documents, including those relating to prime cost items and full particulars of additions, deductions and omissions, shall be produced to the Head of Internal Audit Consortium, who shall be entitled to receive such information and explanations as the Head of Internal Audit Consortium may require in order to be satisfied as to the accuracy of the accounts.

#### 4.7.13 Salaries and Wages

- (1) The payment of all salaries, wages and pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Assistant Director - Human Resources and Payroll, under arrangements approved and controlled by the Chief Finance Officer. The Assistant Director – Human Resources is authorised to implement national salary and wage awards.
- (2) All time records or other pay documents shall be in a form prescribed by the Assistant Director – Human Resources and shall be certified in manuscript. A list of officers authorised to sign together with specimen signatures shall be supplied to the Assistant Director – Human Resources by the appropriate Director or Assistant Director with a note of any limit applying thereto. Amendments to such lists shall be notified to the Assistant Director – Human Resources on the occasion of any change.
- (3) The Assistant Director – Human Resources is authorised to implement annual increases in salaries and wages in accordance with locally agreed schemes.
- (4) The Assistant Director – Human Resources shall notify the Chief Finance Officer as soon as possible of all matters affecting the payment of emoluments, and anything else related to this which affects budgets.

#### 4.7.14 Officer Expenses

- (1) Each Director or Assistant Director shall, where appropriate, be responsible for ensuring that performance related payments made to employees are correct and in accordance with records of work carried out and for maintaining such records.
- (2) All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified in a form approved by the Assistant Director – Human Resources, to that officer, made up to a specified day of each month, within seven days thereof. A list of officers authorised to sign on behalf of the Director or Assistant Director as appropriate, together with specimen signatures shall be supplied to the Chief Finance Officer with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Finance Officer on the occasion of any change.

- (3) The Motor Insurance Policy of any Officer required to use their vehicle on Council business shall cover the official use of the vehicle in the service of the Council. Officers in receipt of Car Allowances shall, on request, produce such policy documentation as may be required.
- (4) The certification by or on behalf of a Director or Assistant Director as appropriate, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred, relevant valid receipts are attached and that the allowances are properly payable by the Council.
- (5) Officers' expense claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Chief Finance Officer.
- (6) The Assistant Director – Human Resources shall be authorised to implement national amendments to rates of travelling and subsistence allowances and incidental expenses.

#### 4.7.15 Security

- (1) Each Director and Assistant Director as appropriate is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under that officer's control and shall consult the Chief Executive in any case where security arrangements may be needed.
- (2) Maximum limits for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without that officer's express permission.
- (3) Keys for safes and similar receptacles are to be kept in some secure place under the control of one officer or upon the person of those responsible at all times and any loss of such keys must be reported to the Chief Executive forthwith. Arrangements for the retention of duplicate keys must be expressly approved by the Chief Finance Officer.
- (4) The Chief Executive shall be responsible for maintaining proper security and privacy with regard to information held in any computer installation or for use of such installation.
- (5) The Assistant Director – Governance and Monitoring Officer shall have custody of all title deeds and agreements under secure arrangements agreed with the Chief Executive and shall ensure that all titles are registered at the Land Registry as soon as is practicable after coming into the Council's possession.

#### 4.7.16 Stocks and Stores

- (1) Each Director and Assistant Director as appropriate shall be responsible for the care and custody of the stocks and stores in his Department and shall see that all stocks and stores received and issued are promptly recorded.
- (2) The Chief Finance Officer, in conjunction with a Director and Assistant Director as appropriate, shall make such arrangements for stock taking as the Chief Finance Officer may deem necessary.
- (3) The Chief Finance Officer shall be entitled to receive from each Director or Assistant Director as appropriate such information as the Chief Finance Officer requires in relation to stores for accounting, costing and financial records.
- (4) The level of stocks shall be agreed between the Chief Executive and the Director or Assistant Director as appropriate.
- (5) The value of materials and stores considered by the responsible Director or Assistant Director as appropriate; to be surplus to the Council's requirements shall be certified by the Director or Assistant Director as appropriate, prior to disposal. Where the value exceeds £1,000 the items shall be disposed of following report to the Executive or committee concerned by competitive tender or public auction unless the committee decides otherwise in a particular case. Where the value is under £1,000 the Chief Finance Officer shall be entitled to dispose of surplus items as the Chief Finance Officer thinks fit in the best interests of the Council but shall subsequently report thereon to the Executive or Committee concerned.

#### 4.7.17 Council Assets

- (1) The Chief Executive or such other officer nominated by the Chief Executive will maintain a terrier of all properties owned by the Council (except dwellings provided under the Housing Acts), in a form approved by the Chief Finance Officer.
- (2) The Chief Finance Officer will maintain an Asset Register of all assets owned by the Council and in a form in accordance with appropriate legislation and relevant codes of accounting practice.
- (3) The Director or Assistant Director, as appropriate, is responsible for safeguarding all equipment under their control.
- (4) The Chief Finance Officer shall be entitled to receive from the Director or Assistant Director as appropriate, such information as the Chief Finance Officer requires in relation to assets for accounting, costing and financial recording purposes.

- (5) The value of assets considered by the responsible Director or Assistant Director as appropriate to be surplus to the Council's requirements shall be certified by the Director or the Assistant Director as appropriate, prior to disposal. Where the value exceeds £1,000, the items shall be disposed of following report to the Executive or committee concerned by competitive tender or public auction unless the Executive or committee decides otherwise in a particular case. Where the value is under £1,000 the Chief Executive shall be entitled to dispose of surplus assets as the Chief Executive thinks fit in the best interests of the Council but shall subsequently report thereon to the Executive or committee concerned. Any disposal of land and/or property assets must be made in accordance with the approved strategy.

#### 4.7.18 Member's Allowances

- (1) The Assistant Director – Human Resources shall operate the payment of Members' Allowances and expenses in accordance with the Council's approved scheme.
- (2) The Assistant Director - Human Resources is authorised to implement any prescribed amendments to rates of Members' Allowances and expenses with subsequent report to the Council.
- (3) Payments to Members, including co-opted Members of the Council or its committees who are entitled to claim travelling or other allowances will be made by the Assistant Director – Human Resources upon receipt of the prescribed form duly completed.

#### 4.7.19 Audit

- (1) The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which simply requires that authorities "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has a responsibility for the administration of those affairs".
- (2) The Accounts and Audit Regulations 2003 issued by the Secretary of State for the Environment require every local authority to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper internal audit practices.
- (3) The basic duties of the external auditor are governed by section 15 of the Local Government Act 1982, as amended by section 5 of the Audit Commission Act 1998.

- (4) Local authorities can also be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.
- (5) The Council's internal audit service is provided by an Internal Audit Consortium covering Bolsover, Chesterfield and North East Derbyshire Councils. The Internal Audit Consortium will provide an independent and objective appraisal of systems of internal control. The Internal Audit Consortium will comply with the Standards set out in the CIPFA Code of Practice for Internal Audit in Local Government 2006.
- (6) A continuous internal audit will be provided by the Internal Audit Consortium in accordance with an internal audit plan agreed by the Chief Finance Officer (as client officer) and the Council's Audit Committee. Planned audits will include the examination of accounting, financial and other operations of the Council including:
  - (a) The appraisal and review of the adequacy of internal controls and thereby providing assurances for the annual Statement of Internal Control.
  - (b) The completeness, reliability and integrity of information, both financial and operational.
  - (c) The systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e., rules established by the management of the organisation, or externally.
  - (d) The means of safeguarding assets.
  - (e) The economy, efficiency and effectiveness with which resources are employed.
  - (f) Whether operations are being carried out as planned and objectives and goals are being met.
- (7) Accordingly, the Chief Executive, Chief Finance Officer and the Head of the Internal Consortium or their authorised representatives shall have authority to:-
  - (a) Enter at all reasonable times on any Council premises or land.
  - (b) Have access to all assets, records (both electronic and otherwise), documents, correspondence relating to any financial and other transactions of the Council and control systems.
  - (c) Require and receive any information and explanation considered necessary concerning any matter under examination.

- (d) Require any employee of the Council to produce or account for cash, stores or any other Council property under the employees control.
  - (e) Access records belonging to third parties, such as contractors, where appropriate.
  - (f) Have direct access to the Council's senior management and elected Members.
- (8) The Head of the Internal Audit Consortium will issues audit reports promptly to the Head of Service/Director concerned and to the Chief Finance Officer (as client officer) detailing the findings and any recommendations arising from each audit.
- (9) Directors and Assistant Directors will then ensure that internal audit reports are considered and completed. Implementation Schedules are returned to the Head of the Internal Audit Consortium within the timescales detailed in the report. Any recommendations that are not agreed will be reported to the Audit Committee in the quarterly report. Directors and Assistant Directors if appropriate will inform the Head of the Internal Audit Consortium of any internal controls or changes to existing internal controls.
- (10) The Head of the Internal Audit Consortium will present an Annual Report to the Audit Committee and a report on the Internal Audit Plan and Risk Assessment each year.

#### 4.7.20 Fraud, Corruption and Irregularities

- (1) The Council will not tolerate fraud, corruption or irregularity in the administration of its responsibilities, whether from inside or outside the Council. The strong counter fraud and corruption culture is supported and promoted by Members and senior officers.
- (2) Internal Audit Consortium staff should be alert in all their work to risks and exposures that could allow fraud and corruption and has developed the Council's Anti-Fraud and Corruption Strategy. All cases of discovered or suspected fraud, corruption or irregularity, should be reported as soon as possible to at least one of the following:-
  - (a) The relevant Assistant Director,
  - (b) The Head of the Internal Audit Consortium
  - (c) The Chief Finance Officer,
  - (d) The Chief Executive
- (3) The Officer to whom this is reported should then pursue the matter in accordance with the Anti-Fraud & Corruption Strategy.

- (4) The exception to this procedure is where other arrangements are in place such as housing benefit fraud which will follow the Housing Benefits Strategy and Prosecution Policy.

#### 4.7.21 Information Technology

- (1) The Chief Finance Officer shall be responsible for the supervision, development and administration of the Council's computer policies.
- (2) The Chief Executive and Chief Finance Officer shall be consulted and their approval obtained prior to the acquisition of any computer equipment and/or computer software.
- (3) The usage of all the Council's computer equipment and software, including security provisions, shall be in accordance with standards specified by the Chief Finance Officer.
- (4) Each Director or Assistant Director as appropriate shall ensure that all usage of computer facilities within their area of responsibility complies with the provisions of the Data Protection Act and Computer Misuse Act 1990.
- (5) Any breach of these Financial Regulations should be reported immediately to the Chief Finance Officer. The alleged breach will be investigated and if substantiated could result in disciplinary action.

#### 4.7.22 Retention of Financial Records

All financial records shall be retained in accordance with arrangements determined by the Chief Finance Officer.





## **4.8 PROCUREMENT RULES**

### **4.8.1 Introduction**

- (1) These Contract Procedure Rules (the Rules) provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, the Rules are designed to ensure that the Council obtains value for money and the required level of quality and performance in all contracts that are let. Every contract for the supply of goods and services and for the execution of works made by or on behalf of the Council shall comply with these Rules.
- (2) E-procurement procedures shall be used wherever possible. These include e-tendering, purchase cards and others. Where appropriate e-auctions may be used, so long as provision is made for this in the advert. Requests for quotations, pre-qualification questionnaires and invitations to tender should wherever practical be issued to tenderers by electronic means. Where e-tendering is being considered, the e-tendering software that is to be used must be the corporate e-tendering system. The Head of Shared Procurement Unit will provide user names and passwords for the corporate e-tendering system.
- (3) Before any tendering exercise is considered, reference must be made to the Council's procurement and equalities guidelines. The Council is committed to dealing fairly with all relevant discrimination groups as defined in the Equalities Act 2010. A failure to take into account special requirements for these groups in a tender would be a significant corporate failure, affecting the reputation and standing of the Council.
- (4) Any employee who fails to comply with Contract Procedure Rules may be subject to disciplinary action.
- (5) The Council has produced a Procurement Toolkit which will be available on the intranet. For further information on this, please contact the Head of Shared Procurement Unit. This should be adhered to by all officers engaged in procurement activity.
- (6) A Glossary of Terms can be found at the end of this section.

#### 4.8.2 Compliance with Contract Procedure Rules

- (1) The provisions contained in these Rules are subject to the statutory requirements of both the European Union and the United Kingdom. The letting and content of contracts shall conform to all statutory requirements and be subject to any over-riding directives of the European Union relating to contracts and procurement. These Rules cannot be waived, since a failure to comply with European legislation may result in a legal challenge with consequent reputational and financial risk. If you are uncertain, advice can be sought from the Head of Shared Procurement Unit or the Monitoring Officer.
- (2) In estimating relevant contract values, officers shall have regard to the rules regarding aggregation.

#### Partnerships

- (3) These Rules apply, in addition to other procurements, to any proposal for the Council to become involved in a joint venture or partnership, including the monitoring of any such arrangement. All procurements must also comply with Freedom of Information and Data Protection requirements.

In relation to the Rules, a joint venture or partnership includes any arrangement involving one or more organisations in addition to the Council through which either a specific project or services within any of the functions of the Council are to be provided. It will also provide a role for the Council or any of its members or officers in whatever structure is used to deliver the project or services involved (such structures may include, but are not limited to, companies, trusts and management committees).

- (4) Before any consideration is given to the Council entering into a joint venture with the private sector or a strategic service delivery partnership with any external organisation and in particular before any detailed negotiations are entered into or before any contract is made or undertaking given by or on behalf of the Council in relation to a joint venture or partnership, the Authorised Officer concerned must submit detailed information concerning the proposed joint venture or partnership to the relevant Director. The Director will give consideration to the proposed joint venture in accordance with these Rules. On receipt of the detailed information above, the Director will ensure that an appropriate project board is convened. The Director will also ensure that appropriate consultation is made with the Strategic Alliance Management Team and Executive.

- (5) Procurement processes for strategic partnerships and privately funded construction (PFI) projects must include:
- The issue of an information memorandum to prospective bidders setting out the background to the project, the Council's objectives and an outline of the procurement process and timetable, with roles and responsibilities made clear.
  - An invitation to bidders to demonstrate their track record in achieving value for money through effective use of their supply chain, including the use of small firms; this should continue to be examined as part of contract management.
  - The inclusion in invitations to tender (or take part in competitive dialogue) a requirement on bidders to submit optional, priced proposals for the delivery of specified social benefits which are relevant to the contract and add value to the community strategy.

#### 4.8.3 Normal Procedure

- (1) **These Rules relate to five categories of procurement based on the estimated value of the contract:**
- a. £1 to £1,000
  - b. £1,001 to £5,000
  - c. £5,001 to £50,000
  - d. £50,001 to £EU Threshold
  - e. Over the EU Threshold
- (2) **In all instances, goods, services or works should be obtained via the methods outlined below :**
- a. in-house services (for example, printing and design etc.)
  - b. established corporate contracts or framework agreements
  - c. request for quotation
  - d. tender
  - e. In the case of Constructionline, by running a mini-competition
  - f. framework contracts established by Purchasing Consortia or other Local Authorities (to be agreed by the Head of Shared Procurement Unit)
  - g. for low-value purchases, Purchasing Cards can be used provided they are not used with the intention of undermining the use of approved or corporate contracts

All of the above options are subject to EU and/or UK Statutory requirements.

- (3) **Orders and payments for goods, services and works shall be undertaken in accordance with the Financial Procedure Rules. In all cases, the following wording must be included in tender and request for quotation documents:**

“Information in relation to this tender may be made available on demand in accordance with the requirements of the Freedom of Information Act 2000. Tenderers should state if any of the information supplied by them is confidential or commercially sensitive or should not be disclosed in response to a request for information under the Act. Tenderers should state why they consider the information to be confidential or commercially sensitive. This will not guarantee that the information will not be disclosed but will be examined in the light of the exemptions provided in the Act.”

- (4) **Before entering into a contract, the authorised officer must:**

- a. Be satisfied that a specification (where appropriate) that will form the basis of the contract has been prepared (the specification should be retained on the appropriate contract file held within the service), and
- b. Have prepared and documented an estimate of the cost of the contract including, where appropriate, any maintenance and on-going costs (the estimate should be retained on the appropriate contract file held within the service), and
- c. For contracts where there is evident risk, and for all contracts over £50,000, produce and maintain a documented risk register for the procurement process and for the eventual contractual relationship. A risk register entry should be made and entered on the appropriate risk register. As a minimum this should analyse all risks, identify how the risks will be managed, and the responsible officer(s).
- d. For all contracts greater than £50,000 a draft contract should be produced to accompany the tender documents or contract terms and conditions.

- (5) **Before entering into a contract the authorised officer must:**

- a. Be satisfied about the technical capability of such proposed contractor and be satisfied that s/he has the power and authority to enter into the contract; and
- b. Ensure that all evaluation criteria have been determined in advance, put into order of relative importance with weightings for each element and published in the tender pack; and
- c. Ensure that these Rules have been complied with, and that the proposed contract represents value for money; and

- d. For all contracts that exceed £50,000, the authorised officer shall undertake appropriate checks to ensure that the proposed contractor has the financial and resource capacity (taking account of contract value and risk) to perform the contract (unless the contractor has already been subjected to a recent satisfactory financial check). Financial vetting shall be undertaken by an officer designated by the Chief Finance Officer, who shall advise on what, if any, security should be provided by the contractor.

**(a) Advertising**

All tenders shall be advertised and, where appropriate, be available for download on the website <http://www.sourcederbyshire.co.uk/>. Contract award notices shall also be published on the website.

- (6) Officers should consider whether the contract will be of benefit to other public sector bodies. If so they should include the following text in the advert ;

**"Tenderers should be aware that although the contracting authority for the purposes of this procurement is Bolsover District Council, one or more other local authorities and/or public bodies from the Counties of Derbyshire and Nottinghamshire may choose to access the concluded contract, without creating any obligation on behalf of any of them to do so."**

- (7) All EU notices shall be referred, in advance of sending to the OJEU, to the Head of Shared Procurement Unit to advise on wording.

#### 4.8.4 Exemptions

- (1) Subject to statutory requirements tenders need not be invited in accordance with these Rules in the following cases:
  - a. In the case of the supply of goods:
    - i. the goods or materials are proprietary articles and, in the opinion of the appropriate Senior Officer (which should be put in writing and retained on the project file), no reasonably satisfactory alternative is available, and
    - ii. Exemptions under this rule have been notified to the Head of Shared Procurement Unit
  - b. The work to be executed or the goods or services to be supplied are controlled by a statutory body.

- c. The work to be executed or the goods or services to be supplied constitute an extension to an existing contract and it is the view of the Senior Officer that it would not be in the interests of the service or the Council to tender the contract. The Senior Officer or his or her nominee should consult with the Head of Shared Procurement Unit who will ensure that a record of the decision is made on the project file.
  - d. The contract is for the execution of work or the supply of goods or services certified by the appropriate Senior Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Portfolio Holder shall be kept informed of such decisions and a record of the decision shall be retained by the service and a copy sent to the Head of Shared Procurement Unit.
  - e. The contract relates to commissioning, such as for the Working Neighbourhoods Funded projects where, for example, there is no (or insufficient) marketplace to tender for the supply of goods, services or works required.
- (2) Officers should consider using the Council's internal services where appropriate, or using established arrangements. Officers should ensure that the best possible balance of value for money and quality is obtained for the Council.
  - (3) Tenders need not be invited where they have been undertaken by any consortium, collaboration or similar body, where the Council is able to access contracts. Officers should contact the Shared Procurement Unit to ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK and EU procurement directives and regulations.
  - (4) Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed (including the delivery, opening and acceptance of tenders).

#### 4.8.5 Contracting & Financial Guidelines

- (1) Officers should order goods and services that are required through an arrangement illustrated in Rule 4.8.3.(2) If, however, the Council or the consortium providing them do not have the goods or services or resources available to meet the reasonable needs of the service then an alternative supply may be sourced. In these circumstances the authorised officer must record why the goods or services have been procured through other means, and send a copy of the record to the Head of Shared Procurement Unit. In all circumstances a written purchase order is required.

- (2) It is good practice (for all but small value and routine purchases) to obtain a written quotation. The Procurement Toolkit shows the procurement route for the examples described below. For further information on this, please contact the Head of Shared Procurement Unit.
- (3) **Contracts £1 to £1,000**  
Procurement of goods and services estimated to be for amounts up to £1000 shall be by oral or written quotation, unless an arrangement under 4.8.3.(2) has already been established for the goods, services or works required. There is no mandatory procurement involvement.
- (4) **Contracts £1,001 to £5,000**  
Procurement of goods and services estimated to be for amounts in the range £1,001 to £5,000 shall be by written quotation from at least three suppliers, unless an arrangement under 4.8.3.(2) has already been established for the goods, services or works required. There is no mandatory procurement involvement.
- (5) **Contracts £5,001 to £50,000**  
Procurement of goods and services estimated to be for amounts in the range £5,001 to £50,000 shall be by formal written request for quotation (RFQ) from at least three suppliers, unless an arrangement under 4.8.3. (2) has already been established for the goods, services or works required.
- (6) **Contracts £50,001 to EU Threshold**
- i. Procurement of goods and services estimated to be for amounts in the range £50,001 to EU THRESHOLD shall be by formal open Invitation to Tender (ITT), unless an arrangement under 4.8.3.(2) has already been established for the goods, services or works required, whereupon mini competition will be encouraged with all capable suppliers. For evaluation purposes, a standing invitation to the evaluation meeting shall be made to officers from Finance, Legal and Audit along with the relevant Portfolio Holder or substitute and the appropriate commissioning officer.
  - ii. In cases where the goods, services or works are covered by Constructionline, this list may be used provided that at least three written quotations are obtained (and more where, in the opinion of the Authorised Officer, there is a reasonable level of competition or variety of solutions). The use of Constructionline must be structured in order to ensure open and fair competition with an appropriate rotation of suppliers from the list.



(7) **Contracts EU Threshold and above**

Procurement of goods and services estimated to be for amounts in the range EU THRESHOLD AND ABOVE shall be by formal open Invitation to Tender (ITT). Full procedural details will shortly be available on the Procurement website, but for further information on this, please contact the Head of Shared Procurement Unit.

4.8.6 **Probity**

- (1) In every instance there shall be a record of the process. This shall be in accordance with the Procurement Toolkit and shall include the following, plus any information that may be required for submitting annual reports to the Government or other agencies:
  - a. the officer(s) undertaking the procurement process and taking the decisions
  - b. the rationale for the procurement route taken (including open or restricted procedure if above EU thresholds)
  - c. a copy of the specification, risk register and anything required by Financial Regulations
  - d. copies of all tenders and completed supplier questionnaire
  - e. copy of the evaluation process and reasons for the decisions as to acceptance or rejection for every tender
  - f. copy of the award letter and a copy of the relevant Executive report and minute
  - g. copy of the final contract
  - h. copy of the contract review and management process including the officer responsible for on-going contract management.
- (2) All contracts for goods, services and works must be registered on the Shared Procurement Unit Contracts Register and the original contract documents held centrally and securely in Legal Services.
- (3) Tenderers, whether successful or not, should be offered a debrief, to assist them in preparing future bids. The relevant officer should also keep a record of all debrief requests and responses.
- (4) In accordance with EC Procurement Directive 2004/18/EC, any company responding to an EU tender shall be excluded from the tender process if it, or its directors have been convicted of; conspiracy, corruption, bribery, fraud or money laundering. Where a service has information relating to the above, contact the Head of Shared Procurement Unit for advice.

## **Bribery Act 2010**

Section 7 of the Bribery Act provides that a relevant commercial organisation (including a local authority) is guilty of an offence if a person associated with it bribes another person with the intention of obtaining or retaining business or an advantage in the conduct of business for the commercial organisation. Conviction of a commercial organisation under section 7 of the 2010 Act will attract discretionary rather than mandatory exclusion from public procurement.

Regulation 23(1) sets out the mandatory disqualification criteria: a contracting authority must treat a prospective bidder as ineligible and not select that bidder if it, or its directors, has been convicted of (among other things) conspiracy; corruption; bribery; fraud; or money laundering.

The contracting authority must have actual knowledge that the bidder, its directors or any other person who has powers of representation, decision or control of the economic operator has been convicted of these offences.

Regulation 23(4) sets out discretionary criteria, allowing the contracting authority to choose not to qualify the economic entity. The criteria include: bankruptcy, being the subject of a receiving order, winding up order or administration order (or similar); conviction of a criminal offence relating to the conduct of its business or profession; commission of an act of grave misconduct in the course of its business or profession; and failure to fulfill obligations relating to the payment of social security contributions or taxes.

Regulation 23(4) only applies to the economic operator itself, not to its directors or others with the necessary level of control.

### **4.8.7 Receipt and Custody**

- (1) No tender will be considered unless it is either:
  - a. Contained in a plain envelope which shall be securely sealed and shall bear the word 'TENDER' followed by the subject to which the tender relates or the number of the tender concerned, but shall not bear any distinguishing matter or mark to indicate the identity of the sender. Prospective tenderers shall be notified accordingly. OR
  - b. Received via the corporate e-tendering system.

- (2) Subject to 4.8.7. (1) a. tenders where the estimated value exceeds £50,000 shall immediately on receipt be consecutively numbered and remain in the custody of the Governance Team until the time appointed for opening. Any officer receiving tenders shall indicate on the envelope the date and time of its receipt by him or her.
- (3) Requests for quotation (RFQ) where the estimated cost does not exceed £50,000 may be addressed impersonally to the appropriate Senior Officer.
- (4) Responses to pre-qualification questionnaires (PQQs) and quotations (RFQ's) are not deemed to be tenders and should be returned to the originating officer, either via hard copy or electronically via email or e-tendering system.

#### 4.8.8 Opening and Evaluation of Tenders

- (1) Tenders shall be opened and recorded at one time and by not less than two officers designated for that purpose, as well as the designated Executive member and a Governance Officer.
- (2) Tenders submitted in hard copy must be opened by the same officers and at the same time as documents received via any e – tendering system.
- (3) In respect of tenders with a value in excess of £50,000, any officer from the Finance, Legal or Internal Audit sections has the right to attend any tender opening.
- (4) Once opened, tenders shall be passed to the evaluation team which will include the relevant Portfolio Holder or substitute. A report outlining the results of the evaluation process will then be presented to Executive to decide on the award of the contract.

#### 4.8.9 Late Tenders

Where a tender is submitted in competition and is received after the specified time then it shall be disqualified. This shall be subject to a test of reasonableness on the part of the Head of Shared Procurement Unit and the Assistant Director – Governance and Monitoring Officer. Any such tender should be returned promptly to the tenderer who should be notified accordingly. The tender envelope may be opened to ascertain the name and address of the tenderer concerned.

#### 4.8.10 Acceptance

- (1) Contracts shall be evaluated and awarded in accordance with the evaluation criteria issued with the tender documentation. Only those tenders that comply with the evaluation criteria shall be considered for acceptance. Tenders must be accepted on the basis of "most economically advantageous" tender.

- (4) Procurement plans and / or tenders prepared by external consultants on behalf of the Council **must** be referred to Head of Shared Procurement Unit for approval and advice.
- (5) The relevant officer is required to submit a Request for Service form (found on the intranet) to the Head of Shared Procurement Unit in respect of all consultancy and advisor contracts where the value of the contract is above £5,000.
- (6) All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the authorised officer, and lodge all such documents and records with the Authorised Officer at the end of the contract.
- (7) The authorised officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.

#### 4.8.13 Contract Conditions

Every contract for goods and services regardless of value shall be in writing and shall be based on the standard terms and conditions held by the shared Procurement Unit.

Every contract over £50,000 shall be in a form approved by the Senior Principal Solicitor or his nominee.

#### 4.8.14 Extending Existing Contracts

- (1) The Authorised Officer, subject to the budget being available, and after consultation with the appropriate Senior Officer , may extend a contract subject to the extension being within the scope of the original scheme (subject to Rule 4.8.4 1 (c)).
- (2) If the original contract was subject to the EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice or if the notice explicitly contained provision for extension.

#### 4.8.15 Performance Bonds and Guarantees

- (1) In the case of all contracts valued above £50,000 the authorised officer shall determine, based on advice from the Chief Finance Officer, the degree of security (if any) required to protect the Council from a contractor default. This may be a performance bond or some other form of financial or performance guarantee.
- (2) Where an order is placed with an in-house service and work forming part of that order is sub-contracted to an external company, then the provisions of Rule 4.8.15 (1) will apply.

- (2) A tenderer who submits a qualified or conditional tender shall be given the opportunity to withdraw the qualification or condition without amendment to the tender. If the tenderer fails to do so the tender must be rejected.
- (3) Prior to final contract award, the contractor must provide evidence of adequate insurance to cover both public and employers' liability, and produce such evidence during the life of the contract at the reasonable request of the authorised officer.
- (4) For all procurements covered by the EU Directives, a statutory minimum period of 10 calendar days standstill time after the award decision is issued is required to allow companies an opportunity to challenge the decision.

The notification of the award decision to unsuccessful bidders, based on the most economically advantageous tender, should contain:

- the award criteria;
  - the score the tenderer obtained against those award criteria;
  - the score the winning tenderer obtained;
  - the name of the winning tenderer
- (5) All contracts must be notified to the Head of Shared Procurement Unit, including performance monitoring information.

#### 4.8.11 Nominated/Named Sub-Contractors and Suppliers

It is recommended that contracts are awarded to a single entity or lead contractor, who in turn will take contractual responsibility for the performance (and risks) for all sub-contractors and supply-chains. This reduces the risk of the Council becoming party to disputes between contractors.

#### 4.8.12 Engagement of Consultants

- (1) An authorised officer may only appoint external consultants or advisors providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the service. Where such services are available in-house, the authorised officer must consult with a Senior Officer before taking any decision to make an external appointment.
- (2) Consideration should be given to using appropriate framework agreements for business, professional, and ICT consultancy services.
- (3) External consultants and technical officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.

- (3) Where a performance bond and/or parent company guarantee is required, then the tender documents must provide for this.

#### 4.8.16 Liquidated Damages

Any contract which is estimated to exceed £100,000 in value or amount, and is for the execution of works, or for the supply of goods or materials by a particular date or series of dates, shall provide for liquidated damages. The amount to be specified in each such contract shall be determined by a Senior Officer in consultation with Legal Services and appropriate stakeholders.

#### 4.8.17 Further Information

- (1) **Agreements shall be completed as follows:**

<b>Total value</b>	<b>Method of Completion</b>	<b>Solicitor to the Council</b>
Up to £50,000	signature	Solicitor to the Council
£50,001 and above	sealed	See (3) below

- (2) **Signature**

The Authorised Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

- (3) **Sealing**

Where contracts are completed by each side adding their formal seal, the affixing of the Council's seal will be attested by the Monitoring Officer together with the Chairman or in their absence, the Vice-Chairman of the Council, or in their absence, another Councillor.

An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose. The seal must not be affixed without the authority of the Council, Executive, a committee or under delegated powers. A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end; or
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- where there is any doubt about the authority of the person signing for the other contracting party; or
- the Total Value exceeds £50,000.

(4) **Archiving and lodgment of records**

The original sealed contract must be deposited with the Council's Legal Services and recorded on the Contracts Register.

## **4.9 OFFICER EMPLOYMENT PROCEDURE RULES**

### **4.9.1 Recruitment and Appointment**

#### **(1) Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- (b) No candidate so related to a Councillor or an officer will be appointed without the authority of the Chief Executive Officer or an officer nominated by the Chief Executive Officer.

#### **(2) Seeking Support for Appointment**

- (a) Subject to paragraph 4.9.1 (2) (c), 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.
- (b) Subject to paragraph (2) (c), no Councillor will seek support for any person for any appointment with the Council.
- (c) Nothing in paragraphs (a) and (b) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment

### **4.9.2 Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer and whether or not it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;
- (b) 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



- (c) make arrangements for a copy of the statement mentioned in paragraph 4.9.2 (a) to be sent to any person on request.

#### 4.9.3 Appointment of Head of Paid Service

The Council meeting will appoint the Head of Paid Service.

#### 4.9.4 Appointment of Chief Officers and Deputy Chief Officers

- (a) The Council meeting will appoint Chief Officers and Deputy Chief Officers.
- (b) The appointment of such officers may be delegated.

#### 4.9.5 Other appointments

##### (1) Officers Below Deputy Chief Officer

Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or that officer's nominee, and may not be made by Councillors. The interview panel for appointments below deputy chief officer level (excluding political assistants) will be as follows:-

SCP4-28	2 Management representatives
SCP29-49	1 Management and 1 HR representative

##### (2) Assistants to Political Groups

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### 4.9.6 Disciplinary Action

##### (1) Suspension

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be in accordance with the Local Authorities (Standing Orders)(England) Regulations 2001 and will be on full pay and last no longer than two months.

(2) Independent Person

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders)(England) Regulations 2001.

(3) Member Involvement

Councillors will not be involved in disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, which allow a right of appeal to Members in respect of disciplinary action.

4.9.7 Dismissal

Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary and other procedures, as adopted from time to time, will allow a right of appeal to Members in respect of dismissal.

## 5 CODES AND PROTOCOLS

### 5.1 MEMBERS' CODE OF CONDUCT

As a member or co-opted member of the District Council I have a statutory responsibility to have regard to the following principles when representing the community and working constructively with staff and partner organisations to secure better social, economic and environmental outcomes for all.

#### The Seven Statutory Principles

In accordance with the Localism Act provisions, when acting or appearing to act in my capacity as a councillor I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in the Council.

*The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, Naps, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.*

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.

**INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their families, or their friends. They must declare and resolve any interests and relationships.

**OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**ACCOUNTABILITY:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**HONESTY:** Holders of public office should be truthful.

**LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **General Conduct**

As a Member or Co-opted Member of the Council, I will ensure my conduct is in accordance with the statutory principles of the code of conduct by:

- Dealing with people fairly, appropriately and impartially.
- Acting in accordance with the Council's ICT policies, ensuring that ICT resources are not used improperly and having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interest of the Council or the good governance of the Authority in a proper manner.
- Complying with the requirements of the Council's Protocol on Gifts and Hospitality by registering with the Monitoring Officer any item of hospitality that I receive.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member or co-opted member of my Authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making the Council's decision-making processes as open and transparent as possible. I will do this by allowing residents to access information they are entitled to by law, helping them to understand the reasoning behind the decisions taken and enabling them to be informed when holding me and other members to account.
- Restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with the Council's legal obligations, alongside any requirements contained within its policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.

- Providing leadership through behaving in accordance with these principles when championing the interests of the community, with other organisations, as well as within this Authority.

**I also agree to abide by the following rules:**

Where you have a Disclosable Pecuniary Interest (under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012) in any business of the Authority you must disclose the interest to the meeting. In addition you must leave the room where the meeting is held while any discussion or voting takes place.

**In addition the following Non Statutory Interests (other interests) will apply:**

**Non Statutory Interests (other interests)**

You must, within 28 days of this Code being adopted by the Council; or within 28 days of your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your other interests, where they fall within the following descriptions, for inclusion in the register of interests.

You have an interest in any business of your authority where either it relates to or is likely to affect:

- (a) 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 your authority; or,
- (b) any body:
  - (1) exercising functions of a public nature;
  - (2) directed to charitable purposes; or
  - (3) one of whose principal 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;

You also have an interest in any business of your authority:

- (i) where a decision in relation to that business might reasonably be regarded as affecting your financial position or the 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; or
- (iii) it relates to or is likely to affect any of the interests you have registered as an interest.

(A relevant person is a member of your family or any person with whom you have a close association; or 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; any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or any body of a type described in paragraphs (a) or (b)(1)(2)(3) above).

You must, within 28 days of becoming aware of any new interest or change to any interest notify the Monitoring Officer of the details of that new interest or change.

### **Disclosure of interests**

Where you have an interest in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent, where it is not on your register of interests.

Where you have an interest but sensitive information (as defined below) relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have an other interest, but need not disclose the sensitive information to the meeting.

(Sensitive interests: Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to 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)

### **Non participation in case of significant other interest:**

Where you have an interest in any business of your authority you also have a significant other interest in that business where the 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 and where that business:

- Affects your financial position or the financial position of a person or body described in paragraphs (a) or (b)(1)(2)(3) (i) or (ii) above.

Where you have a significant other interest in any business of the Council you may not participate in any discussion of the matter at the meeting and you may not participate in any vote taken on the matter at the meeting. If you interest is not registered, you must disclose the interest to the meeting. In addition you must leave the room where the meeting is held while any discussion or voting takes place (subject to the following paragraph).

Where you have significant other 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.

Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest that relates to the functions of your authority in respect of:

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) 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;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

## **5.2 EMPLOYEE CODE OF CONDUCT**

### **1. Standards**

Local Government employees 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. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

### **2. Disclosure of Information**

- (1) It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Employees must be aware the types of information which are open and which are not. Managers must ensure their employees are well briefed on these matters. If there is any doubt advice should be sought from the Data Protection Officer, Legal Services or Governance.
- (2) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor, which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.
- (3) No employee shall communicate to the public the proceedings of any Council meeting from which the public are excluded, nor the contents of any document or other information relating to such a meeting, unless required by law or expressly authorised to do so by the Chief Executive Officer, Director or Assistant Director.

### **3. Political Neutrality**

- (1) Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- (2) Subject to the Council's conventions, employees may also be required to advise political groups. They must do so in ways that do not compromise their political neutrality. Guidance is contained within the Member/Officer Protocol and may also be obtained from Legal Services or Governance.



- (3) Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- (4) Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3(1) to 3(3).

#### **4. Relationships**

##### **(1) Councillors**

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers who are all there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity or hostility between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

##### **(2) The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

##### **(3) Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- (4) Employees who engage or supervise contractors or have any other official relationship with the contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

#### **5. Appointment and other employment matters**

- (1) Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment that was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an

applicant, or had/have a close personal relationship outside work with an applicant. A close personal relationship would be defined as one involving the employee with a relative, partner or friend as defined below:

- “relative” means a spouse, partner, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding person,
- “partner” means a member of a couple who live together,
- “friend” means a person with whom one enjoys mutual affection and regard.

All employees participating as part of the interview panel will be required to sign a declaration they are not related, or have/had a close personal relationship, or association with any of the candidates.

- (2) Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, or friend.
- (3) Every candidate for an appointment with the Council is required, when making such an application, to disclose whether to their knowledge they are related to any Member/employee of the Council. Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after the appointment is made that person will be liable to dismissal.

## **6. Outside Commitments**

- (1) An employee’s off duty hours are their own concern but an employee must not allow private interests to conflict in any way with the duties of their employment with the Council or to cause any detriment to the interests of the Council or to undermine public confidence in that officer’s integrity.
- (2) No employee shall undertake additional work outside of the Council without completing a Secondary Employment Form which is available from Human Resources and obtaining the prior approval of their Director or Assistant Director as appropriate. All such requests require the further approval of the Chief Executive Officer.
- (3) Guidance for Directors and Managers on employees’ outside interests and the need for Council approval is attached at Appendix 2.

**7. Intellectual Property**

Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

**8. Personal Interests**

- (1) Employees must declare, and submit in writing to the Chief Executive Officer, any non-financial interests that they consider could bring about conflict with the Council's interests.
- (2) Employees must declare, and submit in writing to the Chief Executive Officer, any financial interests that could conflict with the Council's interests.
- (3) Employees should declare to the Chief Executive Officer, membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership of conduct.

**9. Equality Issues**

- (1) The Council is committed to a policy of equal opportunities in the full context of employment issues and all officers responsible for recruitment, training, promotion and career development shall select candidates irrespective of gender, race, colour, ethnic or national origin, religion, religious belief or similar philosophical belief, disability, marital status, age, sexual identity or because they have HIV or because the employee works a proportion of the time worked by a full time employee.
- (2) All members of the community, customers, councillors and other employees have a right to be treated with fairness and equity.

**10. Separation of Roles During Tendering**

- (1) Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- (2) Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (3) Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

- (4) Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- (5) Employees should 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 a senior or relevant managerial capacity.

**11. Corruption**

Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Further guidelines to employees on acceptance of gifts and hospitality are contained in a separate document to be found in Appendix 1 of this Code.

**12. Use of Financial Resources**

- (1) Employees must ensure 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 Council.
- (2) Employees should be aware of and adhere to the Council's Standing Orders, Financial Regulations and Procurement rules. If any employee has concerns over the lawfulness of certain action they should raise their concerns with their Director or Assistant Director as appropriate, or Chief Executive Officer and Chief Finance Officer. For full details of how to raise concerns please refer to the Council's Whistleblowing Policy.

**13. Sponsorship – Giving and Receiving**

- (1) Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiations or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. The Council now has in place an Advertising and Sponsorship Policy which should be considered before any sponsorship is taken. Further information may be obtained via the Advertising and Sponsorship Officer.

- (2) Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such a sponsorship in a direct way without there being full disclosure to an appropriate manager 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.

**14. Interpretation**

The Chief Executive Officer or Monitoring Officer will provide advice and guidance on the interpretation of this Code.

**GUIDELINES ON ACCEPTANCE OF GIFTS/HOSPITALITY**

- (1) In many areas of the commercial world it is common practice to offer and accept gifts, hospitality and other benefits. This practice is frequently used to influence a decision when one company is seeking business with another and it is perfectly legal to do so – but it can be quite the contrary in public service.
- (2) The acceptance of gifts, hospitality or other benefits, even on a modest scale, may arouse suspicion of impropriety and extreme caution and discretion should be exercised in accepting either. In principle you should refuse any personal gift offered to you or your family by any person or company who has or seeks dealings of any kind with the Council.
- (3) The only reasonable exceptions to the guidance given in (2) above are:-
  - (a) Small gifts of a purely token value given by way of trade advertisements (e.g., calendars, diaries, articles for general use in the office).
  - (b) Small articles, again purely of a token value given at the conclusion of courtesy visits (e.g. to a factory).
  - (c) A small gift offered without warning and where refusal would give particular offence.
- (4) Should you receive an unexpected gift, which falls outside the categories (see 3 above) you should consult your Director or Assistant Director, as appropriate, who will decide the course of action. This may include:-
  - (a) returning the gift, ensuring that the donor is told in a polite way why this has been necessary;
  - (b) passing the gift on to some charitable cause if it is appropriate to do so;
  - (c) agree that the gift may be kept by the recipient.
- (5) Details of all gifts covered by the above categories must be recorded in a book kept for this purpose by the Assistant Director – Governance and Monitoring Officer.
- (6) Hospitality is sometimes offered to employees and it is not always possible or desirable to reject offers of a moderate nature. Examples of acceptable hospitality include a working lunch of a modest standard, provided to allow business discussion to continue.

- (7) Some offers of hospitality are clearly unacceptable and these would include offers of holiday accommodation, individual offer of theatre tickets for yourself or your family and individual invitation to dinner.
- (8) You should be particularly cautious when any form of hospitality is offered by an individual or organisation seeking to do business with, or a decision from, the Council as acceptance might affect your relations with the party offering it and how this might be viewed. If in any doubt at all you should consult with your Director or Assistant Director as appropriate before acceptance. Directors/Assistant Directors must consult with the Chief Executive Officer.
- (9) Acceptance of offers of hospitality must be recorded in the book kept for the purpose by Legal Services.
- (10) These guidelines are intended as a general overview on the acceptance of gifts and hospitality but cannot cover every eventuality. If you are in any doubt you should consult your Director or Assistant Director, as appropriate, or the Chief Executive Officer.
- (11) **The procedure for registering offers of gifts and hospitality to officers will be as follows:**
- When a gift/hospitality arises it is the responsibility of the recipient to use the Gifts and Hospitality Declaration form which can be located on the intranet.
  - There will be two versions of the Declaration form –
    - **Gifts and Hospitality Corporate Declaration form** – to be completed by all Bolsover District Council Employees
    - **Gifts and Hospitality Members Declaration form** – to be completed by any District Councillor.
  - Note for officers' only: Complete the relevant form and then get the Authorising Officer to sign the document (if the gift or hospitality is being accepted).

### **REMEMBER**

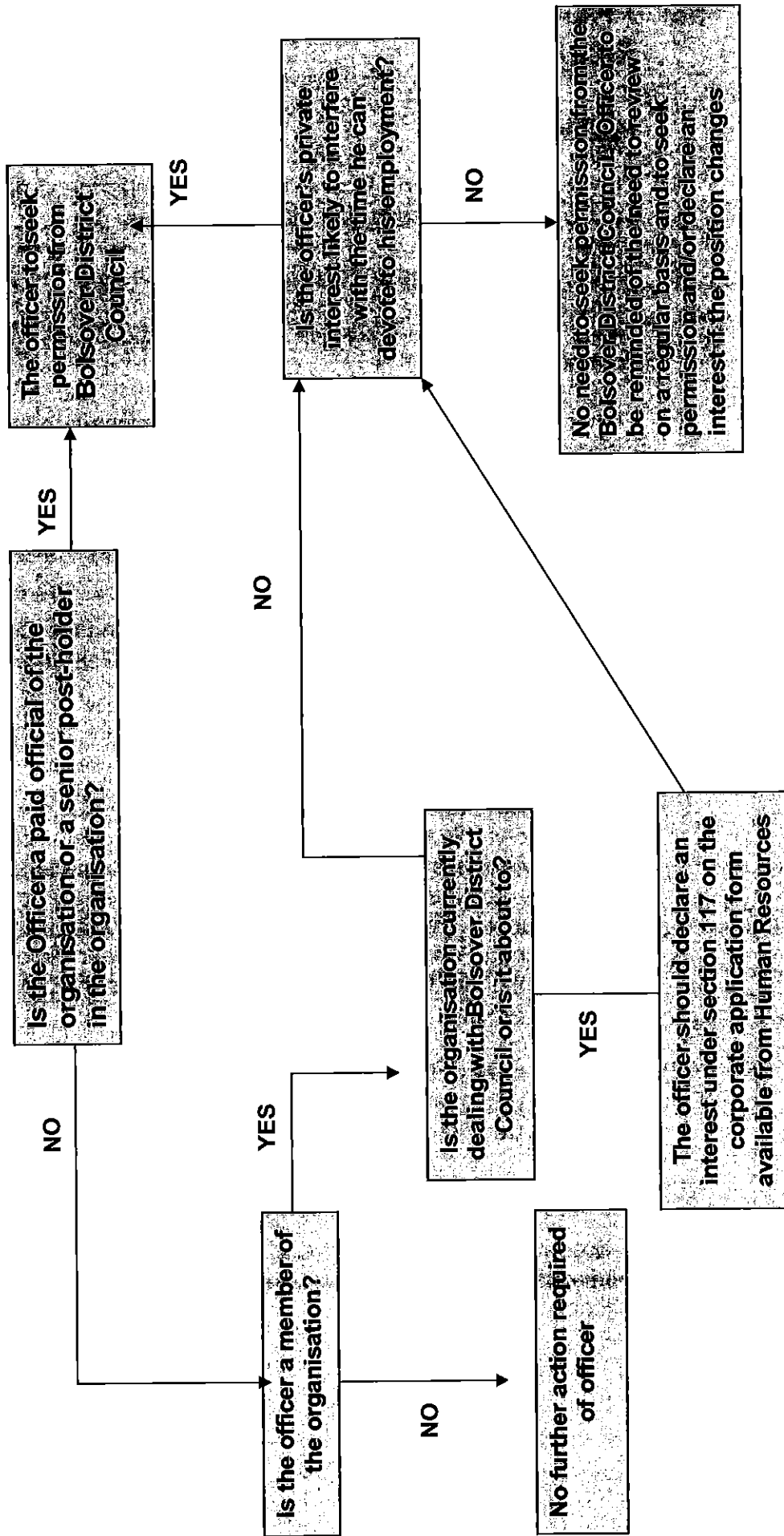
- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality. **Members have 28 days to do this.**

- Members are required to declare any gift or hospitality that is above the value of **£50**. However, there is nothing to stop you from declaring any gift or hospitality that is below the stated value if you prefer to have this on record.
- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality.
- Give an approximate value of the offer. You can say "*de minimis*" or "*less than £10*" if the gift is small.
- Name the donor, including where the Authority provides hospitality.
- It must be clear from the entry whether the offer is accepted or refused.
- The name and extension number of the individual who received the offer must be provided on the form.
- A reason for acceptance must be given and the Line Manager's authorisation (signature) obtained.
- Line Managers should not authorise their own acceptance of gifts and hospitality. The CEO, a Director or Assistant Director should be asked to authorise.
- Scan the signed and completed document and email the form to the Legal Support Officer – Rebecca Rowley.
- Place the original document in the internal post to the Legal Support Officer who is in the Legal Department at the Arc.
- The Legal Support Officer will store/receipt/reference all submitted entries by using electronic folders for each department.
- The Legal Support Officer will update the Corporate Inspection Spreadsheet with the entry as it is received.
- The paper version of the document will be stored in a lever arch file under its relevant department or in the Members' Gifts and Hospitality.
- The Corporate Inspection Spreadsheet will run over a Corporate Year and will be checked annually by the Monitoring Officer, on behalf of the Standards Committee, to ensure that the system is being used and to monitor the frequency of any gifts and hospitalities during the Corporate Year.



APPENDIX 2

GUIDANCE FOR MANAGERS AND OFFICERS' OUTSIDE INTERESTS AND THE NEED FOR THE COUNCIL'S APPROVAL



## **5.3 PROTOCOL ON MEMBER/OFFICER RELATIONS**

### **1. Introduction**

- (1) The purpose of this protocol is to guide Members and officers of the Council in their relations with one another.
- (2) Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise.
- (3) This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared aim of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.
- (4) The Council's Code of Conduct for Members and the Code of Conduct for employees make it clear how the Members and Officers should treat each other:

### **2. Members and Officers**

- (1) Both Members and Officers are servants of the public, and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, its committees and sub-committees and the Executive.
- (2) Members must not do or threaten to do anything which compromises or which is likely to compromise the impartiality of an employee of the Council.
- (3) Mutual respect between Members and officers is essential to good local government. Close personal familiarity or hostility between individual Members and officers can damage this relationship and prove embarrassing to other Members and officers.

- (4) The law and the Council's procedures lay down rules for the appointment, discipline and dismissal of staff. Members must ensure that they observe these scrupulously at all times. Special rules apply to the appointment of assistants to political groups. In all other circumstances, if a Member is called upon to take part in appointing an Officer, the only questions which the Member should consider is which candidate would best serve the whole Council. Members should not let their political or personal preferences influence their judgement. They should not canvass the support of colleagues for any candidate and should resist any attempt by others to canvass theirs. In consequence, Members should not provide references in support of applications for employment by the Council.
- (5) In line with the Council's Codes' reference to "mutual respect", it is important that any dealings between Members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or be hostile to the other.
- (6) The Employee Code adopted by the Council has similar wording:  
  
"Mutual respect between employees and councillors is essential to good local government. Close personal familiarity or hostility between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided."

### **3. Officer advice to Party Groups**

- (1) There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups.
- (2) The support provided by officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- (3) Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;
  - (b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - (c) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- (4) Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- (5) Officers must respect the confidentiality of any party group discussions at which they are present and should not relay the content of any such discussion to another party group.
- (6) Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

#### **4. Support Services to Members and Party Groups**

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, 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.

**5.**

**Members' Access to Information and to Council Documents**

- (1) Members are free to approach any Director or Assistant Director, as appropriate, to provide them with such information, explanation and advice (about that Directorate or Service functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of Directorate or service activities to a request for specific information on behalf of a constituent. There is no automatic right to such information, except in the circumstances outlined below where the "Need to Know" is established. Such approaches should normally be directed to the Director or Assistant Director.
- (2) As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by common law.
- (3) Members have a statutory right to inspect any Council document, which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee or Executive meeting. This right applies irrespective of whether the Member is a Member of the Executive, a Committee or Sub-Committee concerned and extends not only to reports, which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the "Exempt" part of the agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- (4) The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as access to the document is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is commonly referred to as the "Need to Know" principle.

- (5) The exercise of this common law right depends, therefore, upon the Member's ability to demonstrate the necessary "Need to Know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "Need to Know". This question must initially be determined by the particular Director or Assistant Director as appropriate whose staff holds the document in question (with advice from the Monitoring Officer). It follows from this that the Member must give the reason for the enquiry. In the event of dispute, the question falls to be determined by the relevant Committee - i.e. the committee in connection with whose functions the document is held or the Executive.
- (6) In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member's "Need to Know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- (7) Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "Need to Know", and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- (8) Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Assistant Director – Governance and Monitoring Officer.
- (9) Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

## 7. Officer/Chairperson Relationship

- (1) It is clearly important that there should be a close working relationship between the Chairperson of a Committee or Member Working Group and the Director, Assistant Director and other senior Officers, which reports to that Committee or Member Working Group. However, such relationships *should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.*

- (2) In relation to action between meetings, it is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken by a Committee, a Sub-Committee or an Officer and in relation to Executive functions by the Executive or an Officer. Legislation allows for Members to take individual decisions where the Council decides that this should happen. These decisions can only be taken in specific circumstances following appropriate advice and the decision must be recorded. This does not mean that any decision can be taken by a Member. The rules relating to decision making where it is a Committee or Sub Committee or Officer decision remain unchanged.
- (3) The Council's delegation scheme is contained within the Constitution. This contains the majority of delegations to officers. From time to time the Executive, Committees and the Council give additional delegations which are added to the Constitution as it is updated annually.
- (4) Finally, it must be remembered that Officers within any department are directly accountable to the Chief Executive Officer. Whilst Officers should always seek to assist a Chairperson (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Chief Executive Officer.

## **8.**

### **Correspondence**

- (1) Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.
- (2) Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member generally. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member. Where Members send correspondence in their own name as a Member of the Council, such correspondence may be sent on Council headed notepaper headed with the words "from the Office of [Name of Councillor]"

**9. Involvement of Ward Councillors**

- (1) Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

**10. When and how Members can access information from data systems.**

- (1) On occasion elected members require personal customer data (as defined by the Data Protection Act) to carry out their duties, for example for declaring interests on Licensing Committee or considering objections at Planning Committee. Usually this data is presented to elected members in a format which protects the original data.
- (2) Elected members should not have direct access to systems which control or process personal data; unless it is contained in a public register. Elected members do though have the right (whether or not they have a personal data protection registration) to view data which enables them to carry out their duties e.g. viewing a collated list of personal data submitted as part of a licensing function.
- (3) With regard to CCTV, an authorised list of users has been established. The authorised users include Police Officers (which are covered in the legislation) and employees of the Council who need access to carry out their operational duties as defined in their job description. The system should only be accessed for a specific purpose by specific authorised people. The Council has a duty to ensure all data is fully protected at all times.
- (4) On some occasions it is appropriate for elected members, third parties and senior officers to 'view' CCTV data. This is documented in the CCTV Code. If someone in a senior position wanted to view (not access or operate) the CCTV they must have a valid reason e.g. major incident in Bolsover Market Place between 1.00 - 2.00 am on Sunday. They would not be given a password or allowed to operate the system themselves. They would have to sign the viewing confidentiality declaration and viewing log. This is designed to remove any security risk for the person and the Authority. By completing this documentation the senior officer or elected member can then sit with the authorised person and 'view' the data on the screen. The authorised person controls the system and viewing at all times to ensure privacy is maintained for people and houses in the vicinity of the cameras. This is detailed in the Code.



## **5.4 CODE OF GOOD PRACTICE FOR MEMBERS AND OFFICERS INVOLVED IN THE PLANNING PROCESS**

### **1 Introduction**

- (1) Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.
- (2) The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.
- (3) Planning decisions involve balancing many competing interests. In doing this, decision makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.
- (4) It is recommended that councillors should receive regular training on code of conduct issues, interests and predetermination, as well as on planning matters.

### **2 Background**

- (1) In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today's placeshaping context, early councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.
- (2) This guidance is intended to reinforce councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.
- (3) Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.
- (4) Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.

- (5) One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.
- (6) Whilst councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- (7) The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.
- (8) This guidance is not intended to be prescriptive. Local circumstances may provide reasons for local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.
- (9) This guidance refers mainly to the actions of a local authority planning committee as the principal decision-making forum on planning matters. It is recognised, however, that authorities have a range of forms of decision-making: officer delegations; area committees; planning boards, and full council.
- (10) This guidance applies equally to these alternative forms of decision-making. Indeed, it becomes very important if the full council is determining planning applications referred to it, or adopting local plans and other policy documents, that councillors taking those decisions understand the importance of this guidance. The guidance also applies to councillor involvement in planning enforcement cases or the making of compulsory purchase orders.

### **3 The General Role and Conduct of Councillors and Officers**

- (1) Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the council as a whole. Officers advise councillors and the council and carry out the council's work. They are employed by the council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.
- (2) Both councillors and officers are guided by codes of conduct. The 2011 Act sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. All councils had to adopt a local code by August 2012.

- (3) The adopted code should be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- (4) It should embrace the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other councillors, staff, and the public. Many local authorities have adopted their own, separate codes relating specifically to planning although these should be cross references with the substantive code of conduct for the council.
- (5) Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. Many authorities will have adopted a code of conduct for employees and incorporated those or equivalent rules of conduct into the contracts of employment of employees.
- (6) In addition to these codes, a council's standing orders set down rules which govern the conduct of council business.
- (7) Councillors and officers should be cautious about accepting gifts and hospitality and should exercise their discretion. Any councillor or officer receiving any such offers over and above an agreed nominal value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Guidance on these issues for both councillors and officers should be included in the local code of conduct
- (8) Employees must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.
- (9) Officers and serving councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.
- (10) Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

- (11) Finally, as planning can sometimes appear to be complex and as there are currently many changes in planning taking place, the LGA endorses the good practice of many councils which ensures that their councillors receive training on planning when first appointed to the planning committee or local plan steering group, and regularly thereafter. The Planning Advisory Service (PAS) can provide training to councillors (contact [pas@local.gov.uk](mailto:pas@local.gov.uk)).

#### **4 Registration and Disclosure of Interests**

- (1) Chapter 7 of the 2011 Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.
- (2) For full guidance on interests, see Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013. (This guidance note does not seek to replicate the detailed information contained within the DCLG note). Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.
- (3) The provisions of the Act seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate.
- (4) Each council's code of conduct should establish what interests need to be disclosed. All disclosable interests should be registered and a register maintained by the council's monitoring officer and made available to the public. Councillors should also disclose that interest orally at the committee meeting when it relates to an item under discussion.
- (5) A councillor must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.
- (6) A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the councillor from the committee. In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business.

- (7) If a councillor has a (non-pecuniary) personal interest, he or she should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.
- (8) It is always best to identify a potential interest early on. If a councillor thinks that they may have an interest in a particular matter to be discussed at planning committee he or she should raise this with their monitoring office as soon as possible.

## **5 Predisposition, Predetermination, or Bias**

- (1) Members of a planning committee, Local Plan steering group (or full Council when the local plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.
- (2) The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.
- (3) Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is alright, the former is not and may result in a Court quashing such planning decisions.
- (4) Section 25 of the Act also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
- (5) This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.
- (6) For example, a councillor who states "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a councillor who states: "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area."

- (7) If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter.
- (8) This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). If the Council rules allow substitutes to the meeting, this could be an appropriate option.
- (9) Authorities will usually have a cabinet/executive member responsible for development and planning. This councillor is able to be a member of the planning committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.

## **6 Development Proposals Submitted by Councillors and Officers, and Council Development**

- (1) Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.
- (2) Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by councillors and planning officers:
  - if they submit their own proposal to their authority they should play no part in its consideration
  - a system should be devised to identify and manage such proposals
  - the council's monitoring officer should be informed of such proposals
  - such proposals should be reported to the planning committee and not dealt with by officers under delegated powers.
- (3) A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They do have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as applicant, should also not seek to improperly influence the decision.
- (4) Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

## **7 Lobbying of and By Councillors**

- (1) Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.
- (2) As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".
- (3) Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.
- (4) As noted earlier in this guidance note, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- (5) In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.
- (6) Councillors can raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.
- (7) If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision-making committee, they would be well advised to withdraw once any public or ward member speaking opportunities had been completed in order to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.
- (8) It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.

- (9) A local code on planning should also address the following more specific issues about lobbying:
- Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
  - Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors.
  - Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
  - Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern.
- (10) As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

## **8 Pre-application Discussion**

- (1) Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- (2) Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. Now, through the Localism Act and previously the Audit Commission, the LGA and PAS recognise that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors lead on community issues and helps to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' approach.
- (3) The Localism Act, particularly S25, by endorsing this approach, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.



(4) Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken. In addition to any specific local circumstances, guidelines should include the following:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- An acknowledgement that consistent advice should be given by officers based upon the development plan and material planning considerations.
- Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.
- Confirmation that a written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the nonconfidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
- A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.
- The scale of proposals to which these guidelines would apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. The Nolan Committee argued that keeping a register of these conversations would be impractical and unnecessary. Authorities should think about when, however, discussions should be registered and notes written.

(5) Authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers of discussions to enable councillors to raise issues, identify items of interest and seek further information

- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken)
  - ward councillor briefing by officers on preapplication discussions.
- (6) Similar arrangements can also be used when authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.
- (7) The Statement of Community Involvement will set out the council's approach to involving communities and other consultees in pre-application discussions. Some authorities have public planning forums to explore major pre-application proposals with the developer outlining their ideas and invited speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although still bearing in mind the need to avoid pre-determination.

## **9 Officer Reports to Committee**

- (1) As a result of decisions made by the court and ombudsman, officer reports on planning applications must have regard to the following:
- Reports should be accurate and should include the substance of any objection and other responses received to the consultation.
  - Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.
  - Reports should have a written recommendation for a decision to be made.
  - Reports should contain technical appraisals which clearly justify the recommendation.
  - If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.
- (2) Any oral updates or changes to the report should be recorded.

## **10 Public Speaking at Planning Committees**

- (1) Whether to allow public speaking at a planning committee or not is up to each local authority. Most authorities do allow it. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.
- (2) Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.
- (3) In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the council in writing.
- (4) New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak.
- (5) Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

## **11 Decisions Which Differ from a Recommendation**

- (1) The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).
- (2) This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- (3) The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or nonmaterial planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- (4) Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

- (5) Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:
- discussing the areas of difference and the reasons for that with planning officers beforehand (as part of a standard 'callover' meeting where all items on the agenda are discussed)
  - recording the detailed reasons as part of the mover's motion
  - adjourning for a few minutes for those reasons to be discussed and then agreed by the committee
  - where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.
- (6) If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'.
- (7) The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.
- (8) All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- (9) The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

## **12 Committee Site Visits**

- (1) National standards and local codes also apply to site visits. Councils should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:
- visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already

- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
  - where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply.
  - keep a record of the reasons why a site visit is called.
- (2) A site visit is only likely to be necessary if:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
  - the comments of the applicant and objectors cannot be expressed adequately in writing or
  - the proposal is particularly contentious.
- (3) Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.
- (4) This should be made clear to any members of the public who are there.
- (5) Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

### **13 Annual Review of Decisions**

- (1) It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.
- (2) Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

- (3) Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

#### **14 Complaints and Record Keeping**

- (1) All councils should have a complaints procedure which may apply to all council activities. A council should also consider how planning-related complaints will be handled, in relation to the code of conduct adopted by the authority.
- (2) So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

#### **15 Appeals**

Where an appeal arises against a decision to refuse an application contrary to officers recommendation, officers will give support to the Committee in preparing evidence for the appeal, but it may be necessary in support of the Council's position for Members of the Planning Committee making the decision, in particular the proposers and seconders of the motion to refuse, to appear at any appeal hearing and give evidence of the reasons for the Committee's decision.

## **5.5 MEMBERS' ROLES AND RESPONSIBILITIES**

### **DISTRICT COUNCILLOR**

#### **(1) Role Purpose**

1. To participate constructively in the good governance of the District.
2. To contribute actively to the formation and scrutiny of the Authority's policies, budget, strategies and service delivery
3. To represent effectively the interests of the Ward for which the Councillor was elected, and deal with constituents' enquiries and representations
4. To champion the improvement of the quality of life of the community in terms of equity, economy and environment
5. To represent the Council effectively, when appointed to an outside body, such as a charitable trust or association, etc.
6. To act at all times with probity and propriety in the best interest of the Council

#### **(2) Duties and Responsibilities**

1. To fulfil the statutory and locally determined requirements of an elected member of a local authority and the Authority itself, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the full Council (e.g. setting budget, overall priorities and strategy)
2. To participate effectively as a member of any committee or Panel or Working Party to which the Councillor is appointed, including related responsibilities for the services falling within the Committee's (or Panel's) terms of reference, and its liaison with other public bodies to promote better understanding and partnership working
3. To participate in the activities of any outside body to which the Councillor is appointed, reporting back to the Council and providing two-way communication between the organisations. Also, for this purpose, to develop and maintain a working knowledge of the Authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and functions
4. To participate in the scrutiny or performance review of the services of the Authority including, where the Authority so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council

5. To maintain satisfactory attendance at meetings in accordance with local requirements
6. To participate, as appointed, in consultative processes with the community and with other organisations
7. To provide a link between the Authority and the community, through the various forums available
8. To develop and maintain a working knowledge of the Authority's services, management arrangements, powers/duties, and constraints, and to develop good working relationships with relevant officers of the Authority
9. To develop and maintain a working knowledge of the other organisations and services which serve the District
10. To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process
11. To conduct the business of the Council within the Council and not to make inappropriate use of the written or broadcast media
12. To maintain confidentiality in all relevant Council business
13. To find a suitable substitute and to brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible.
14. Not individually to seek to instruct officers and to act in accordance with the Protocol on Member/Officer Relations and the Elected Member/ Officer Communications Protocol at all times when dealing with officers
15. Be responsible for continuous personal development, engaging in available opportunities for training and development to build on understanding and knowledge, and to develop relevant skills.

**(3) Skills Required**

1. Good communication and Interpersonal skills
2. Ability to relate and deal with the public in a professional and timely manner
3. Ability to work effectively with Council officers and outside organisations
4. Community Leadership skills



## **EXECUTIVE MEMBERS**

### **(1) Purpose**

1. To provide collective and individual leadership as part of the Executive
2. To undertake lead responsibility for allocated portfolios
3. To contribute effectively towards the strategic direction of the Council

### **(2) Duties and Responsibilities**

1. Participate effectively as a Member of the Executive – take joint responsibility with colleague Executive Members for all actions and be accountable collectively. Challenge issues prior to making decisions if felt appropriate to do so. Ensure appropriate regard to the community's interests and to any equalities and diversity issues. Encourage openness and honesty.
2. To take joint responsibility for proposing the budget and policy framework to the full Council, and for discharging executive functions in accordance with the budget and policy framework
3. Shape and develop the Strategic priorities and vision of the Council, participating in debates and discussion about policy issues across the range of services provided by the Council.
4. Act as the Lead Member for a particular portfolio as may be determined by the Leader of the Council, but in doing so, have regard to the overall collective responsibilities of the Executive and the Council's corporate policy objectives. Champion the portfolio concerned within that strategic context.
5. Recognise the differing roles of members and officers in the Council's Constitution.
6. In connection with the portfolio:
  - a) Build good relationships with appropriate senior officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with any problems at a strategic level
  - b) Keep abreast of related developments and policies at national, regional and local level
  - c) Enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks
  - d) Aim for Bolsover to be at the forefront of service development and provision where possible; take an active interest in related performance indicators and rankings, including visiting other Councils to observe examples of good practice

- e) Represent the Executive at the Scrutiny Committee in connection with any related matter that may be requisitioned (called in) or otherwise scrutinised.
  - f) Be aware of issues of importance to the community and other stakeholders concerning portfolio services
  - g) Be aware of key budgetary issues by regular monitoring of all income and expenditure affecting the portfolio of the Executive Member
7. Represent the Council on external bodies, as appointed, and feedback to the Executive any issues of relevance/importance.
  8. Facilitate a corporate leadership role where appropriate to do so, and foster links through partnerships.
  9. Be responsible for continuous personal development. Take advantage of learning opportunities to build on understanding and knowledge, and to develop relevant skills.
  10. Along with colleague Executive Members and the Strategic Alliance Management Team, be available as appropriate for other Members to discuss any queries or matters of concern.
  11. To develop and maintain a positive and constructive relationship with the Chief Executive Officer and the Directors.
  12. To positively promote the portfolio and where appropriate to act as the spokesperson with the media for that portfolio area only.

**(3) Skills Required**

1. Good communication and interpersonal skills
2. Ability to analyse and grasp complex issues
3. An understanding of national and local government statutory and financial frameworks
4. An understanding of the Council, including the economic and social situation within Bolsover
5. The ability to understand the Council's budget especially in respect of the relevant portfolio
6. Leadership skills
7. Political knowledge and awareness
8. Ability to work effectively with Council officers, the public, the media and outside organisations

9. Ability to work as part of a team

NOTE: The above duties and responsibilities are in addition to the Member's role as a District Councillor

## **LEADER OF THE COUNCIL**

### **(1) Purpose**

1. To provide effective political leadership and strategic direction for the Council.
2. To ensure effective Corporate Governance
3. To provide effective stewardship of the Council
4. To chair the Executive and ensure that it achieves its terms of reference
5. To ensure that the Council delivers high quality, value for money services

### **(2) Duties and Responsibilities**

1. To provide the political leadership to the Council, including proposing the policy framework within which the Council will operate and to take such executive action as may be delegated by the Authority
2. To ensure effective Corporate Governance including working with opposition groups to seek to achieve where possible cross party co-operation
3. To lead the Executive and be responsible for the Council's corporate and resource strategy
4. To ensure that the Executive achieves its terms of reference both collectively and as individual portfolio holders
5. To ensure the effective integration of roles, responsibilities and functions within the Executive membership
6. As Leader of the Council, to be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners) and the Council's Strategic Alliance Management Team
7. To be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations and to positively promote the Council as a whole in the media.

8. To act as the political spokesperson for the Council
9. To promote the long term financial, business and economic stability of the Council
10. To encourage the highest standards of probity and corporate governance for the well being of the District.
11. To communicate the Administration's policies and priorities to the Strategic Alliance Management Team and to receive their advice.
12. To exercise delegated powers in accordance with the Council Constitution.

### **Skills required**

1. Good communication and interpersonal skills
2. To have the ability to analyse and grasp complex issues
3. A good understanding of how local, national and European government operates, including the statutory and financial frameworks
4. A clear understanding of the operation of the Council, including the economic and social situation within Bolsover
5. Business and financial acumen, including the ability to understand and manage the Council's budget
6. Leadership skills
7. Excellent political knowledge and awareness
8. The ability to chair meetings and facilitate open discussion
9. The ability to work effectively with Council officers, the public, the media and outside organisations

**NOTE** The above duties and responsibilities are in addition to the Member's role as a Councillor and as an Executive Member

### **DEPUTY LEADER OF THE COUNCIL**

#### **(1) Purpose**

1. To assist and work with the Leader of the Council to provide effective political leadership and strategic direction for the Council.

2. To assist the Leader of the Council with their other responsibilities such as ensuring effective Corporate Governance and Stewardship of the Council and to ensure the Council delivers high quality, value for money services
3. Where appropriate and where permissible under the Council's Constitution to act in the absence of the Leader of the Council.

**(2) Duties and Responsibilities**

1. To assist and work with the Leader of the Council in delivering his responsibilities to the Council within his job profile
2. To deputise for the Leader of the Council in his absence from Council meetings and, if a member of Executive, to deputise in the Leader's absence at Executive meetings
3. In the Leader of the Council's absence to carry out the requirements of his job profile so far as legally possible and permissible.
4. To carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council

**(3) Skills required**

1. Good communication and interpersonal skills
2. To have the ability to analyse and grasp complex issues
3. A good understanding of how local, national and European government operates, including the statutory and financial frameworks
4. A clear understanding of the operation of the Council, including the economic and social situation within Bolsover
5. Business and financial acumen, including the ability to understand and manage the Council's budget
6. Leadership skills
7. Excellent political knowledge and awareness
8. The ability to chair meetings and facilitate open discussion
9. The ability to work effectively with Council officers, the public, the media and outside organisations

**NOTE** The above duties and responsibilities are in addition to the Member's role as a Councillor and as an Executive Member with portfolio

## **LEADER OF AN OPPOSITON GROUP**

### **(1) Purpose**

1. To provide effective leadership and strategic direction for an opposition party.

### **(2) Duties and Responsibilities**

1. To provide the leadership of an opposition party including scrutiny of the majority group's administration of the Council.
2. To act as spokesperson for the Opposition Group of which he/she is leader
3. To promote the long term financial, business and economic stability of the Council
4. To encourage the highest standards of probity and corporate governance.
5. To represent the Council's best interests on all organisations to which he/she is nominated by the Council.
6. To lead their Group in a positive, pro-active manner with a view to securing meaningful engagement for the Group in the political processes of the Council and that the Group and its individual members contribute fully to the good governance of the district.
7. To work to secure effective cross-party dialogue and co-operative working with other political Groups so far as this is consistent with the agreed political objectives of the Group.
8. To ensure that members of the Group are aware of the need to secure efficient and effective working relationships based on mutual co-operation and respect, with any officer with whom such member may need to deal, either individually or on Group business.
9. To participate in the appointment and/or performance appraisal procedures for the posts of Joint Chief Executive and Joint Directors.

### **(3) Skills required**

1. Good communication and interpersonal skills
2. To have the ability to analyse and grasp complex issues
3. A good understanding of how local, national and European government operates, including the statutory and financial frameworks
4. A clear understanding of the operation of the Council, including the economic and social situation within Bolsover

5. Business and financial acumen, including the ability to understand the Council's budget
6. Leadership skills
7. Excellent political knowledge and awareness
8. The ability to chair meetings and facilitate open discussion
9. The ability to work effectively with Council officers, the public, the media and outside organisations

**NOTE** The above duties and responsibilities are in addition to the Member's role as a Councillor.

### **CHAIR OF SCRUTINY MANAGEMENT BOARD**

#### **(1) Purpose**

1. To Chair the meetings of the Scrutiny Management Board.
2. To maintain effective liaison with the Leader of the Council and the Chief Executive to ensure that scrutiny committees contribute to effective decision-making.
3. To represent Scrutiny Management Board and be accountable to Council for the actions of the scrutiny committees.
4. To ensure that overview and scrutiny is publicised and communicated to build understanding of its role both within and outside the Council.
5. To represent the Council at regional and national forums concerned with overview and scrutiny.

#### **(2) Duties and responsibilities**

1. To ensure that scrutiny work is properly co-ordinated between the scrutiny committees.
2. To maintain an overview of the work of all the committees in order to ensure effective co-ordination and progress of all work.
3. To monitor progress of all scrutiny reviews and ensure that they are completed in reasonable time.
4. To support and advise the chairs of the scrutiny committees
5. To receive all requests for scrutiny and ensure initial investigation to inform consideration at the Management Board.
6. To monitor the use of 'call-in' procedures to advise on whether the procedure is being used appropriately.

7. To maintain an overview of scrutiny in Bolsover and to learn from practice elsewhere.
8. To ensure the continuing development of scrutiny in Bolsover through improving both practice and how it is organised.
9. To encourage the involvement of all interested parties and stakeholders, individuals, voluntary and community groups in scrutiny matters.

**(3) Skills Required**

1. Good communication and interpersonal skills
2. Leadership skills
3. The ability to chair meetings and facilitate open discussion
4. Project and time management skills
5. Ability to influence and work constructively with Members, officers, the public and outside organisations
6. Ability to work as part of a team

**NOTE** The above duties and responsibilities are in addition to the Member's role as a Councillor.

**CHAIRS OF SCRUTINY COMMITTEES**

**(1) Purpose**

1. To provide leadership of, and direction to, their particular Committee
2. To ensure that adequate resources (financial & officer support) are identified and sought from the Council
3. To chair Committee meetings and ensure the Committee achieves its terms of reference

**(2) Duties and responsibilities**

1. To ensure that Committee members lead on developing an effective work programme
2. To encourage Committee members to obtain necessary skills to carry out the scrutiny role and to work with officers to provide training if necessary



3. To endeavour to engage all members of the Committee within the scrutiny process
4. To lead the Committee in prioritising its work so as to ensure effective scrutiny
5. To co-ordinate work with other scrutiny Committees & Chairmen and to share learning
6. To develop a constructive relationship with the Executive, especially with relevant portfolio holders
7. To develop a constructive relationship with the Joint Directors and Assistant Directors in the areas that the Committee scrutinises
8. To find a suitable substitute and to brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible.

**(3) Skills Required**

1. Good communication and interpersonal skills
2. The ability to chair meetings and facilitate open discussion
3. Leadership skills
4. Project and time management skills
5. Ability to influence and work constructively with Members, officers, the public and outside organisations
6. Ability to work as part of a team

**NOTE** The above duties and responsibilities are in addition to the Member's role as a Councillor.

**CHAIRS OF PLANNING/LICENSING COMMITTEES**

**(1) Purpose**

1. To chair and manage Committee meetings and ensure the Committee achieves its terms of reference
2. To provide leadership of and direction to the Committee
3. To demonstrate to the public, applicants, objectors etc., fair and open decision making by or on behalf of the Committee

4. To ensure that adequate resources (financial and officer support) are identified and sought from the Council

**(2) Duties and responsibilities**

1. To ensure Committee members obtain the necessary skills and training to contribute to the work of the Committee and to work with officers to provide training if necessary
2. To endeavour to engage all members of the Committee in its activities
3. To lead the Committee, in consultation with officers, in prioritising its work
4. To develop a constructive relationship with the relevant Director and their staff and where appropriate, with relevant portfolio holders
5. To be willing to learn about the professional disciplines and services relevant to the work of the Committee
6. To find a suitable substitute and to brief them on the meeting due to be attended, on occasions when personal attendance is not possible
7. To Chair the Committee in a fair and open manner in accordance with the procedures of the Committee, applicants and objectors to put their arguments to the Committee
8. To ensure the Committee fully considers the merits of any applications taking account of national and local policies and guidance and any other material considerations
9. To guide, with the assistance of officers, the Committee to reach decisions based on the information presented to it
10. Where necessary, to act as witness for the Council at any court hearing, tribunal or other appeal against a decision made by that Committee

**(3) Skills Required**

1. Good communication and interpersonal skills
2. The ability to chair meetings and facilitate open discussion
3. Leadership skills
4. Project and time management skills
5. Ability to influence and work constructively with Members, officers, the public, external advisors and outside organisations

**Note:** The above duties and responsibilities are in addition to the Member's role as a Councillor

## **CHAIR OF THE COUNCIL**

### **(1) Role Purpose**

1. To chair meetings of the Council
2. To act as the civic representative of the Council
3. To provide civic leadership to the Council and local communities; and
4. To fulfil all other requirements of the Constitution relative to the role of Chairman.

### **(2) Duties and Responsibilities**

1. 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 in the Executive or hold Committee Chairs are able to hold the Executive and Committee Chairs to account
2. To represent the Council to the local community for example the local business community, local partnerships, opening schools, presenting awards, and attending meetings and events of local societies and clubs.
3. To represent the interests of the Council locally, regionally and nationally and undertaking such representative duties as may be required and acting as an advocate for the Council and local communities.
4. To lead the work of the Council and encouraging Members to work together as a team for the benefit of the Council, its communities and stakeholders.
5. To liaise with the Joint Chief Executive Officer and other officers on a regular basis through Strategic Alliance Management Team and otherwise and the Customer Service Department in its acceptance or otherwise of invitations, transport and other arrangements.
6. To lead by example and achieve the highest standards of probity in public life and in all matters relating to the Council's Code of Conduct, other Protocols and Codes and Ethics rules generally.

### **(3) Skills Required**

1. Good communication and interpersonal skills
2. The ability to chair meetings and facilitate open discussion
3. Leadership skills
4. Project and time management skills

5. Ability to influence and work constructively with Members, officers, the public, external advisors and outside organisations

### **VICE-CHAIRS OF ALL COMMITTEES**

#### **(1) Role Purpose:**

1. To deputise for the Chair of the relevant Committee in his/her absence;
2. To provide support to the Chair of the relevant Committee

#### **(2) Duties and Responsibilities**

1. To provide leadership of and direction to the Committee in the absence of the Chair
2. To undertake such tasks and responsibilities as are allocated to him/her by the Chair of the relevant Committee and in keeping with the Terms of Reference of the relevant Committee;
3. To otherwise assist the Chair-in his/her role and attend relevant meetings with Officers, Elected Members, organisations and members of the public (as necessary) so as to further the Terms of Reference of the relevant Committee.

#### **(3) Skills Required**

1. Good communication and interpersonal skills
2. Leadership skills
3. The ability to chair meetings and facilitate open discussion
4. Project and time management skills
5. Ability to influence and work constructively with members, officers, the public, external advisors and outside organisations
6. Ability to work as part of a team

**Note:** The above duties and responsibilities are in addition to the Member's role as a Councillor

## **CHAIR OF STANDARDS COMMITTEE**

### **(1) Role Purpose**

1. To chair the Standards Committee in accordance with its terms of reference

### **(2) Duties and responsibilities**

1. To work with the Council's Monitoring Officer in promoting and supporting standards of behaviour and ethics among all Councillors on Bolsover District Council and on parish and town councils in the area
2. To advise officers on the content of the agenda for Committee meetings
3. To represent the Council in all dealings with the public, media and other bodies in respect of the work of the Committee
4. To ensure that all matters referred to it are dealt with promptly and in accordance with local and national guidance.
5. To act as a spokesperson for the Standards Committee
6. To establish and maintain the necessary knowledge and understanding of the Council's structures and processes to facilitate this role
7. To ensure that Members and co-opted Members of the Council receive the continuous development and training they require on matters relating to the Council's Code of Conduct

### **(3) Skills Required**

1. Good communication and interpersonal skills
2. Leadership skills
3. The ability to chair meetings and facilitate open discussion
4. Project and time management skills
5. Assimilating and analysing complex and contradictory information
6. Ability to influence and work constructively with Members, officers, the public, external advisors and outside organisations
7. Ability to work as part of a team



## **6 MEMBERS ALLOWANCE SCHEME**

### **1. Scheme**

The Bolsover District Authority, in exercise of the duty conferred on it by the Local Authorities (Members' Allowances) (England) Regulations 2003, as amended, hereby make the following Scheme:

- (1) This Scheme may be cited as the Bolsover District Authority Members' Allowances Scheme, and shall have effect from 1st April 2013.
- (2) In this Scheme -
  - (i) "Member" means a "Member" of the Bolsover District Authority.
  - (ii) "scheme year" means the 12 months ending with 31 March.
  - (iii) "Regulation" refers to a regulation contained in the Local Authorities (Members' Allowances) (England) Regulations 2003 as amended.

### **2. Basic Allowance**

Subject to paragraph 9 of this Scheme, a Basic Allowance of £9902.44 will be paid to each Member.

### **3. Special Responsibility Allowance**

- (1) For each year a Special Responsibility Allowance shall be paid to those Members who hold special responsibilities in relation to the Authority.
- (2) Subject to paragraph 9 of this Scheme, the amount of each such allowance shall be the amount specified against that special responsibility.
- (3) No Member shall be entitled to receive more than one Special Responsibility Allowance.
- (4) The following are specified as having special responsibilities in respect of which Special Responsibility Allowances are payable and the amounts of those allowances are specified in the second column:-

Member with Special Responsibility	Annual Allowance £	Effective Date
Leader of the Authority	14, 672.16	01/04/2013
Deputy Leader of the Authority	9,781.44	01/04/2013
Members of the Executive (Members with Special responsibility – full rate)	4,890.72	01/04/2013
Chair of the Scrutiny Committee (Members with Special responsibility – full rate)	3,260.48	01/04/2013
Vive Chair of Scrutiny Committee (member with Special responsibility)	1,630.24	01/04/2013
Largest Opposition Political Group Leader (member with Special responsibility – full rate)	4,890.72	01/04/2013
Chairs of Planning Committee (Members with Special responsibility – partial rate)	2,445.36	01/04/2013
Chair of Standards Committee (co-optee)	£1,222.00	01/04/2013
Chair of Audit Committee (co-optee)	£1,467.00	01/04/2013

- (5) The following rules apply to payments of Special Responsibility Allowances in relation to the Leader/Deputy Leader or person acting as the spokesperson of an opposition political group:-
- (i) Either where there are two or more opposition political groups and one of these opposition groups is larger than any of the others the Leader of that group only will be paid a Special Responsibility Allowance of £4,890.72
  - (ii) Or where there are two or more opposition political groups and there is no one larger group because 2 or more of those political groups are equal in size, the Leaders of the largest political groups will receive £4,890.72 divided equally amongst them, and
  - (iii) In (i) or (ii) above no payment of a Special Responsibility Allowance will be made to any other opposition group.
  - (iv) Where there is one opposition political group the Leader of that group will be paid a Special Responsibility Allowance of £4,890.72 in total.



#### **4. Travelling allowance and subsistence reimbursement**

- (1) Travelling allowance and subsistence reimbursements shall be paid to Members for carrying out approved duties under the categories set out in Appendix A to this scheme.
- (2) Co-optees shall be entitled to the same rates of travelling allowance and subsistence arrangements as Members.
- (3) Members shall claim for travelling allowance and subsistence reimbursements and in doing so shall be expected to satisfy themselves that they are entitled to receive the allowances claimed.
- (4) The rates of travelling allowance and subsistence reimbursements applicable to Members shall be the same as the rates applicable to the officers of the Authority.
- (5) Travelling allowance and subsistence reimbursements shall be paid in accordance with Appendix C & D.

#### **5. Co-optees' allowance (*under review – July 2012*)**

- (1) An annual allowance of £500 shall be paid to Co-optees for their duties on Standards and £250 for their duties on Audit Committee.
- (2) The above allowances are subject to the Co-optee not receiving payment from any other source for the same duties.
- (3) If someone is a Co-optee of both the Standards and Audit Committee, he/she shall be entitled to both the £500 and £250 allowance in respect of both Committees.
- (4) If a non co-opted member other than the Chair is called on to chair a meeting of the Audit Committee, then a session relief payment of £366.75 is payable. If a non co-opted member other than the Chair is called on to chair a meeting of the Standards Committee, then a session relief payment of £203.67 is payable.

#### **6. Carer's dependents allowances**

- (1) An hourly rate equivalent to the national minimum wage (21+ rate (See Minute No. 878 – Authority – July 2011) for a maximum of 4 hours per day is payable in respect of approved duties, this includes up to 30 minutes travelling time each way.
- (2) Prior approval to claim this allowance must be obtained from the Chief Executive.

## **7. Adjustment of allowances**

Where changes are retrospectively made to allowances or pay on which allowances under this scheme are based the following shall apply:-

Allowances under this scheme shall have the same effective date where the change is within the scheme year provided that Members are not worse off as a result of the retrospective amendment.

## **8. Election to forgo allowance**

A Member may, by notice in writing given to the Chief Executive Officer elect to forego any part of his entitlement to an allowance under this scheme, and a copy will be forwarded to the Payroll Section.

## **9. Part year entitlements**

- (1) The provisions of this paragraph shall have effect to regulate the entitlements to Basic, Special Responsibility and Co-optees Allowances where, in the course of a year, this scheme is amended or that individual to whom the allowances applies, becomes, or ceases to be, a Member or Co-optee, 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 Member is entitled by way of a Basic Allowance or a Special Responsibility Allowance, or the amount to which a Co-optee is entitled to a Co-optees Allowance, then in relation to each of the periods:-
  - (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, and
  - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be determined by the following formula:-

$$\text{entitlement} = \frac{A}{B} \times C$$

Where A = number of days for which claim for allowance is being made

B = 365 days

C = appropriate yearly rate for Special Responsibility Allowance, Basic Allowance or Co-optees Allowance.

- (3) If an amendment to this Scheme changes the duties specified in the Schedule as approved duties, or the amount payable by way of Travelling allowance and subsistence reimbursements, the entitlement to such allowances shall be to the payment of the amount of the allowance under the Scheme as it has effect when the duty is carried out.
- (4) Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, the entitlement of that Member to a Basic Allowance shall be determined as set out in *paragraph 9(2)*.
- (5) Where the term of office of a Co-optee begins or ends otherwise than at the beginning or end of a year, the entitlement of that Co-optee to a Co-Optees Allowance shall be determined as set out in *paragraph 9(2)*.
- (6) Where a Member has during part of but not throughout a year, such special responsibilities as entitle him or her to a Special Responsibility Allowance that Members entitlement shall be determined as set out in *paragraph 9(2)*.

#### **10. Claims and payments**

- (1) Subject to *paragraph 9* of this Scheme, Basic, Special Responsibility and Co-optees Allowances shall be paid by monthly instalments of one twelfth of the amount specified in this scheme on the 26<sup>th</sup> day of each month.
- (2) Where a payment of one-twelfth of the amount specified in this Scheme in respect of these Allowances would result in the individual receiving more than the amount to which, by virtue of *paragraph 9* and its sub-paragraphs, the Member 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.
- (3) Claims for Travelling allowance, subsistence reimbursements, and dependent carers covering a calendar month are required to be submitted by the 6<sup>th</sup> of the following month.

- (i) Payment of these claims received by the due date shall be made on the 26<sup>th</sup> day of the month in which they are received.
- (ii) Payment of claims received after the due date shall be made on the 26<sup>th</sup> day of the following month.
- (iii) Members expense claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Director of Corporate Resources.

#### **11. Level of allowances**

- (1) The level of allowances payable under the Scheme were set following the recommendations of an independent panel which was appointed to review the remuneration paid to Members of this Authority.
- (2) The level of these allowances has been fixed until July 2015. (See Minute No. 221 – Authority – 21<sup>st</sup> July 2011)

#### **12. Repayment of allowances**

Where payment of any allowance has already been made in respect of any period during which the Member or Co-optee concerned :-

- (i) ceases to be a Member or Co-optee of the Authority,
- (ii) is in any other way not entitled to receive the allowance in respect of that period.

The Authority may require that such part of the allowance as relates to the period be repaid.

#### **13. Duplication of allowances**

Where a Member of this Authority is also a Member of another authority or body, that Member may not receive allowances from more than one authority or body in respect of the same duties.

#### **14. Pensions**

- (1) The option to join the Local Government Pension Scheme shall be open to all eligible Members.
- (2) Both Basic Allowance and Special Responsibility Allowances shall be treated as pay for pension purposes.

# **MEMBERS' ALLOWANCES - GUIDANCE**

## **6.1 Introduction**

- (1) The aim of this section is to provide Members with a guide to the expenses and allowances that are payable to them under the Members' Allowance Scheme.
- (2) Any queries not addressed by this section should be directed to the Assistant Director of Governance and Monitoring Officer.
- (3) The official duties carried out by the Chairman and Vice-Chairman of the Authority are civic duties of the civic leader of the Authority and are not covered by the Members' Allowance Regulations. Expenses for these duties are met from the Chairman's Allowance.
- (4) The work of the Independent Persons are governed by the Localism Act 2012 and not covered by the Members' Allowance Regulations.
- (5) In accordance with the recommendations of the Independent Remuneration Panel on Members' Allowances the monitoring is carried out in respect of Members.

## **6.2 Allowances/Reimbursements**

- (1) The Authority's Members' Allowance Scheme (from page 437) ("the Scheme") made under the provisions of the Regulations for the payment of the following allowances:-
  - Special Responsibility Allowances,
  - Basic Allowance
  - Travelling Allowance and Subsistence Reimbursements
  - Cooptees Allowance
  - Dependent/Carers Allowance

## **6.3 Publishing**

- (1) The Regulations require that the Authority publish within the Authority's area:-
  - (i) The Scheme.
    - Following any amendment or making of a Scheme
    - Every twelve months
  - (ii) In respect of each year, details of the amounts of allowances paid under the Scheme to each member.

- (2) The Freedom of Information Act 2000 requires the Authority to produce its publication scheme which has been approved by the Information Commissioners' Office, an independent body that reports directly to Parliament and monitors the Data Protection Act 1998 and the Freedom of Information Act 2000.

#### **6.4 Payment Restrictions**

- (1) Certain bodies pay their own expenses and allowances. Members should therefore claim their expenses from these bodies direct and not from this Authority.
- (2) Certain duties necessarily carried out by Members of the District Authority are not duties for the purposes of claiming Members' Allowances (see Appendix B).
- (3) Where a Member is a Member of more than one local authority or public body payment of Members' Allowances will, in general, be made by the local authority or public body, for which the approved duty is undertaken. For example:-

if a Member serves as a co-opted Member on a County Authority Committee the allowances will be payable by the County Authority.

#### **6.5 Special Responsibility Allowances**

These allowances are paid to such Members of the Authority who hold positions with a special responsibility under the provisions of the Regulations; the positions in this Authority are listed in the Scheme.

#### **6.6 Basic Allowances**

- (1) This allowance is intended to recognise the time devoted by Members to their work as elected representatives, including inevitable calls on their time such as meetings with constituents, Member's surgeries and political group meetings. It is also intended to cover incidental costs incurred in the course of a Members work.
- (2) This allowance is payable to all Members, each Member receiving the same amount of allowance.

#### **6.7 Travel Allowances/Expenses – See Appendix C**

- (1) See Appendix C for information on Car Parking and Travel Fees.
- (2) Criteria for the use of taxis are detailed below:

- (i) The rate for taxi fares must not exceed the amount of the actual fare and any reasonable gratuity paid. Reimbursement will only be made on the production of receipts.
- (3) Where a Member travels in his own car any fixed penalty parking fines or other traffic violation fines are the personal responsibility of that Member.
- (4) Where a Member travels with an officer or other Member who is entitled to claim allowances, the Member may not claim travelling allowances for that journey.
- (5) When mileage allowances are claimed the miles claimed must be based on the most reasonable route. However, in respect of home to The Arc mileage, the miles claimed will always be in accordance with the approved schedule. Prior to making their claim for home to The Arc mileage, the Member must seek from Audit Services the acceptable number of miles.
- (6) Private mileage must not be included in the claim.
- (7) Where Members have to travel between their place of work and the Authority Offices to carry out approved duties the mileage allowance or travel expenses claimable shall be the lesser of:-
- Home to approved duty
  - Work to approved duty
- (8) Members, in their own interests, must ensure that their car insurance policy covers them for use on official business for the Authority. The Assistant Director of Human Resources and Payroll will carry out spot checks of insurance certificates to ensure full compliance.

### **Members Car Insurance / Business Mileage**

Members are required to have car insurance that covers them for **business use** and they must sign the declaration on the claim form to confirm this.

The extract below explains the different types of insurance cover and the importance of having the correct cover.

#### **What are the different use types?**

**REMEMBER** - it is important that you have the right use for your car, if you have the wrong use you may find that your insurance company will not pay out on a claim.

- Social, Domestic & Pleasure - this covers you for normal day to day driving, such as driving to visit family or friends, or shopping.
- Commuting - this covers you to drive back and forth to a permanent place of work. Please note that travelling to a railway station, where you park your car, is classed as commuting.
- Business Use - this covers you to use the car in connection with your job, driving to different sites, travelling to training courses or prearranged meetings away from your normal place of work.

Commercial Travelling - This covers the car to be used for such things as door-to-door sales.

Insurance cover for commuting does **not** cover business use. Members work from home; this means that journeys between their home and the Authority offices are **not** classed as commuting if the journeys are made during the course of their duties.

- (9) Travel expenses may be subject to income tax and national insurance contributions.
- (i) Members are deemed to have two places of work and as such the HMRC guidance states that Members can receive tax (and NI free) home to work payments where:-  
  
The Member routinely uses their homes to see constituents (and not merely used for reading Council papers, correspondence etc) and
  - (ii) The mileage allowance paid does not include any element of profit and is dealt with under the HMRC's approved mileage allowance payments.
  - (iii) If the criteria in (i) and (ii) above are not met the home to work travel expenses will be subject to tax and national insurance.
  - (iii) The Council must hold relevant documentation to demonstrate that any Members paid home to work mileage free from tax have confirmed that they meet the relevant criteria. Where this is the case, Members will need to complete a declaration to confirm this.



- (iv) Additionally the declaration on the Members' Allowance Claim form requires Members to indicate where the travel claim is classed as non taxable.

### **6.8 Subsistence Reimbursements**

- (1) In order to claim a Subsistence Reimbursement a Member must have personally incurred expenditure on subsistence. (See Appendix C for further information)
- (2) Third parties (including spouse/partner) accompanying a Member on business trips:-

Where a Member is accompanied by a spouse, partner or a third party and there is an additional cost, the extra cost should be reclaimed from the Member. This would not be the case if the spouse, partner or third party is also representing the Authority. It is the Members responsibility to indicate on their claim form where reclaims from Members Allowances are due for this reason.

### **6.9 Royal Garden Party**

- (1) The HMRC do not consider that attendance at a Royal Garden Party is part of the duties of any Authority Member and as such expenses incurred would not be classed as business expenses for PAYE purposes.
- (2) This does not affect the Authority's decision to include this as an approved duty.
- (3) Any travel and subsistence costs (reimbursement or payment made directly by the Authority) have to be subject to income tax and national insurance when paid.

### **6.10 Approved Duties outside the UK – See Appendices A, B & C**

- (1) There are no specific provisions covering payments of Members' Allowances in connection with overseas visits.
- (2) Reasonable travelling expenses are paid by the Authority direct or reimbursed to the member on submission of a claim.
- (3) Officers are required to keep a record of expenditure that they make on behalf of Members.
- (4) Where possible details of amounts paid on the Members behalf including name of any officer of the Authority who has made any payments during the foreign visit.

## **6.11 Cash Advances**

Cash advances can be arranged on request. In such cases the person receiving the advance must keep records of all expenditure made and whenever possible must obtain receipts. As soon as possible after the visit, the balance of the advance (if any) and/or the full record of the expenditure made together with the receipts must be returned to the creditors section of Financial Services.

## **6.12 Members' Surgeries**

Members' Allowances are not payable in respect of the time spent on Member' surgeries. It has been agreed that an allowance is made, however, under section 111 of the Local Government Act 1972, to cover the cost of advertising and operating Members surgeries. Members should make their own arrangements for advertising and accommodation and, upon presentation of properly certified invoices, the Governance Team will reimburse up to the limit of approved allowances in any one year.

## **6.13 Making Claims**

### **(1) Expenses and Allowances**

*There are rules enabling you to claim expenses and allowances in connection with some of your duties as a Member. These rules must be scrupulously observed.*

### **(2) Frequency of Claiming**

Members are requested to claim monthly as this helps in reducing administration costs. This is particularly important at the month ending 31<sup>st</sup> March, when prompt submission is required in order to assist with the closing down of the accounts, and also for income tax purposes.

### **(3) Method of Payment**

Payments are made direct to a Members bank account.

### **(4) Making a Claim (see 6.8 (2) re persons accompanying Members)**

- (i) Where, a Member performs approved duties for more than one local authority or public body the amount that is claimed from the different bodies must not exceed the amount that would be claimed had the duty been carried out as a member of only one of these bodies.

- (ii) A Member is not entitled to receive Members' Allowances under the Local Authorities (Members' Allowances) (England) Regulations 2003 in addition to any comparable allowances under any other enactment, in the same period of twenty-four hours for the same duties.
- (iii) A claim for Members' Allowance is made by completing a Members' allowance claim form. The claim form is based on a statutory format and contains all the declarations required by law. The form is available via the Intranet.
- (iv) The following details should be entered on the form in the appropriate columns:-

Name and address

Vehicle registration mark and cubic capacity of the motor vehicle (on the back of the form) if a mileage claim is made.

Date of approved duty.

Time approved duty started. This will be the time the Member left home or work to undertake the approved duty.

Place of Departure

Details of the approved duty (e.g. committee, etc.)

Place of return

Time the approved duty ended – including reasonable travelling time.

To claim a mileage allowance, enter the date, number of miles travelling on the approved duty, whether the expenses is taxable or non-taxable, the mileage rate claimed and the amount claimed.

The amount of other approved expenses (e.g. bus/train fare) indicating whether the expense is taxable or non taxable

If the journey had involved travel by more than one method of transport it is necessary to use a separate line for each such method.

The totals for each allowance claim should be entered at the bottom of each column.

The Declaration at the foot of the claim form must be signed. The certification is required by law and Members should read it carefully and ensure that the statements they are signing are correct. If in any doubt, Members should consult the Chief Executive Officer or the Head of Human Resources and Payroll.

VAT receipts must be attached for all reimbursements.

Pre dated VAT receipts for fuel must be attached where mileage is claimed.

- (v) The completed form should be forwarded to the Personal Assistant to the Chief Executive Officer.

(5) Cases of Doubt

Where doubt arises, which cannot be settled between the Member and the Chief Executive Officer, the matter can be referred to the appropriate body.

(6) Checks Applied to a Members' Claim

- (i) In Members own interest, the Personal Assistant to the Chief Executive Officer, checks as far as possible the attendance at official meetings, insofar as attendance records are available. It is therefore important for Members to ensure they sign the attendance sheet.
- (ii) This check does not in any way relieve the Member from personal responsibility for the correctness of the claim for allowances.
- (iii) An attendance register will be circulated at each meeting of the Authority, Executive and Scrutiny Committees, and every Member present at such meeting shall record their attendance thereat by signature. The attendance sheet together with the minutes will be the official record of attendance at meetings and will be used for the purpose of authorising payments of Members attendance allowances. Members may consider it prudent to maintain a personal diary recording more details of approved duties than is shown on their claim form. This would assist them personally should any query be made by objectors, or the External Auditor, possibly at a much later date.
- (iv) All claims are subject to scrutiny by the External Auditor and the statutory record of Members allowances is open for public inspection.

#### **6.14 Statutory Sick Pay – effect on Members**

- (1) The provisions of the above came into force for 'Employees' on 6<sup>th</sup> April 1984. It has now been stated in a circular issued by the Department of the Environment that Members who are in receipt of Members' Allowances are considered to be 'employed' by their authority and will also be included where they meet the conditions of the scheme. The reasoning behind this is that these payments are subject to National Insurance contributions where they are greater than the lower earnings limit and consequently there may be an entitlement to State Incapacity Benefit from the Department of Social Security. As Statutory Sick Pay replaces State Sickness Benefit, Members whose allowances attract National Insurance contributions may qualify for this payment. The regulations are complex and wide-ranging, and although it is unlikely that the provisions of Statutory Sick Pay (SSP) will have any widespread relevance to Members of this Authority, it is felt, nevertheless, that all Members should be aware of the entitlement.
- (2) Where Members wish to make a claim for payment of SSP it is essential that they notify the Human Resources & Payroll Section, telephone 01246 242474 on the first day of absence due to sickness.
- (3) Further advice and documentation will then be issued. Also further details of SSP can be obtained from the Payroll Section.

#### **6.15 Income Tax and National Insurance Contributions**

- (1) Income Tax and National Insurance contributions are deducted from Members' Allowances in accordance with the Authority's statutory obligations.
- (2) The PAYE system operates for Members' Allowances. New Members who cannot supply a tax form P45 will be required to complete a form P46. This form can be obtained from the Payroll Office.
- (3) Her Majesty's Revenue and Customs (HMRC) is sent an annual schedule giving details of allowances and expenses paid to each member.
- (4) HMRC has allowed Members to receive an additional tax free pay allowance per annum to be used against Members' allowances; this is included in the Members tax coding.

- (5) Reduced or no National Insurance contributions are payable by the Member if the Member is aged over state pensionable age, or is a married woman with a right to opt for reduced rate contributions (this option has now ceased but protected rights exist), or where the Member will pay the maximum amount of National Insurance contributions due to earnings from another job.
- (6) Members must provide the payroll office with a certificate, which is obtained from the Members local contributions agency before no or reduced rate National Insurance contributions are deducted from a Members' Allowance.

#### **6.16 Social Security Benefits**

(including Housing Benefit and Authority Tax Benefit)

- (1) The benefit system is very complicated and it is difficult to know exactly how the payments a Member is entitled to receive or does receive will affect any benefits payable to that Member.
- (2) Members claiming any benefit are advised to keep their benefit provider informed about any Members' Allowances they are **ENTITLED** to receive or do receive.

#### **6.17 Insurance Cover for Members, provided by the Authority.**

The following types of insurance cover are provided for Members:-

##### (1) Officials Indemnity

To indemnify the Assured against legal liability for damages as a result of a claim or claims made arising out of any negligent act, error or omission committed or alleged to have been committed by or on behalf of the Assured in or about the conduct of the Assured's business.

Including indemnity to all employees and elected Members of the Authority or any co-opted Members of any committee or sub – committee.

##### (2) Public Liability

Indemnity against legal liability for accidental bodily injury to any person or loss of or damage to material property.

Only applicable when representing the Authority.

(3) Libel and Slander

To indemnify the assured in respect of any amount the assured shall become legally liable to pay as damages resulting from any libel and slander committed in any form whilst undergoing the conduct of the Assured's business.

Members should be aware that statements made in official meetings are only covered by qualified privilege and that accordingly a Member may be sued on a defamatory statement made in such a meeting.

## **APPENDIX A**

### **CATEGORIES OF APPROVED DUTIES**

Travelling Allowance and \*Subsistence Reimbursements (Exceptional circumstances only – see Appendix D)

Travelling and Subsistence may be paid to Members for certain types of meeting the categories of which are defined in the Local Authorities (Members' Allowances) (England) Regulations 2003. The following is a list of those categories as defined.

Some of the categories allow for discretion to be exercised. In particular category 5 allows the Authority to approve a class of duty for the payment of Travelling allowance and subsistence reimbursements. The classes of duty approved by this Authority are listed below number 5. Any meeting which falls within that class of duty as defined under category 5 automatically qualifies for payment of Travelling allowance and subsistence reimbursements and does not need to be approved by Authority or Committee.

- (1) Authority and committee meetings where expenditure necessarily incurred in connection with the performance of an approved duty.**
- (2) Meetings of outside bodies to which the Authority makes appointments and nominations and where the member has been nominated by the Authority and where expenditure is necessarily incurred in connection with the performance of an approved duty.**
- (3) Meetings the holding of which is authorised in advance and where Members of both political groups have been invited and where expenditure is necessarily incurred in connection with the performance of an approved duty.**
- (4) Meetings of associations where the Authority is a Member of the association and where expenditure is necessarily incurred in connection with the performance of an approved duty.**
- (5) A duty or class of duty approved for the purpose of or in connection with the discharge of functions:**
  - (a) Any partnership of which the Authority is a partner and to which the member is appointed by the Authority.**
  - (b) Formal liaison meetings with other local authorities, representatives of other bodies and individuals.**
  - (c) With the prior approval of the committees concerned visits, official visits, site visits and inspections within the Authority's area.**



- (d) Visits by Members of Executive to the Authority's offices to discuss Authority business.
  - (e) Any duty of a Chairman of a Committee within the Authority's area.
  - (f) Any duty of a Vice-Chairman of a Committee within the Authority's area.
  - (g) Visits by Leaders and Deputy Leaders of each party (and who are nominated as such to the Chief Executive Officer) to the Authority's offices to discuss Authority business. Such visits by a Leader and Deputy Leader to be additional to the visits permitted as Chairman or Vice Chairman of a Committee of the Authority.
  - (h) Visits by Members (other than Leaders, Deputy Leaders and Chairmen of Committees) to the Authority's Offices to discuss Authority business or to attend, by prior agreement of the appropriate Chairman, a meeting of a Authority Committee of which the Member is not a member.
  - (i) Attendances at commercially provided conferences and seminars as approved by the Chief Executive Officer including externally provided training held at the Authority offices.
  - (j) Attendances at internally provided training held at the Authority offices.
  - (k) Attendance at public meetings and public inquiries with the prior approval of the appropriate Committee.
  - (l) Attendance with **the prior written approval** of the Chief Executive Officer at any meeting or visit not otherwise provided for in the scheme where the Chief Executive Officer considers it appropriate and necessary on the grounds of urgency or in the interests of the Authority's improvement and learning agenda, grant such approval in the interests of efficient conduct of the Authority's affairs **provided** such approval is reported to the next available meeting of Authority together with reasons. Such attendance is additional to any entitlements contained in other headings in this scheme.
  - (m) Working Parties of this Authority with prior approval.
- (6) **Conferences inside or outside the UK to discuss matters relating to the interest of the area or the inhabitants or any part, provided conference is not organised by a commercial operator or political party provided the attendance is in connection with discharging the duties of the Authority or its Committees or Sub Committees.**

- (7) Meetings inside or outside the UK to discuss matters relating to the interests of the area or the inhabitants or any part provided meeting is not organised by a commercial operator or political party provided the attendance is in connection with discharging the duties of the Authority or its Committees or Sub-Committees.

## **EXAMPLES OF MEETINGS WHERE TRAVELLING ALLOWANCE AND SUBSISTENCE REIMBURSEMENTS ARE PAYABLE**

**N.B. Subsistence Reimbursements are not payable for duties carried out at The Arc, Bolsover**

- (1) Authority and Committee Meetings where expenditure is necessarily incurred in connection with the performance of an approved duty – includes for example:

Strategic Alliance Joint Committee  
Bolsover Conservation Area Joint Advisory Committee

- (2) Meetings of outside bodies to which the **Authority** makes appointments and nominations and where the Member has been nominated by the Authority and where expenditure is necessarily incurred in connection with the performance of an approved duty – includes for example:

Isabella Smithson's Charity

- (3) Meetings, the holding of which is authorised in advance and where Members of both political groups have been invited and where expenditure is necessarily incurred in connection with the performance of an approved duty.

Duties under this category are to be approved at Committee prior to the duty being performed.

- (4) Meetings of associations where the Authority is a member of the association and where expenditure is necessarily incurred in connection with the performance of an approved duty- including for example:

Association of District Authorities

- (5) A duty or class of duty approved for the purpose of or in connection with the discharge of functions.
- (a) Any partnership of which the Authority is a partner and to which the Member is appointed by the Authority.
  - (b) Any formal liaison meetings with other local authorities, representatives of other bodies and individuals.

(c) With the prior approval of the Committees, official visits, site visits and inspections within the Authority's area.

- (6) Meetings of outside bodies to which the **Executive** makes appointments and nominations and where the Member has been nominated by the Authority and where expenditure is necessarily incurred in connection with the performance of an approved duty – including for example:

Chesterfield and District Crematorium Joint Committee  
Groundwork Creswell

- (7) Members should seek advice form Legal Services if they are unsure of any of the above.

## **APPENDIX B**

### **DUTIES WHICH ARE NOT “APPROVED DUTIES” FOR MEMBERS’ ALLOWANCE PURPOSES**

Governing Bodies of Nursery, Primary and Secondary Schools

Local/Town/Parish Authority Meetings

Members Surgeries

Party Political Meetings

Visits to Authority Officer to collect correspondence, etc.

Youth Centre Management Committees

## **APPENDIX C**

### **REIMBURSEMENT OF EXPENDITURE**

#### **(1) Meal Allowances**

- (i)** Reimbursement of expenditure for meals (subsistence) will no longer be paid.
- (ii)** Exceptionally, where attendance at a seminar or similar does not include the provision of meals, reimbursement of reasonable expenses, subject to submission of receipts, may be subject to the prior approval of the Leader or Deputy Leader.
- (iii)** No reimbursement of expenditure is payable for Members attending qualification training courses.

#### **(2) Overnight Accommodation**

- (i)** For Members, overnight accommodation is currently booked through the Governance Team as part of the training and seminar booking procedure. There is no current limit on overnight accommodation, but the Leader or Deputy Leader who signs the booking form must ensure that the expenditure is reasonable.
- (ii)** In exceptional circumstances, where the Authority is not being invoiced directly by the hotel, payment of expenditure will be in arrears, subject to the prior approval of the Leader or Deputy Leader and subject to submission of receipts. The expenses should be deemed to be reasonable in the circumstances.

#### **(3) Car Parking**

- (i)** Fees will be paid at actual costs but they must be supported by receipts.

#### **(4) Travel Fees**

- (i)** In determining the mode of transport to be used for business journeys, employees must take into account economic and environmental issues.
- (ii)** The rate for public transport should not exceed the ordinary fare. Or in the case of rail travel, the second class rate. In exceptional circumstances, first class rail fare may be permitted with the prior approval of the Leader or Deputy Leader. Receipts and/or tickets must support all retrospective claims for travel fares.
- (iii)** Reimbursement of expenditure will not be paid in relation to mileage incurred in relation to qualification training courses.
- (iv)** With effect from 1<sup>st</sup> April 2013 the mileage rates will be the HMRC mileage rate (currently £0.45p)

(5)

## Medical Expenses

- (i) Medical expenses incurred with their approved duties will be made in accordance with the relevant Authority Policy, e.g. Eye Tests.

## **APPENDIX D**

### **MILEAGE RATES –**

Allowance for the performance of approved duties

- (1) Travelling allowances from 1<sup>st</sup> April 2013

Mileage will be paid at the HMRC rate

- (2) Overnight Absence from Home – Overnight Garaging Allowances

Not more than the amount of any expenditure incurred in tolls, ferries, or parking fees.





# 7 PETITIONS SCHEME

## Petitions

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:

Governance Officer  
Bolsover District Council  
The Arc  
High Street  
Clowne  
Derbyshire  
S43 4JY

Petitions can also be presented to a meeting of the Council. These meetings take place on a four weekly basis, dates and times can be found at [www.bolsover.gov.uk](http://www.bolsover.gov.uk) If you would like to present your petition to the Council or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services on (01246 242529) or email [democratic.services@bolsover.gov.uk](mailto:democratic.services@bolsover.gov.uk) 10 days before the meeting and they will talk you through the process. If your petition has received 700 signatures or more it will also be scheduled for a Council debate and if this is the case we will let you know when this will happen.

### Who can submit a petition?

Any person regardless of age who lives, studies or works in the District is able to submit a petition.

### Merging petitions

Where the Council receives petitions relating to the same issue we will consider amalgamating the signatories only with the approval of the petition organisers.

### What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- the contact details for the petition organiser (lead petitioner) so the Council knows who to contact

- the name, address, postcode and signature of any person supporting the petition.
- Date the petition is submitted.

### **Issues specifically excluded from the Petition Scheme**

The following matters are specifically excluded under the Petitions Scheme and will not be considered:

- Any matter relating to a planning decision, including a development plan document or the community infrastructure levy
- Any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005.
- Any matters for which the Standards Committee has powers for determining complaints received under the Local Assessment Framework.
- Any matter relating to an individual or entity in respect of which that individual has a right of recourse to a review or right of appeal conferred by or under any enactment.
- Any matter which is substantially the same as a petition submitted in the previous 12 months.
- Any matter which is considered to be vexatious, discriminatory, abusive or otherwise inappropriate.
- Any matter which is considered to be "exempt" under the Local Government Act 1972, Access to Information Act 1985, the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

### **What will the Council do when it receives my petition?**

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **How will the Council respond to petitions?**

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-

- taking the action requested in the petition;
- considering the petition at a Council meeting;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by one of the Council's Scrutiny Committees \*
- calling for a referendum;
- writing to the petition organiser setting out our views about the request in the petition.

\*Scrutiny committees are committees made up of Councillors who are responsible for scrutinising the work of the Council – in other words, a committee that has the power to hold the Council's decision makers to account.

Where a petition relates to specific wards or area the relevant ward members will be informed when a petition is received and how it will be considered.

If your petition is about something over which the Council has no direct control (for example a local hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with local partners through the Local Strategic Partnership (LSP) and where possible we will work with these partners to respond to your petition. For information on the LSP partners visit: [[www.bolsoverpartnership.org](http://www.bolsoverpartnership.org)]. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.

If your petition is about something that a different Council is responsible for we 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 we will always notify you of the action we have taken.

## **Full Council Debates**

If a petition contains more than 700 signatures it will be debated by the full Council unless it is a petition asking for a senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.

The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of up to 30 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.

Where the Council has received several different petitions it may be necessary to limit the number to be heard at a particular meeting of the Council but we will inform you if this is the case.

Where the issue is one on which the Council's Executive (Cabinet) are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **Officer Evidence**

Your petition may ask for a senior Council Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 350 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Scrutiny Committee(s). The senior staff that can be called to give evidence include:

- Chief Executive
- Chief Finance Officer/Section 151 Officer
- Director of Transformation
- Assistant Director – Governance and Monitoring Officer

You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting Governance on 01246 242529 up to three working days before the meeting.

## **Petitions which will not be reported**

### **Repeat Petitions**

Petitions will not normally be considered if they are received within twelve months of another petition having already been considered by the Authority on the same matter.

### **Rejected Petitions**

Petitions will not be accepted if in the opinion of the Chief Executive, they are vexatious, abusive or otherwise inappropriate or do not relate to a matter which is the responsibility of the Authority, or over which the Authority has some influence.

## **What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's relevant Scrutiny Committee 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 Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Executive (Cabinet) and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal 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 our website.

## PETITIONS FORM

The Council has a petitions scheme which sets out how local people can submit a petition to highlight issues of concern within their local area. It sets out what essential information needs to be included and how the Council can respond to the issues raised.

The form is intended to assist the public in setting out the issues relating to their petition but other formats are also acceptable.

Purpose of petition
Ward/Area the Petition Issues Cover
What action do you wish the Council to take in relation to this issue?
Would you like the opportunity to present this petition to a meeting of the Council? YES/NO (cross out the word that does not apply)
Would you like your Ward Councillor to present the petition on your behalf? YES/NO (cross out the word that does not apply)
Contact details of the Petition Organiser (Lead Petitioner)  Name:  (Please print)

Address (including postcode)
Contact telephone number:
Email address:
Signature of Lead Petitioner:
Date of Petition:

Please complete and return this form to:

Governance Officer  
Bolsover District Council  
The Arc  
High Street  
Clowne  
Derbys  
S43 4JY

