



# Bolsover District Council

## Constitution

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## **PART 1 SUMMARY AND EXPLANATION**

### **1.1 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.

### **1.2 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.

### **1.3 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 and items to be considered in private document 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. A separate Finance and Corporate Overview 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.

(3) 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.

(4) 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. 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 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 4.2 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 and items to be considered in Private document, 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 Local Government and Social Care 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 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 & Investment Strategy  
Budget  
Capital Strategy  
Council's Ambition  
Crime & Disorder Reduction Strategy  
Health and Wellbeing Strategy  
Housing Strategy  
Business Growth 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 Rules.

### 4.3 Council Meetings

There are three types of Council meeting:-

The Annual Meeting  
Ordinary Meetings  
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 Chair

- (1) The Council will elect the Chair annually.

The Chair of the Council, and in his/her absence the Vice-Chair, 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 Chair determines appropriate.

## Article 6 - Scrutiny Committee

### 6.1 Establishment of Scrutiny Committee

The Council will appoint four Scrutiny Committees to discharge the functions conferred by Part1A, section 9F-9FI of the Local Government Act 2000 and subsequent amendments. The Council will determine the Terms of Reference of the Scrutiny Committees.

The Council will also ensure that one of the Scrutiny Committees is designated to discharge the functions under s19 of the Police and Justice Act 2006 as its crime and disorder committee.

### 6.2 General Role

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

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions,
- (ii) make reports and/or recommendations to the Council and/or the Executive, in connection with the discharge of any functions,
- (iii) consider any matter affecting the area or its inhabitants,
- (iv) exercise the right to call-in for reconsideration, decisions made but not yet implemented by the Executive; and
- (v) assist the Council and the Executive with the development of future policies and strategies.
- (vi) consider crime and disorder matters raised under Councillor Call for Action (CCfA) in accordance with the regulations and procedures agreed by Council as set out in Part 4.5 of this Constitution.

### 6.3 Specific Functions

#### (1) Policy Development and Review

- (i) assist the Council and the Executive in the development of the budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community consultation and other consultation;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy;
- (iv) question members of the Executive and/or Committees and officers about their views on issues and proposals affecting the area;
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;

#### (2) Scrutiny

- (i) review and scrutinise the decisions, initiatives and projects and performance of the Executive and/or Committees and Council officers in relation to individual decisions, initiatives and projects;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

- (iii) question members of the Executive and/or Committees and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies and relevant partners in the area and invite reports from them by requesting (and in the case of the Community Safety Partnership requiring them) to address the relevant Scrutiny Committee and local people about their activities and performance;
- (vi) require the attendance of an officer or employee of the responsible authority or of a co-operating person or body in order to answer questions, when considering crime and disorder matters;
- (vii) question and gather evidence from any person with their consent;
- (viii) receive requests to consider issues through local Councillors as set out in Part 4.5 Scrutiny Procedure Rules of this Constitution.

(3) Finance

Each of the four Scrutiny Committees may exercise overall responsibility for the finances, if any, made available to them.

(4) Annual Report

Scrutiny must report annually to Council on its work and make recommendations for future work programmes and amended working methods if appropriate.

(5) Officers

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

(6) Petitions

Each of the four Scrutiny Committees will be able to deal with petitions referred to them under Part 7 of the Constitution that contain at least 350 signatures of residents in the District, 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 four Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4.5 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:-

- (i) he/she resigns from the office; or
- (ii) he/she is no longer a Councillor; or
- (iii) 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:-

- (i) he/she resigns from office; or
- (ii) he/she is no longer a Councillor; or

- (iii) he/she is removed from office by the Leader if he/she thinks fit,
- (iv) the next ordinary elections.

### 7.5 Other Executive Members

Other Executive Members shall hold office until:-

- (i) they resign from office; or
- (ii) they are no longer Councillors; or
- (iii) they are removed from Office, either individually or collectively.

### 7.6 Junior Executive Members

Non-Executive Members may be appointed as Junior Executive Members to assist the Executive Members. Junior Executive Members may not exercise any of the powers of the Executive Members.

### 7.7 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.

### 7.8 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 6 Councillors, as determined by Council and 1 co-opted Member. It will be politically balanced.
- (2) The co-opted Member shall act as Chair 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 Member 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 Arrangements to promote well-being

- (1) The Council may work with other councils, public bodies, commercial and voluntary organisations, to promote the economic, social or environmental well-being of the District.

## 11.2 Joint Arrangements

### Joint arrangements for Council Functions

- (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.

### Joint arrangements for Executive Functions

- (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 and will reflect the political balance requirements set out in the Local Government and Housing Act 1989.
- (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) The Council and the Executive must maintain a list and details of the joint arrangements they have established.

## 11.3 Access to information

- (1) The Access to Information Rules in Part 4.2 of this Constitution apply to joint committees.
- (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.



#### 11.4 Delegation to and from other Local Authorities

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

#### 11.5 Contracting Out

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

### Article 12 – Officers of the Council

#### 12.1 Management Structure

- 12.1.1 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 Financial 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 4.9 of the Constitution.

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

The Council has designated the following posts:-

<u>Post</u>	<u>Designation</u>
Chief Executive	Head of Paid Service

Service Director Finance and Section 151 Officer\*      Chief Financial Officer/Section 151 Officer \*

Service Director Governance and Legal Services and Monitoring Officer      Monitoring Officer

\*Section 151 of the Local Government Act 1972

The duties of both the Monitoring Officer and Chief Financial 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 Employee Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5.3 and 5.4 of this Constitution.

## 12.3 Functions of the 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 Chief Financial Officer.

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

The Monitoring Officer and the Chief Financial Officer will advise whether decisions of the Council, Executive or committees are in accordance with the Budget and Policy Framework, in consultation with the relevant Assistant Director.

## 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 Chief Financial Officer, 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) Proper Officer for Access to Information

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 unless they are exempt or confidential reports and background papers.

### (4) 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.

### (5) Conducting Investigations

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

### (6) 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.

(7) Restrictions on Posts

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

12.5 Functions of the Chief Financial Officer

(1) Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Council or to the Executive, in relation to an Executive function, and the Council's external auditor, if they consider 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 Financial Officer will have responsibility for administration of the financial affairs of the Council.

(3) Contributing to Corporate Management

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

(4) Providing Advice

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

## 12.6 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Financial 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:-

- (i) proportionality (i.e., the action must be proportionate to the desired outcome),
- (ii) due consultation and the taking of professional advice from officers,
- (iii) respect for human rights,
- (iv) a presumption in favour of openness,
- (v) clarity of aims and desired outcomes,
- (vi) regard to the Council's duties with regard to equal opportunities,
- (vii) an explanation of options that were considered and reasons for the decision; and
- (viii) consideration of all relevant factors,
- (ix) be made in the best interests of the District as a whole.

### 13.3 Types of Decision

#### (1) 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 4.7 of this Constitution.

#### 14.2 Contracts

Every contract made by the Council will comply with the Contracts Standing Orders set out in Part 4.8 of this Constitution.

#### 14.3 Legal Proceedings

The 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 he 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 Monitoring Officer 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

- (1) The Common Seal of the Council will be kept in a safe place in the custody of the 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.

- (2) The Common Seal will be affixed to those documents, which in the opinion of the Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the 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 Monitoring Officer and the Chief Financial 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 Monitoring Officer may approve any minor amendments to the Constitution in accordance with delegated power.

#### (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 Head of Paid Service and Chief Financial Officer on the proposal and shall prepare a report, incorporating the comments 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 Financial Officer; and
- any part of the Council Procedure Rules as specified therein.

### 16.2 Interpretation

The ruling of the Chair 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 Monitoring Officer, Governance and Civic Manager and Chief Financial Officer.

### 16.3 Publication

- (1) The Monitoring Officer will ensure that a version of this Constitution is available for Members, and the public, on the Council's website.



## **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 4.3 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 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 the Chief Financial Officer or Monitoring Officer in relation to a Council function.
- (9) Appointment and Membership of Committees.

### Part 3 Responsibility for Functions

- (10) Election/Appointment of Chair and Vice-Chair of the Council.
- (11) The appointment of the Leader.
- (12) The appointment of and any amendment to terms of reference of committees and sub-committees and working groups.
- (13) Authorisations of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings in respect of Council Tax, National Non Domestic Rates 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) National and Provincial Council decisions and recommendations.
- (17) Approval of an amendment to the Members' Allowance Scheme including the level of allowances within the Scheme following the consideration of report from the Independent Remuneration Panel.
- (18) Determining the amount of any allowance payable in respect of the Chair and Vice Chair of the Council's expenses, allowances for attending conferences, travelling and subsistence allowances, under the Local Government Act 1972.
- (19) Subject to the urgency procedure contained in the Access to Information Rules in Part 4.2 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.
- (20) Making, amending, revoking, re-enacting or adopting by-laws and promoting or opposing the making of local legislation or personal Bills.
- (21) 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 Contract Standing Orders.
- (22) All local choice functions set out in 3 below, which the Council has decided, should be undertaken by itself rather than the Executive.
- (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

## Part 3 Responsibility for Functions

1985 for the disposal of housing land other than under Right to Buy legislation.

- (24) Decisions relating to the adoption or withdrawal of local development documents and supplementary planning documents associated with the preparation of the Council's Local 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 in the Appendix to this part of the Constitution.
- (26) Debate petitions to the Authority which contain 1,000 signatures or more from residents of the District.

### 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, in consultation with the Leader, Deputy Leader and the Service Director Governance & Legal Services 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.

### Part 3 Responsibility for Functions

- (12) Town Police Clauses Act 1847 section 21 – Temporary Street/Road 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 functions.
- (8) The provision of such resources (including expenditure from Reserves) 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

### Part 3 Responsibility for Functions

leaseholds, the letting of Council houses in accordance with the Housing Act 1996 and the granting of contractual licences.

- (11) The approval of mandatory disabled facilities grants (DFGs).
- (12) The approval of discretionary disabled facilities grants (DFGs).
- (13) 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.
- (14) The implementation and monitoring of the Council's Treasury Management policies and practices.
- (15) Agreeing any agency arrangements with any local authorities or other bodies in so far as they relate to Executive functions.
- (16) To monitor and enforce the effective implementation and review of the Council's Equality Plan and Objectives.
- (17) The management of the ICT Strategy for the Council.
- (18) The opening and consideration, and if appropriate, acceptance, subject to scrutiny, of tenders for works in excess of £75,000.
- (19) The promotion of economic development and employment opportunities in the District.
- (20) Monitoring the finances of the Council.
- (21) The granting of discretionary relief for National Non Domestic Rates / Community Charge / Council Tax, including the management of the Council Tax and Housing Benefit Schemes.
- (22) The collection of sundry and other debts, administration of mortgages and determination of any matter relating to the Council's insurance cover.
- (23) Monitoring level of homelessness and Council's responsibilities for this under the Housing Act 1996 - Part VII (as amended by the Homelessness Reduction Act 2018).
- (24) The maintenance of good relations with the Council's tenants.
- (25) The development of sports and recreational facilities and opportunities within the District and the development and promotion of tourism.
- (26) The co-ordination of and assistance to the arts provided throughout the District.
- (27) The fostering of community development and liaison with parish councils and voluntary bodies within the District.

- (28) The management of any Council markets including the level of rents for market stalls and any other level of charges relating to markets.
- (29) The development of international partnerships and friendships.
- (30) All other functions not specifically designated as Council functions and not required by law to be exercised by the Council.
- (31) Regular monitoring of Ombudsman and Corporate Complaints.
- (32) Regular monitoring of Freedom of Information Act 2000 requests for information.
- (33) 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 of Council following the elections and this may be reviewed from time-to-time. The Leader will allocate each Executive Member a Portfolio responsibility to lead on.

## **CABINET MEMBERS**

### **ROLES AND RESPONSIBILITIES**

<b>CABINET MEMBER</b>	<b>PORTFOLIO</b>
Councillor Jane Yates, Leader	<b>Policy, Strategy and Communications</b>
Councillor Donna Hales, Deputy Leader	<b>Corporate Performance and Governance</b>
Councillor Tom Munro  Councillor Tom Kirkham (Junior Cabinet Member)	<b>Growth</b> <ul style="list-style-type: none"> <li>• Dragonfly Client and all Dragonfly Services (including housing repairs and maintenance)</li> <li>• Planning Development Management</li> <li>• Planning Policy</li> <li>• Housing Strategy (Planning)</li> </ul>
Councillor Rob Hiney-Saunders  Councillor Jeanne Raspin (Junior Cabinet Member)	<b>Environment</b> <ul style="list-style-type: none"> <li>• Environmental Health &amp; Licensing</li> <li>• Emergency Planning</li> <li>• Street Scene Services</li> <li>• Corporate Health &amp; Safety</li> <li>• Climate Change</li> </ul>
Councillor Phil Smith  Vacant post (Junior Cabinet Member)	<b>Housing</b> <ul style="list-style-type: none"> <li>• Housing and Tenancy Management</li> <li>• Housing Stock</li> <li>• Estate Management</li> <li>• Homelessness</li> <li>• Housing Strategy (Housing)</li> </ul>
Councillor Mary Dooley  Councillor Catherine Jeffery (Junior Cabinet Member)	<b>Partnerships, Health &amp; Wellbeing</b> <ul style="list-style-type: none"> <li>• Leisure</li> <li>• Customer Services</li> <li>• Partnerships</li> <li>• Safeguarding</li> <li>• Leisure Go Fuel Café</li> <li>• Arts</li> </ul>
Councillor Clive Moesby  Councillor Duncan Haywood (Junior Cabinet Member)	<b>Resources</b> <ul style="list-style-type: none"> <li>• Finance</li> <li>• Human Resources / Payroll</li> <li>• Community Safety &amp; Enforcement Team</li> <li>• Audit</li> <li>• Risk Management</li> <li>• Legal</li> <li>• ICT</li> </ul>
Councillor John Ritchie	<b>Devolution</b> <ul style="list-style-type: none"> <li>• East Midlands Mayoral Combined County Authority</li> <li>• Devolution</li> </ul>

### 3.6 Committee Terms of Reference

#### **SCRUTINY COMMITTEES**

##### (1) Purpose and Responsibilities – ALL SCRUTINY COMMITTEES

Within their themed areas as outlined above, all Scrutiny Committees will:

- (1) Set an annual work plan which can include items from the service areas listed above for the individual Scrutiny Committees and include the following areas of focus;
  - i The Council's Corporate Plan and priorities including quarterly performance monitoring.
  - ii Areas of poor performance identified within service provision.
  - iii Policy development activity at the earliest possible opportunity.
  - iv Following up recommendations from past reviews in order to demonstrate the impact of Scrutiny work.
- (2) Carry out the reviews in the Committee's annual work plan in a timely and efficient manner taking into consideration the work plans of the other Scrutiny Committees.
- (3) Make recommendations to the Executive and/or Council arising from work undertaken by the Committee.
- (4) Scrutinise and monitor the performance of the Executive and the holders of the relevant Portfolios.
- (5) Consider or examine existing or proposed Council policies, strategies or plans within the remit of the Executive.
- (6) Carry out additional reviews to those in 2 above provided the review is within the area of reference of the particular Scrutiny Committee including collaborating with other Scrutiny Committees and bodies carrying out similar functions outside the Council.
- (7) Undertake any duties specified in legislation that are relevant to each Scrutiny Committee, e.g., Statutory Crime and Disorder Responsibility under the Police and Justice Act 2006.
- (8) Review the performance of other public bodies in the area and invite reports, as required, by asking them to address the Committee about their activities and performance.
- (9) Exercise functions relating to Call-In or Councillor Call for Action.



- (10) Contribute to the Annual Scrutiny report to Council on the scrutiny function and the work of the Committees.

(2) Purpose and Responsibilities – FINANCE AND CORPORATE OVERVIEW  
SCRUTINY COMMITTEE

In addition to the above powers conferred on Scrutiny, this Committee shall have the following specific functions;

- (1) To be responsible for ensuring effective scrutiny of the Treasury Management Strategies and associated policies.
- (2) To receive the Executive's Budget proposals and scrutinise them in accordance with the Budget and Policy Framework Procedure Rules in the Council's Constitution, to include:
  - i Making recommendations to the Executive in respect of those Budget proposals in accordance with the Budget and Policy Framework Procedure Rules in the Council's Constitution.
  - ii. Monitoring the Council's Budget, (General Fund, Capital Programme and Housing Revenue Account), on a quarterly basis.
  - iii. Questioning the relevant Portfolio Holders and officers in relation to financial issues arising out of the quarterly monitoring of Budgets.
  - iv. Making recommendations to the Executive in respect of financial issues arising out of the Budget Monitoring.
  - v. Referring to the relevant thematic Scrutiny Committee any performance or other non-financial issues arising out of the quarterly monitoring of the Council's Budget.
- (3) Receive a quarterly update on performance against relevant Corporate Plan targets from the Portfolio Holders, to include:
  - i Monitoring performance management of the Council including reviewing performance against service plans and indicators relating to the corporate aims.
  - ii Referring continued exceptions in performance to the relevant thematic Scrutiny Committee for further investigation/detailed review.
- (4) To enable each of the Scrutiny Chairs to present update information from their respective Committees.

The table below outlines the service areas to be scrutinised by each themed committee:

Scrutiny Committee	Cabinet Portfolio's linked to Committee	Terms of reference	Additional considerations
Local Growth Scrutiny Committee	<ul style="list-style-type: none"> <li>• Growth/ Economic Development</li> <li>• Housing</li> <li>• Corporate Governance</li> </ul>	<ul style="list-style-type: none"> <li>• Economic and Business Development</li> <li>• Property Services</li> <li>• Estates Management</li> <li>• High Street Development</li> <li>• Facilities Management</li> <li>• Strategic Development and Investment</li> <li>• Planning</li> <li>• Enterprise and Skills</li> <li>• Tourism</li> <li>• Dragonfly Developments Limited</li> </ul>	<ul style="list-style-type: none"> <li>• Finance</li> <li>• Environment</li> <li>• One Public Estate</li> <li>• Transformation Programme</li> <li>• HS2</li> <li>• Highways</li> <li>• D2N2</li> <li>• Legal Requirements</li> <li>• Staffing and other resources for projects</li> <li>• Performance monitoring of assigned service areas</li> </ul>
Climate Change and Communities Scrutiny	<ul style="list-style-type: none"> <li>• Corporate Governance</li> <li>• Environmental Health and Licensing</li> <li>• Enforcement and Partnerships</li> <li>• Leisure and Tourism</li> </ul>	<ul style="list-style-type: none"> <li>• Health and Safety (Council responsibility)</li> <li>• HR/Legal/ Governance</li> <li>• Community Safety Partnership/ Police</li> <li>• Bolsover Partnership Strategy</li> <li>• All Local Authority enforcement/ Enforcement Team</li> <li>• Food Safety</li> <li>• Health and Wellbeing</li> <li>• Leisure</li> <li>• Environmental Health</li> </ul>	<ul style="list-style-type: none"> <li>• Finance</li> <li>• Legal Requirements</li> <li>• Staffing and other resources for projects</li> <li>• Performance monitoring of assigned service areas</li> </ul>

Part 3 Responsibility for Functions

Scrutiny Committee	Cabinet Portfolio's linked to Committee	Terms of reference	Additional considerations
		<ul style="list-style-type: none"> <li>• Licensing</li> <li>• Public Health</li> <li>• Relationship with other authorities including Derbyshire County Council and Parish Councils.</li> <li>• Energy management in relation to the Council's own Estates and Property</li> <li>• Community Transport</li> <li>• Climate Change</li> <li>• Social Inclusion</li> </ul>	
Customer Services Scrutiny Committee	<ul style="list-style-type: none"> <li>• Housing</li> <li>• Environmental Health and Licensing</li> <li>• Finance</li> <li>• Corporate Governance</li> </ul>	<ul style="list-style-type: none"> <li>• BDC Housing including Strategic Housing</li> <li>• Emergency Planning</li> <li>• Revenues and Benefits</li> <li>• Street Scene</li> <li>• Grounds maintenance</li> <li>• Customer Services and Customer Standards</li> <li>• ICT</li> <li>• Communications</li> <li>• Waste Collection</li> <li>• Monitoring Corporate Complaints</li> <li>• Local Government and Social Care Ombudsman – complaints and annual letter</li> </ul>	<ul style="list-style-type: none"> <li>• Environment</li> <li>• Finance</li> <li>• Transformation Programme</li> <li>• Environmental Health</li> <li>• Governance</li> <li>• Legal Requirements</li> <li>• Staffing and other resources for projects</li> <li>• Elections</li> <li>• Performance monitoring of assigned service areas</li> </ul>

Scrutiny Committee	Cabinet Portfolio's linked to Committee	Terms of reference	Additional considerations
Finance and Corporate Overview Scrutiny Committee	<ul style="list-style-type: none"> <li>Finance</li> </ul>	<ul style="list-style-type: none"> <li>Audit</li> <li>Accountancy</li> <li>Procurement</li> <li>Improvement and Performance Monitoring</li> <li>Payroll</li> <li>Treasury Management</li> <li>Annual budget setting process</li> <li>Budget Monitoring</li> <li>Monitoring collection rates for Council Tax and other income.</li> <li>Societal Impact of any Budget Reductions</li> <li>Reviewing the financial and value for money outcome of the implementation of strategic projects</li> </ul>	<ul style="list-style-type: none"> <li>Environment</li> <li>Legal Requirements</li> <li>Governance</li> <li>Staffing and other resources for projects</li> </ul>

(3) Joint Scrutiny Arrangements

The Authority is part of a Shared Services Scrutiny Panel alongside North East Derbyshire District Council and Chesterfield Borough Council, which scrutinises the joint working arrangements across the three Councils.

(4) Membership and Structure of Meetings

The Chair and Vice Chair of each Scrutiny Committee will be appointed by Council from its allocated membership.

All Scrutiny Committees will reflect the political composition of the Council, in accordance with the proportional allocation of seats. The quorum for each scrutiny committee meeting will be one quarter of the whole number of Members or three voting Members, whichever is the greater.

All Scrutiny Members shall be invited to Finance and Corporate Overview Scrutiny Committee once a year, for consideration of the annual Council Budget proposals, prior to submission to Executive and Council.

All thematic Chairs and/or Vice-Chairs shall be invited to attend Finance and Corporate Overview Scrutiny Committee when it is considering quarterly performance reports, to enable informed discussion and referrals where required. They will not attend with voting rights.

The Committees will meet in accordance with the agreed meeting schedule, with additional extraordinary meetings as required.

## **AUDIT COMMITTEE**

### (1) Purpose and Responsibilities

The Committee is a key component of the Authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Committee is to provide independent assurance to the Members of the Authority of the adequacy of the risk management framework and the associated internal control environment. It provides independent review of the Authority's governance, risk management, and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

In addition to the above powers conferred, this Committee shall have the following specific functions:

#### **Governance, risk and control**

- (1) To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
- (2) To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
- (3) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (4) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- (5) To monitor the effective development and operation of risk management in the Council.
- (6) To monitor progress in addressing risk-related issues reported to the Committee.
- (7) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

- (8) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- (9) To monitor the counter-fraud strategy, actions and resources.
- (10) To review the governance and assurance arrangements for significant partnerships or collaborations.

**Internal audit**

- (11) To approve the internal audit charter
- (12) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- (13) To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- (14) To make appropriate enquiries of both management and the Head of the Internal Audit Consortium to determine if there are any inappropriate scope or resource limitations.
- (15) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Head of the Internal Audit Consortium. To approve and periodically review safeguards to limit such impairments.
- (16) To consider reports from the Head of the Internal Audit Consortium on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - i. Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - ii. Regular reports on the results of the quality assurance and improvement programme (QAIP).
  - iii. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note for the United Kingdom Public Sector Internal Audit Standards (LGAN), considering whether the non-conformance is significant enough that it must be included in the AGS.
- (17) To consider the Head of the Internal Audit Consortium's annual report:
  - i. The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that

support the statement – these will indicate the reliability of the conclusions of internal audit.

- ii. The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the AGS.

- (18) To consider summaries of specific internal audit reports as requested.
- (19) To receive reports outlining the action taken where the Head of the Internal Audit Consortium has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- (20) To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- (21) To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations.
- (22) To provide free and unfettered access to the audit committee chair for the Head of the Internal Audit Consortium, including the opportunity for a private meeting with the Committee.

**External audit**

- (23) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA) as appropriate.
- (24) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- (25) To consider specific reports as agreed with the external auditor.
- (26) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (27) To commission work from internal and external audit.
- (28) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.



**Financial reporting**

- (29) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (30) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

**Accountability arrangements**

- (31) To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- (32) Where the Council has undergone an external inspection, peer review or other intervention, and an improvement programme is developed, the Audit Committee will support the effective implementation and review of agreed actions.
- (33) To report to Council on an annual basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose, via completion of an annual self-assessment and production of any required improvement plan.
- (34) To publish an annual report to Council on the work of the Committee, to include reference to the Committee's self-assessment and any associated improvement plan.

(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 Chair and Vice Chair of the Committee will be appointed by Council from its allocated membership and reflect the political composition of the Council, in accordance with the proportional allocation of seats.

The Committee will have no more than 8 Members, to include 6 members of the Authority and two co-opted Independent Non-Voting Members.

The quorum for the Committee will be one quarter of the whole number of Members or three voting Members, whichever is the greater.

The Committees will meet in accordance with the agreed meeting schedule and for a minimum of four times per year, with additional extraordinary meetings as required.

## **BOLSOVER EMPLOYEE APPEALS COMMITTEE**

### (1) Purpose

There will be an Employee Appeals Committee to consider and determine appeals against dismissals arising from the Council's employment procedures (e.g. disciplinary, capability, sickness absence, etc). These procedures apply to all employees other than those who are covered by any special provisions of their terms and conditions.

### (2) Membership

- (i) The Employee Appeals Committee will comprise of three Elected Members determined at the Annual Council Meeting and will reflect the rules or proportionality. Each Member on the Committee can have a deputy appointed by Council who can deputise for them if they are unable to make the meeting or have a conflict of interest.
- (ii) 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 nomination of the relevant party leader.
- (iii) The Head of Paid Service or their representative 'Management Representative' will make the management case. Witnesses may be called.

### (3) Function

- (i) The Committee will conduct a review of the original decision to see if it was reasonable in the circumstances. This may involve rehearing the original evidence and any evidence that has come to light following the decision and considering any matters raised relating to the original decision whether or not they were known to the Management Representative at the time the initial decision was taken. No unrelated matters shall be considered.
- (ii) The Committee will decide whether to allow or dismiss the appeal.

(4) Rules and Procedures

4.1 Secretariat

In order to maintain impartiality and confidentiality, the Human Resources department will administer meetings of the Appeals Committee. This will include organising meetings, producing confidential documents for Members and taking a record of the proceedings. Minutes will be produced and kept on record.

4.2 Frequency of Meetings

Meetings of the Employee Appeals Committee will be convened when required.

4.3 Quorum and Voting

Each of the three Members appointed to the Committee are required to be present for the meeting to commence. The three Members are allocated one vote each and the Chairman does **not** have a casting vote in this instance.

4.4 Proceedings

The Employee shall be given at least five working days' notice in advance of the time and place of the hearing and he/she must be told that he/she shall be entitled to be represented by their representative and shall be able to call witnesses and to present the documents relevant to his/her case. Copies of any documents relevant to the case and intended for submission/consideration and names of witnesses the parties intend to call should be exchanged by both parties at this time.

The Appeals Hearing shall proceed as follows:-

- (i) The Chair shall introduce all persons in the room, and their respective roles, emphasising the limited role of the advisers.
- (ii) If the Employee is alone he/she should be asked if they are aware that they may have a representative and whether they would like to adjourn in order to arrange for one to attend.
- (iii) The Management Representative will make a statement as to why the decision to dismiss was taken and may call witnesses.
- (iv) Witnesses will wait outside until called.

### Part 3 Responsibility for Functions

- (v) The Employee (or Representative) shall have the opportunity to ask questions of the Management Representative and witnesses.
- (vi) The Committee shall have the opportunity to ask questions of the Management Representative and witnesses. The witnesses shall leave having given their evidence.
- (vii) The Employee may put his/her case and may call witnesses. Witnesses will wait outside until called.
- (viii) The Management Representative shall have the opportunity to ask questions of the Employee and his/her witnesses.
- (ix) The Committee shall have the opportunity to ask questions of the Employee and his/her witnesses. The witnesses shall leave having given their evidence.
- (x) The Management Representative (the original Hearing Officer) and the Employee shall have the opportunity to sum up their case if they so wish, with the Management Representatives submission being received first.
- (xi) The Management Representative (the original Hearing Officer), the Employee and their representative shall withdraw.
- (xii) Any advisors to the Committee remain in the room during the deliberation.
- (xiii) The Committee shall deliberate only recalling the Management Representative (the original Hearing Officer) and the Employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties and representatives are to return, notwithstanding that only one may be concerned with the points giving rise to doubt.
- (xiv) The Committee will decide whether to allow or dismiss the appeal and will announce the decision to the Employee personally. The outcome will be confirmed in writing with reasons within five working days.
- (xv) The decision of the Committee is final and there shall be no further appeals to the Council.

## **EMPLOYMENT AND PERSONNEL COMMITTEE**

There will be an Employment and Personnel Committee of 5 Members with the following Terms of Reference:

- To develop, adopt, implement and review any policy or strategy concerning human resources and personnel, **excluding** those as set out in the Budget and Policy Framework in Article 4 of the Constitution, and subject to the approval of any budget implications by the Executive and/or Council as appropriate. This includes, but is not limited to; Equalities Policy, Agile Working Policy, Computer Security Policy, Internet & Email Policy, Harassment and Bullying at Work Policy.
- To have responsibility for the pay, terms and conditions of service and training of employees except for approving the annual Pay Policy Statement which is reserved to Council under the Budget and Policy Framework as set out in Article 4 of the Constitution.
- To consider the Draft Pay Policy Statement before submission to Council.
- To take key policy decisions in relation to equal pay, single status and job evaluation.
- To consider and deal with issues relating to the Council's establishment structure and employees and recommend to Council in relation to any growth in the establishment resulting in a budgetary increase.
- To review and recommend any changes to the Employment Rules to the Council for adoption.
- To review annually the overall staffing structure of the Council.
- To receive reports and updates from the Union/Employee Consultation Committee.
- To receive reports and updates on post-entry training and development for employees including apprenticeships.
- To approve all Councillor attendance at conferences, seminars and training events within the UK mainland for which a fee is payable including any expenditure incurred.
- To receive reports from Corporate Directors on departmental officer travel outside the UK.
- Membership shall be in accordance with the proportionality rules.

Meetings of the Employment and Personnel Committee require the 3 statutory officers (or in their absence their appointed deputy) present as well as the Head of HR / HR Business Partner.

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

The objective of the HARP is to ensure that housing decisions are made fairly and transparently.

- (1) The HARP will be made up of three members:-
  - The Community Safety and Enforcement Manager
  - The Housing Enforcement Manager
  - A Housing Needs Officer or a Tenancy Management Officer (on a rota)
- (2) The Housing Enforcement Manager or the Community Safety and Enforcement Manager must be in attendance with at least one other panel member.
- (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

Minutes will be kept of each meeting and decisions noted. 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) 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 Assistant Director of Environmental Health. 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.

(11) Appeals

Any other appeal will be considered by an Appeal Board consisting of:-

- The Assistant Director of Environmental Health
- The Portfolio Holder for Housing
- An officer member of Senior Leadership 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).

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.

## Employment and Appeals Committee

There will be an Employment and Appeals Committee (EAC) of four Councillors

The membership shall include the Leader of the Council and Deputy Leader, an Executive Member and the Leader of the Largest Minority Group or their appointed substitute. Substitutes if called upon will replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed.

The Employment and Appeals Committee will meet as a Committee in relation to all appointments of the Senior Leadership Team which includes the Statutory Officers and other Chief Officers/Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).

Where there are two Leaders of the Opposition, of groups of equal size, both Leaders of the Opposition will be Members of the Employment and Appeals Committee – increasing the size of the Committee to 5.

The Employment and Appeals Committee will have the following roles and functions:

Functions	Matters not delegated
<p>To interview candidates for posts within the Senior Leadership Team (Directors and Assistant Directors)</p> <p>To appoint candidates to posts within the Senior Leadership Team, with the exception of the Head of Paid Service, Chief Financial Officer and Monitoring Officer</p> <p>To recommend to Council the appointment of the Head of Paid Service, Chief Financial Officer, and Monitoring Officer</p> <p>To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers</p> <p>To deal with appeals from Chief Officers/Deputy Chief Officers including Statutory Officers, against action taken against them</p>	

<p>In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Employment and Appeals Committee shall make a recommendation to Council which will be supported via a report from two of the Councils Independent Persons.</p>	
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## **LICENSING COMMITTEE**

### **Licensing and Gambling Acts Committee**

There will be a Licensing and Gambling Acts Committee of 10 Councillors which must meet at least once a year by law.

It is a legislative requirement that the Council maintains a committee that deals solely with matters related to the Licensing Act 2003 and the Gambling Act 2005. These committee functions cannot be combined with any others.

#### **The functions of the Licensing and Gambling Acts Committee include:**

<b>Functions</b>	<b>Matters Reserved to <i>Council Meeting</i></b>
<p>To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005</p> <p>To recommend to Council statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005</p> <p>To make any minor changes and updates to the Statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements.</p> <p>To recommend to Council to resolve whether to issue a Casino Licence</p>	<p>The following matters are reserved to the Council Meeting:</p> <p>(i) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005</p> <p>(ii) The power to resolve to issue a Casino Licence</p>

### **Licensing and Gambling Acts Sub Committee**

Licensing and Gambling Acts Sub Committees will be established comprising 3 Members who are Members of the Licensing and Gambling Acts Committee to consider any matters referred to them which relate to matters arising under the Licensing Act 2003 or the Gambling Act 2005.

3 Members on the Sub Committee (drawn from the full Committee) will be required for the meeting to be held. The Chairman for the meeting will be determined by the Members present at the meeting.

Licensing and Gambling Acts Sub Committees will be arranged by the Monitoring Officer as and when required.

**The functions of the Licensing and Gambling Acts Sub-Committee include:**

To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Licensing Act 2003, including: -

- Application for a personal licence where there are relevant unspent convictions;
  - The review of a premises licence or club premises certificate; other than minor variations
  - Decision to object when the local authority is the consultee and not the relevant authority considering the application;
  - Determination of a police or environmental health objection to a temporary event notice.
  - Where a relevant representation has been made in respect of the following applications:
    - personal licence;
    - premises licence or club premises certificate;
- provisional statement;
- variation to a premises licence or club premises certificate;
  - variation to a designated personal licence holder;
  - transfer of a premises licence;
  - interim authority.

To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Gambling Act 2005, including: -

- Application for a premises licence where representations have been received and not withdrawn.
- Application for variation to a licence where representations have been received and not withdrawn.
- Application for a transfer of a licence where representations have been received from the Gambling Commission.
- Application for a provisional statement where representations have been received and not withdrawn.
- Review of a premises licence.
- Application for a club gaming/club machine permits where objections have been received and not withdrawn.
- Cancellation of club gaming/club machine permits.

**Delegation of functions to officers**

The following functions may be exercised the Head of Environmental Health save for the matters reserved for Licensing and Gambling Acts Committee or Sub-Committees, or for full Council:

- All matters arising under the Licensing Act 2003.
- All matters arising under the Gambling Act 2005.

## **General Licensing Committee**

There will be a General Licensing Committee of 10 Councillors which will meet at least once a year.

As a result of the legislative restriction that the Licensing and Gambling Acts Committee can only deal with matters relating to the Licensing Act 2003 and the Gambling Act 2005 the Council will maintain a General Licensing Committee to deal with all other matters relating to licensing.

**The functions of the General Licensing Committee include:**

<b>Functions</b>	<b>Matters Reserved to Council Meeting</b>
<p>To consider all licensing matters not covered by the Licensing Act 2003 and the Gambling Act 2005, including Private Hire and Hackney Carriage Drivers, Vehicles and Operators.</p> <p>To recommend to Council any licensing policies except the Licensing Act 2003 and the Gambling Act 2005 policies.</p> <p>To make any minor changes and updates to the Council's Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy following adoption by Council</p> <p>To make any minor changes and updates to other relevant licensing policies as required</p>	<p>The following matters are reserved to the Council Meeting:</p> <p>(i) Determination of the Council's Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy</p> <p>(ii) Determination of other licensing policies, as required</p>



## **General Licensing Sub Committee**

General Licensing Sub-Committees will be established, comprising 3 Members who are Members of the General Licensing Committee to consider any matters referred to them which relate to:

- (a) matters arising under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Police and Crime Act 2009);
- (b) private hire and/or hackney carriage matters;
- (c) scrap metal sites and operators.

but not at the same meeting.

3 Members on the Sub Committee (drawn from the full Committee) will be required for the meeting to be held. The Chairman for the meeting will be determined by the Members present at the meeting.

### Schedule of Meetings

A Schedule of General Licensing Sub-Committee meetings will be agreed by Council at the start of each municipal year. This schedule of meetings will be subject to amendment, as required, to enable the Sub-Committees to deal effectively with the matters referred to them.

The membership of any unscheduled General Licensing Sub-Committee meetings that are arranged will be determined by the Monitoring Officer in consultation with the Chair of the General Licensing Committee.

### **The functions of the General Licensing Sub-Committee include:**

- To consider all hackney carriage and private hire licensing issues which are referred to it in accordance with the Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy.
- The determination of applications for sexual establishments (including sexual entertainment venues, sex shops and sex cinemas) under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) where representations have been received and not withdrawn.
- To determine applications for house-to-house collections under the House to House Collections Act 1939 (as amended) where representations are received from Police and not withdrawn or where officers have reasonable grounds for referral to Committee.
- To determine applications and revocations under the Scrap Metal Dealers Act 2013 where representations have been received and not withdrawn.

**Delegation of functions to officers**

The following functions may be exercised to the Head of Environmental Health save for the matters reserved for General Licensing Committee or Sub-Committees, or for Full Council:

- All hackney carriage and private hire licensing issues in accordance with the Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy.
- All matters concerning the discharge by the Council of its licensing function under the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
- All matters concerning the discharge by the Council of its licensing function under the House to House Collections Act 1939 (as amended).
- All matters concerning the discharge by the Council of its licensing function under the Scrap Metal Dealers Act 2013.
- All other licensing matters delegated from time to time by the General Licensing Committee.

## **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, lawful development certificates, hazardous substances control and enforcement of legislation, with the default delegation of this function (1) to officers with the exception of:

The following matters which will be determined by the Planning Committee and not under delegation to officers:

- i) applications that have been called in to be considered by the Planning Committee by a Ward Councillor with reference to valid planning reasons for referral and where the outcome of the application is of particular significance to the environmental quality of the local area and/or the socio-economic well-being of the local community. The Ward Councillor will have until the end of the overall consultation period in order to refer an item to Planning Committee. This date is set out on the Council's public access website;
- ii) applications that are referred to the Planning Committee by officers because it is considered the final decision on a particular application is of strategic importance to the District;
- iii) applications that are referred to the Planning Committee by officers because there are twenty or more representations from individual households and/or other interested parties that have been made on valid planning grounds and are contrary to the officer recommendation on that application;
- iv) applications that propose significant changes to the size, scale or nature of proposals previously approved by the Planning Committee or propose the removal or variations of conditions or obligations imposed on a permission granted by the Planning Committee that are more than non-material minor amendments to the original permission; and
- v) applications that are recommended for approval but are contrary to planning policies in the Council's adopted Local Plan.

Where the Planning Committee resolve to determine a planning application contrary to the recommendation of the Planning Manager (Development Control), 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) The confirmation of Tree Preservation Orders which are subject to outstanding objections.
- (3) The designation of Article 4 Directions.

- (4) Decisions relating to the commencement, publication or submission of local development documents associated with the preparation of the Council's Local Plan, including Duty to Co-operate issues.
- (5) Decisions relating to the approval of the Local Development Scheme, Statement of Community Involvement and Monitoring Reports.
- (6) Decisions relating to the preparation of local development documents and supplementary planning documents.
- (7) Decisions relating to recommendations from the Local Plan Implementation Advisory Group.
- (8) Respond to consultations on the preparation of development plan documents, supplementary planning documents, local development schemes, statements of community involvement, and monitoring reports, and their amendment and review, from adjoining and nearby district and metropolitan district council 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.
- (9) 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.
- (10) The delegation of such matters within the terms of reference as may be appropriate to the Assistant Director of Development and Planning or other appropriate officer.
- (11) The designation of conservation areas.
- (12) Grants for the repair of historic buildings.

To Recommend to the Council with Regard to:-

- (13) Decisions relating to the adoption or withdrawal of local development documents and supplementary planning documents associated with the preparation of the Council's Local Plan.

## **SAFETY COMMITTEE**

### (1) Purpose

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 Manager 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.

(2) 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 Employer's Side of the Committee shall be 5 elected Members with voting rights. The Service Director of Governance and Legal Services, the HR Business Partner and the Health and Safety Manager 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 Governance Manager not later than the beginning of each meeting.
- (v) The Committee shall appoint a Chair and Vice Chair from among the Committee. When the Chair is appointed from one side of the Committee the Vice-Chair will be appointed from the other side. These officers will also act as Chair of their respective sides of the Committee.
- (vi) The Governance and Civic Manager will act as Secretary to the 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 meetings shall be convened during working hours at 3 monthly intervals and held at The Arc, Clowne.
- (ii) Meetings may be called by the Chair at any time at the request of either side, such requests to be submitted through their respective Chairs.
- (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 Chair and Vice-Chair, the meeting may be cancelled and Members advised accordingly.
- (vi) The agenda for business of regular meetings shall be circulated by the Governance and Civic Manager 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.

## **STANDARDS COMMITTEE**

The role of the Standards Committee is to:

- (1) Promote and maintain high standards of conduct by Members and co-opted Members of the Council.
- (2) Assist Members and co-opted Members of the Council to observe the Bolsover Members' Code of Conduct.
- (3) Advise the Council on the adoption or revision of a Code of Conduct.
- (4) Monitor the operation of the Bolsover Members' Code of Conduct.
- (5) Advise, give training or arrange to train Members and co-opted Members of the Council on matters relating to the Bolsover Members' Code of Conduct.
- (6) Oversee Member Training, (including the attendance of Members at courses), in relation to matters affecting their conduct and probity including relevant information provided to newly elected District Councillors.
- (7) Consider all matters relating to dispensations for Members to speak and vote where the Members concerned have interests.
- (8) Conduct determination hearings into complaints against Members.
- (9) Promote and maintain high standards of conduct within town/parish councils and to assist them in following their own Codes of Conduct or adopt the Bolsover Code of Conduct.
- (10) Oversee training provided to parish councils on conduct and probity matters including relevant information provided to newly elected Parish Councillors.
- (11) Oversee the public face of the Standards Committee through the website and increase public awareness of the Code of Conduct and its application.
- (12) Deal with complaints against town and parish councillors in accordance with 8 above.
- (13) Oversee matters referred to the Monitoring Officer in relation to complaints against town and parish councillors where it is appropriate for the Monitoring Officer to take a decision.
- (14) Grant exemptions for politically restricted posts.



- (15) Have responsibility for the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and procedures, to include monitoring, revisions and approval.
- (16) Review the Gifts and Hospitality Register on an annual basis.
- (17) Review Members' attendance at meetings on a bi-annual basis.

**To Recommend to Council with regard to:-**

- (18) Overseeing the Council's "Whistle Blowing" Policy and arrangements and to amend them as appropriate.
- (19) Changes required to the Constitution as a result of the monitoring and reviewing undertaken by the Committee.
- (20) Reports of the Independent Remuneration Panel

## **UNION/EMPLOYEE CONSULTATION COMMITTEE**

### (1) Objectives

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

5.1 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 Head of Paid Service, Service Director of Governance and Legal Services and Chief Financial 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 Head of Paid Service of the Council not later than the beginning of each meeting.
- (v) The Committee shall appoint a Chair and Vice Chair from among the Committee. When the Chair is appointed from one side of the Committee the Vice-Chair will be appointed from the other side. The Chairship and Vice Chairship of the Committee will rotate annually between each side. These officers will also act as Chair of their respective sides of the Committee.
- (vi) The Governance and Civic Manager 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.

(6) 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.

(7) 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 Chair at any time at the request of either side submitted through their respective Chairs.
- (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 Governance and Civic Manager 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 Chair and Vice Chair, the meeting be cancelled and Members advised accordingly.

- (viii) The agenda for business of regular meetings shall be circulated by the Governance and Civic Manager 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) Two members of the Employers' side and two 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 Unions 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.

## BOLSOVER DISTRICT COUNCIL STRUCTURE

<p><b>Karen Hanson</b> Chief Executive</p> <p>Head of Paid Service Returning Officer and Elections Emergency Planning Local Resilience Forum Strategic Lead Dragonfly Group Sponsor and Client Management Lead</p>			
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page - 69</p> <p style="text-align: center;"><b>Steve Brunt</b></p> <p><b>Strategic Director of Services</b></p> <p>Emergency Planning Tactical Lead Corporate Health and Safety</p>	<p style="text-align: center;"><b>Pam Brown</b></p> <p><b>Service Director Executive, Corporate Services and Partnerships</b></p> <p>Safeguarding Lead Corporate Transformation Lead Climate Change Lead</p>	<p style="text-align: center;"><b>Theresa Fletcher</b></p> <p><b>Service Director Finance and Section 151 Officer</b></p> <p>Statutory Officer</p> <p>Dragonfly Development Ltd Financial Lead</p>	<p style="text-align: center;"><b>Jim Fieldsend</b></p> <p><b>Service Director Governance and Legal Services and Monitoring Officer</b></p> <p>Statutory Officer</p> <p>Dragonfly Development Ltd Legal Lead</p>
<p style="text-align: center;"><b>Mark Giles</b></p> <p><b>Assistant Director (Streetscene/Community Safety and Enforcement)</b></p> <p>Waste and Recycling Fleet Management Drainage and Engineering Grounds Maintenance Street Cleansing</p>	<p>Executive and SLT Support Partnerships Team Customer Services HR and Payroll Communications Safeguarding</p>	<p>Finance and Accountancy Audit Revenues and Benefits ICT</p>	<p>Legal Procurement Governance Scrutiny Performance and Improvement</p>

<p><b>Ken Eastwood</b></p> <p><b>Assistant Director of Environmental Health (50%)</b></p> <p>Environmental Enforcement Commercial (food and H&amp;S) Private Sector Housing Environmental Protection Licensing</p>			
<p><b>Victoria Dawson</b></p> <p><b>Assistant Director of Housing Management and Enforcement</b></p> <p>Housing Needs Housing Strategy (part) Rent and Rent Recovery Community Safety and ASB Tenancy Management Central Control &amp; Careline Homelessness</p>			



<p><b>Sarah Kay</b></p> <p><b>Assistant Director of Planning and Planning Policy</b></p> <p>Development Management Local Plan and Planning Policy Housing Strategy (part) Land Charges Enforcement</p>			
<p><b>Wayne Carter</b></p> <p><b>Assistant Director of Leisure, Health &amp; Wellbeing</b></p> <p>Leisure Services and Café Health and Wellbeing Arts Extreme Wheels</p>			

## MEMBERS DELEGATION

### (1) Leader of the Council

#### 1.1 General

Delegated powers to distribute funding in relation to the Working Neighbourhood Fund.

#### 1.2 Joint Working

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.

#### 1.3 Conditions of Delegation

Decisions under this delegation shall be made:-

- (i) In consultation with the executive members of Chesterfield Borough Council and North East Derbyshire District Council where necessary.
- (ii) Within the overall budget approved from time to time by each authority.
- (iii) 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.
- (iv) 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
- (v) 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.

(2) 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.

MISCELLANEOUS LICENSING AND REGULATORY FUNCTIONS		
(1) Function	(2) Provision of Act or Statutory Instrument	
A.	<b>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 there under
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

Part 3 Responsibility for Functions

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.

Part 3 Responsibility for Functions

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

Part 3 Responsibility for Functions

		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)

Part 3 Responsibility for Functions

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



Part 3 Responsibility for Functions

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)

Part 3 Responsibility for Functions

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.</b>	<b>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.</b>	<b>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).

Part 3 Responsibility for Functions

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.

Part 3 Responsibility for Functions

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 by-laws.</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).

Part 3 Responsibility for Functions

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.

## 3.1 SCHEME OF DELEGATION FOR OFFICERS

### 4.10.1 Introduction

- (1) This scheme has been adopted by Bolsover District Council and sets out the extent to which the powers and duties of the Council is delegated to officers under the Local Government Act 1972, the Local Government Act 2000 and all other powers enabling delegation to officers. It is adopted with the intention of giving a streamlined, clear and simple decision-making process. It should be interpreted widely.
- (2) Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Portfolio Holder on Executive Functions and the relevant Chairman of the regulatory committee when the matter falls within the remit of that committee.
- (3) All references to legislation shall be deemed to include any subsequent amendments to such legislation.
- (4) Officers must consult the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this. Officers must take account of the views of the relevant Ward Member(s) before exercising their delegated power.
- (5) Under section 101 of the Local Government Act 1972 the Council may authorise an officer of the Authority to commission and monitor work for and on behalf of the Council by people who are not officers of the Authority and such people will be bound by this scheme, and the obligations contained in it, at all times when engaged on Council business (for example Environmental Health).
- (6) References to powers of 'the Council' include functions of the Executive.
- (7) Any reference to a function shall be deemed to include a reference to all statutory powers relating to that function and shall be deemed to include authority to exercise all such powers.
- (8) All delegations are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- (9) All delegations to officers are subject to:-
  - Statutory requirements
  - Contract Procedure Rules
  - Financial Regulations/Finance Rules
  - Consideration of the policies and plans of the relevant Council
  - The Employee Code of Conduct and adopted protocols

- Any financial limits set out in any budget agreed by Council and in accordance with Financial, Contract and Property Procedure Rules
- The Budget and Policy Framework set by Council and any other Council policy having regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972
- Any provision contained within this Constitution.

(10) Where an officer has delegated powers, the Council or the Executive or a committee (as appropriate) can still exercise that power in a particular case if it considers it appropriate to do so. Equally, it is always open to an officer not to exercise delegated powers but to refer the matter up as appropriate.

#### 4.10.2 Exclusions

(1) This Scheme does not delegate:-

- Any matter which by law may not be delegated to an officer.
- Any matter which is specifically excluded from delegation by this scheme, by a decision of the Council, the Executive or a committee or sub-committee.

#### 4.10.3 Authorisations to other Officers

Officers with delegated powers may in writing authorise another officer or officers to exercise those powers. Such authorisations may be subject to limitations and conditions. The officer with the delegated powers must keep a register of all authorisations granted. Copies must also be sent to the Governance & Civic Manager.

#### 4.10.4 Reserve Delegations

The delegated powers held by a post may be exercised by the line manager of that post (or by their line manager) if:-

- that post is vacant.
- the post-holder is not at work for any reason.

#### 4.10.5 Consultation

Officers shall consult as appropriate and have due regard to the advice given. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated power must consult someone else whom he/she considers to be an appropriate substitute. In particular, consultation must take place with Legal Services, Finance and Human Resources as appropriate.

#### 4.10.6 Restriction on delegations to Directors Assistant Directors

- (1) Each delegation to a Director/Assistant Director is subject to a limitation that it shall not be exercised if the Head of Paid Service, or a Director, or the Monitoring Officer, or Section 151 Officer has given a direction to that effect.
- (2) The Head of Paid Service, or a Director, may exercise any delegated power possessed by a Director/Assistant Director whilst a direction is in force with respect to that delegation.
- (3) In the absence of a Director, an Assistant Director within that Directorate may exercise any delegated power possessed by that Director.
- (4) Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Financial Regulations. The use of the Transformation Reserve can only be authorised by the Head of Paid Service.

#### 4.10.7 Transfer of Functions

- (1) Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet/Executive or a Committee/Sub Committee.
- (2) Where a service is restructured, the Head of Paid Service shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer and inform the relevant Portfolio Holder.

#### 4.10.8 Proper Officers

- (1) In addition to the specific powers delegated to Chief Officers, local government legislation specifies that certain officers must have responsibility for a number of specific functions as set out in the various acts of parliament. Each officer with such responsibility is known as the “Proper Officer” in relation to that task. The list of Proper Officers is approved by the Council and set out later in section 4.11
- (2) The Council is also required to appoint certain officers known as Statutory Officers to take responsibility for functions specified in local authority legislation. These functions are in addition to the Scheme of Delegation and are set out in section 4.11



#### 4.10.9 General powers delegated to the Chief Executive Officer and all Directors and Assistant Directors

- (1) To exercise within approved budgets all matters of day to day administration and operational management of the services and functions for which they are responsible.
- (2) To take all necessary action to achieve and implement the objectives and actions set out in approved policies, strategies, plans and decisions of Council or committees.
- (3) To sign licenses and notices relevant to their service areas subject to consultation with the Monitoring Officer.
- (4) To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area, subject to Committee Terms of Reference.
- (5) Service of any statutory notices affecting their service area subject to consultation with the Monitoring Officer where appropriate.
- (6) To exercise the Council's powers to enter land and premises (and to authorise others to enter land and premises) for the purposes of any of the Council's functions which the officer has responsibility for enforcing or investigating.
- (7) To instruct the Council's Legal Service with respect to any legal matter concerning their department or services.
- (8) To exercise the Council's power to publish information about its services including deciding the content of any publication.
- (9) To decide the terms upon which services will be provided to the public, (which may include providing services on different terms to different individuals or classes of individuals).
- (10) To exclude people from Council premises where they consider this to be warranted in the interests of health and safety or for the maintenance of order.
- (11) To deal with the following employment matters in accordance with Council procedures:
  - (i) The employment of all employees below Assistant Director level including determining the most appropriate means of recruitment and selection
  - (ii) Formulation, review and revision of person specifications and job descriptions for posts within their service areas
  - (iii) Application of conditions of service including the authorisation of leave of absence, purchase of annual leave and payment of honoraria

- (iv) Suspension or dismissal of employees below Head of Service/Assistant Director level
  - (v) Re-grading of posts below Assistant Director level following job evaluation
  - (vi) Determination of job sharing applications
  - (vii) Waive any part of the notice required to be given by an employee to terminate employment.
- (12) To authorise payments for overtime in accordance with Council procedures.
- (13) To deal with procurement matters acting at all times within the Council's Financial and Contract Procedure Rules.
- (14) To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate where expenditure is within approved budgets.
- (15) To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property where expenditure is within approved budgets.
- (16) To commission goods, services and works within approved budgets whether or not the decision is above or below the key decision threshold.
- (17) To award a contract without following one of the normal procedures within part 4.8.3 of the Council's Procurement Rules provided that one of the exemptions in part 4.8.4 of the Rules can be applied and the provisions of part 4.8.4 are met.
- (18) To deal with media enquiries and press releases in conjunction with the Communications Manager/Officer who will contact the relevant Members.
- (19) To represent the views of the Council in responding to consultations with the Council by any outside body where it is expedient to do so or where the period for a response does not allow the consultation paper to be reported to Members, subject to contacting the relevant Portfolio Holder or the Leader and Deputy Leader where the matter is politically contentious and where appropriate reporting to Executive/Council subsequently.
- (20) To work with partners to achieve and implement the objectives and actions set out in the approved Council Ambition, Service Plans, Business Plans, policies, strategies or other plans.
- (21) To carry out any duties or responsibilities as contained with the Financial Regulations.
- (22) To carry out any functions contained within section 3.2 of Part 3 – Council Functions and section 3.3 – Local Choice Council Functions of the Functions Scheme in so much as they relate to the day to day administration and

operational management of the services and functions for which they are responsible.

- (23) To make non substantive amendments to Council policy, subject to consultation with the Monitoring Officer, in order to:
- i) reflect changes in the law, government or regulators' guidance, and other Council policies; or
  - ii) correct obvious, technical or clerical errors and to take account of
- (24) To agree to the receipt of any external funding below the key decision level and the acceptance of any associated funding conditions.

#### **4.10.10 Chief Executive Officer**

##### **Delegations**

##### **Exceptions**

- (1) To act as Head of Paid Service for the Council in accordance with the duties set out in Section 4 of the Local Government Act 1989.
- (2) To determine all staffing matter including but not limited to:-
- (i) Determining matters relating to structure (additions, reductions post title changes and other changes to the establishment).
  - (ii) The appointment, dismissal, suspension or discipline of staff, save that in relation to the Directors, Assistant Directors this does not include the appointment and in the case of the statutory officers their dismissal.
- (3) Approving secondments and temporary appointments of any staff.
- (4) To act as the Safeguarding lead.
- (5) To implement shared services with other local authority or public sector bodies by taking any action necessary to facilitate the arrangements including but not limited to redundancies which may result from implementation.

- (6) Following consultation with the section 151 Officer, delegation in respect of points 1,3 and 1.4 of the Local Government Pension Scheme transfers policy.
- (7) Following consultation with the section 151 Officer, if they see fit to accept transfers (in respect of an individual employee's application to transfer in pension from a previous scheme) to the local government pension scheme outside the 12 month period, in those cases where the scheme member has not been informed of the time limit.
- (8) Following consultation with the Licensing Section within the shared Environmental Health service, Legal Services and the Chair of the Licensing Committee to suspend or revoke any Private Hire or Hackney Carriage Driver, Vehicle or Operator Licence in such cases where it would be inappropriate to refer the matter to Licensing Committee for consideration. Where permitted by law, this may be with immediate effect on the grounds of public safety.
- (9) To authorise the making of notices and orders under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014. In the case of Public Space Protection Orders only these will require consultation with the Leader or Deputy Leader of the Council and relevant ward members, and authorisation given incur any necessary expenditure to create, manage or revoke Public Space Protection Orders.
- (10) To guide and where appropriate direct Directors and Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
- (11) To express the views of the Council with regard to Local Government and the functions associated with it, within the general policy laid down from time to time by

the Council or its Committees and to act thereon.

- (12) To take such action as they consider appropriate in an emergency following consultation with the Leader and/or Deputy Leader as they consider the circumstances will allow and where applicable, inform the relevant Portfolio Holder. Any decisions taken under this paragraph shall be reported by the Chief Executive Officer to the next meeting of Council explaining the reasons for the decision.
- (13) If there is an urgent need for a commercial decision, following consultation with the Leader and/or Deputy Leader and the relevant Portfolio Holder, to make the decision and endorsement will be sought from the Executive or Council as appropriate.
- (14) To formulate and co-ordinate advice on strategic and corporate policy and value for money issues.
- (15) To issue/grant such authorisations as may be necessary to enable any employee to undertake with full legal force the full range of their duties subject to such authorisation remaining in force until the next ordinary meeting of the Committee having authority to issue/grant such authorisations.
- (16) To exercise any of the powers delegated to a Director or Assistant Director.
- (17) To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- (18) Following consultation with the Leader or Deputy Leader and on recommendation of the Monitoring Officer, to approve expenditure in pursuance or determination of any employment related disputes including settlement agreements.
- (19) To make customers vexatious under the Compliments, Comments and Complaints Policy.

- (20) To authorise the use of earmarked reserves or Transformation Reserves.

**Delegated decisions relating to Transformation Reserves to be initialed by the Section 151 Officer to evidence they have seen them.**

- (21) Following consultation with the Leader and Deputy Leader, to determine any matter the Council is required to make a decision on under Part 5 Chapter 3 (Assets of Community Value) of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
- (22) To undertake and determine a review under section 92 of the Localism Act 2011 of a listing of an asset of community value, where the original decision was made by another Director.
- (23) To undertake and determine a review of a decision on compensation in relation to a listing of an Asset of Community Value under Regulation 16 of the Assets of Community Value (England) Regulations 2012, where the original decision was made by another Director.
- (24) Following consultation with the Leader and the relevant Portfolio Holder, to determine the action the Council will take on a Neighbourhood Plan proposal following receipt of the examiner's report, in accordance with rule 18 of the Neighbourhood Planning (General) Regulations 2012, where there is insufficient time for the matter to be submitted to Executive to meet the statutory deadline.
- (25) Following a consultation with the Leader and the relevant Portfolio Holder, to make a Neighbourhood development Plan where more than half of those voting in an applicable referendum have voted in favour of the plan.

- (26) to carry out Rights of Way functions for which the Council is responsible under Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) together with rights of way powers as set out in the Town & Country Planning Act 1990.
- (27) To approve applications and carry out associated functions pursuant to the Housing Grants, Construction and Regeneration Act 1996, the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and related legislation (including Disabled Facilities Grants). Applications for discretionary Disabled Facilities Grants must be submitted to Executive.
- (28) To authorise another local authority to carry out the licensing enforcement function in respect of hackney carriage vehicles and private hire vehicles for the Council as well as the Council retaining those functions.
- (29) To authorise the enforcement officers of the Council to issue notices relating to enforcement, make decisions, or do anything required in respect of hackney carriage and private hire licensing enforcement function.
- (30) To authorise the making of Public Space Protection Orders under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014, following consultation with the Leader or Deputy Leader of the Council and relevant Ward Members, and to incur any necessary expenditure to create, manage or revoke Public Space Protection Orders.
- (31) Following consultation with the Licensing Section within the shared Environmental Health service, Legal Services and the Chair of the Licensing Committee, to suspend or revoke any Private Hire or Hackney Carriage Driver, Vehicle or Operator Licence in such cases where it would be inappropriate to refer the matter to Licensing Committee for consideration. Where permitted by law, this may be with

immediate effect on the grounds of public safety.

- (32) To undertake and determine a review of a decision on compensation in relation to a listing of an Asset of Community Value under Regulation 16 of the Assets of Community Value (England) Regulations 2012, where the original decision was made by another Director.
- (33) To serve Section 215 Town and Country Planning Act 1990 notices.
- (34) To act as the Emergency Planning Lead.
- (35) To complaints and remedial action in respect of high hedges under Part 8 of the Anti-Social Behaviour Act 2003, regulations and orders under that Act, in accordance with procedures approved by the Council.
- (36) Following consultation with the Leader and Deputy Leader to agree extended rent free periods up to 5 years where major building works are undertaken by tenants on Pleasley Vale Business Park.
- (37) (Further delegated to the Assistant Director of Planning) making Local Development Orders (section 61A TCPA) in consultation with the relevant Portfolio Holder.
- (38) (Further delegated to the Assistant Director of Planning) Creating Simplified Planning Zones (section 82n TCPA) in consultation with the relevant Portfolio Holder.
- (39) (Further delegated to the Assistant Director of Planning) Creating Enterprise Zones (section 88 TCPA) in consultation with the relevant Portfolio Holder.
- (40) (Further delegated to the Assistant Director of Planning) discharge of Planning conditions in consultation with the relevant Portfolio Holder.
- (41) Following consultation with the Leader and Deputy Leader to authorise the making of a



compulsory purchase order pursuant to any of the statutory powers enabling the Council to do so and including the exercise by the Council of such powers on behalf of a parish or town council where so requested.

- (42) To act and perform all functions and duties of Electoral Registration Officer, Returning Officer, Deputy Returning Officer, Local Returning Officer, Acting Returning Officer and Local Counting Officer in all elections and referenda.
- (43) To agree to the receipt of any external funding and the acceptance of any associated funding conditions.

#### **4.10.11 Service Director Finance and Section 151 Officer**

##### **Delegations**

##### **Exceptions**

- (1) To act as the Section 151 Officer for the Council in accordance with the duties set out in the legislation.
- (2) Have responsibility for the proper administration of the financial affairs of the Council.
- (3) After consulting with the Head of Paid Service and the Monitoring Officer, as Section 151 Officer, to report to the Council Meeting (or to the Executive in relation to an Executive Function) and the External Auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is lawful and is likely to cause a loss or deficiency or if the Council is likely to enter an item of account unlawfully.
- (4) To approve the Draft Statement of Accounts prior to consideration by External Audit.
- (5) To determine whether an employee who has left the employment of the Councils shall be granted early release of pension subject to Council approval of the budgetary implications.

- (6) After consultation with the relevant Portfolio Holder, to authorise the write-off of bad debts up to an approval limit of £2,500. Larger debts will be included in a report for information to the Executive/Cabinet.
- (8) To authorise any amendments to the list of named officers that may prove necessary during the course of the financial year in relation to the duties identified in accordance with s.223 of the Local Government Act 1972.
- (9) To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- (10) To initial Delegated Decisions relating to Transformation Reserve spend to evidence that the Section 151 Officer has been consulted.
- (11) To authorise small increases in individual budgets of up to £10,000 per budget per year on one occasion in any financial year subject to a delegated decision notice (DD) being produced.
- (12) Following consultation with the Leader and Deputy Leader, to determine any matter the Council is required to make a decision on under Part 5 Chapter 3 (Assets of Community Value) of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
- (13) To undertake and determine a review under section 92 of the Localism Act 2011 of a listing of an asset of community value, where the original decision was made by another Director.
- (14) To undertake and determine a review of a decision on compensation in relation to a listing of an Asset of Community Value under Regulation 16 of the Assets of Community Value (England) Regulations 2012, where the original decision was made by another Director.

- (15) To serve Section 215 Town and Country Planning Act 1990 notices.

#### **4.10.12 Service Director Governance and Legal Services and Monitoring Officer**

##### **Delegations**

##### **Exceptions**

- (1) To act as Monitoring Officer for the Council in accordance with the duties set out in Section 5 of the Local Government Act 1989.
- (2) To institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.
- (3) Authority to sign documents in legal proceedings, contracts, contracts in accordance with the Contract Procedure rules whether under seal or not, any document necessary in legal proceedings on behalf of the Council and information and complaints, and lay them on behalf of the Council for the purpose of Magistrates' Court proceedings unless statute provides otherwise.
- (4) Instruction of Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Council.
- (5) To negotiate and settle claims and disputes without recourse to court proceedings.
- (6) To represent the Authority and secure the appearance of an advocate on the Authority's behalf in any legal proceedings.
- (7) To conduct, authorise and co-ordinate investigations into complaints under the Members Code of Conduct and make reports or recommendations about them to the Standards Committee.

- (8) To advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.
- (9) To provide advice on the scope of powers and authority to take decisions, financial impropriety, probity and Budget and Policy Framework.
- (10) Monitoring and advising upon all aspects associated with the Regulation of Investigatory Powers Act (RIPA).
- (11) To monitor the use of the Gifts and Hospitality Registers and to maintain and sign acknowledgement of entries in the Gifts and Hospitality Register.
- (12) To authorise officers who are not solicitors to represent the Council in legal proceedings in the Magistrates' Court.
- (13) To authorise persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings.
- (14) Following consultation with the Leader and/or Deputy Leader and relevant Portfolio Holder, to make and revoke appointments to outside bodies.
- (15) Following consultation with the Leader and Deputy Leader, to select Members to sit on any appeals hearing dealing with the hearing and determination of appeals relating to employment (including those relating to dismissal or other disciplinary action, sickness absence, pensions and grievance).
- (16) To amend the Polling Place Scheme between reviews, following consultation with the Leader and Deputy Leader.
- (17) To consider and co-ordinate any investigation by the Local Government and Social Care Ombudsman or the Housing Ombudsman subject to informing the Head of Paid Services.

- (18) To consider and report on any report of the Local Government and Social Care Ombudsman or the Housing Ombudsman and to decide on and implement the action to be taken and to approve and make compensation payments on the recommendation of the Ombudsman whether or not a budget exists following consultation with the Head of Paid Service, the Leader and Deputy Leader up to a maximum of £5,000 in respect of each recommendation.
- (19) To provide a dispensation under Section 85 of the Local Government Act 1972, where an application for dispensation has been received and there is no Council meeting in the meeting schedule which could consider the application before expiry, a dispensation may be granted until the date of the next Council Meeting which could consider it.
- (20) to make changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.

#### **4.10.13 Strategic Director of Services**

##### **Delegations**

##### **Exceptions**

- (1) To agree to the purchase of all vehicles subject to the purchase being in accordance with the approved capital budget and the Contract Procedure Rules.

#### 4.11 Proper Officer Provisions

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

#### **Proper Officer Provisions And Designation Of Officers To Statutory Functions/Roles**

The relevant post holders listed below have been designated as Proper Officers, or have been designated to fulfil statutory functions or roles for the purposes of the adjacent legislative provisions and any subsequent amendments:

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
S.83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Director Governance and Legal Services and Monitoring Officer
S.84(1)	Receipt of notice of resignation of elected member	Director Governance and Legal Services and Monitoring Officer
S.88(2)	Arranging a Council meeting to appoint a Chair of the Council	Director Governance and Legal Services and Monitoring Officer
S.89(1)	Notice of casual vacancy	Director Governance and Legal Services and Monitoring Officer
S.100 (except 100(D))	Admission of public (including press) to meetings	Director Governance and Legal Services and Monitoring Officer
S.100B(2)	The officer who may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Director Governance and Legal Services and Monitoring Officer
S.100B(7)	The officer to supply copies of documents to newspapers	Director Governance and Legal Services and Monitoring Officer

S.100C(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Director Governance and Legal Services and Monitoring Officer
S.100D(1)(a)	The officer to prepare a list of background papers for inspection	Director Governance and Legal Services and Monitoring Officer
S.100D(5)(a)	The officer to include in the list of background papers those documents which have been relied upon	Director Governance and Legal Services and Monitoring Officer
S.100F(2)	The officer to determine when a document should not be open to inspection because it discloses exempt information	Director Governance and Legal Services and Monitoring Officer
S.115(2)	Receipt of money due from officers	S.151 Officer
S137A (5)	Statement on Financial Assistance	Director of Finance and S.151 Officer
S.146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Director of Finance and S.151 Officer
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs	Director of Finance and S.151 Officer
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs – Deputy	Director of Finance and S.151 Officer
S.191 (2) and (4)	Officer to whom an application under S.1 of the Ordinance Survey Act 1841 will be sent	Director Governance and Legal Services and Monitoring Officer
S.225 (1) and (2)	Deposit of documents	Director Governance and Legal Services and Monitoring Officer

S.228(3)	Accounts for inspection by any member of the Council	Director of Finance and S.151 Officer.
S.229(5)	Certification of photographic copies of documents	Legal Team Manager
s. 234	The officer required to give, make or issue any notice, order or other document under any enactment and to sign the same	Director Governance and Legal Services and Monitoring Officer
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Legal Team Manager
S.238	Certification of byelaws	Governance & Civic Manager
S.248	Officer who will keep the Roll of Honorary Aldermen and Freeman	Governance & Civic Manager
<b>Local Government Act 1972 – Schedule 12</b>		
Para 4(2)(b)	Signing of summons to Council meeting	Director Governance and Legal Services and Monitoring Officer
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Director Governance and Legal Services and Monitoring Officer
<b>Local Government Act 1972 – Schedule 14</b>		
Para 25	Certification of resolution passed under this paragraph (Street naming etc)	Strategic Director of Services
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Director Governance and Legal Services and Monitoring Officer



<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Director Governance and Legal Services and Monitoring Officer
<b>Local Authorities Cemeteries Order 1977</b>		
Regulation 10	To sign exclusive rights of burial	Strategic Director of Services
<b>Representations of the People Act 1983</b>		
S.8	Registration Officer	Chief Executive Officer
S.8	Deputy Registration Officer	Electoral Services Manager
S.35	Returning Officer for Local Elections	Chief Executive Officer
S.35	Deputy Returning Officer for Local Elections	Electoral Services Manager
S.24	Acting Returning Officer for a Parliamentary Election	Chief Executive Officer
S.24	Deputy Acting Returning Officer for a Parliamentary Election	Electoral Services Manager
S.52	To act in place of Registration Officer	Deputy Registration Officer (see above)
S.67	Appointment of election agent	Chief Executive Officer
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive Officer
S.128, S.131, S.145, S.146	Provisions relating to election petitions	Chief Executive Officer
S. 200	Publication of Notices under the Act	Chief Executive Office
Sch. 4, (3), (6) and (8)	Elections Expenses	Chief Executive Officer

<b>Local Authorities (Conduct of Referendums) (England) Regulations 2012</b>		
S. 4, S41 and S.43	Publicity in connection with the referendum and the Declaration of result	Chief Executive Officer
<b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006</b>		
Rules 5	Officer to receive the request for election to fill a casual vacancy in a Parish Council.	Chief Executive Officer
<b>Local Government Act 2000</b>		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Chief Executive Officer except as specifically provided in this scheme
<b>The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</b>		
Regulation 2	Determination of documents constituting Background Papers	Director Governance and Legal Services and Monitoring Officer
Regulation 12	Recording of Executive decisions made at meetings of the Executive or Cabinet	Director Governance and Legal Services and Monitoring Officer
Regulation 14	Inspection of documents following Executive decisions	Director Governance and Legal Services and Monitoring Officer
Regulation 15	Inspection of background papers	Director Governance and Legal Services and Monitoring Officer
Regulation 13	Individual Executive decisions	Director of Governance and Legal Services and Monitoring Officer
Regulation 7	Access to agenda and connected reports	Director Governance and Legal Services and Monitoring Officer

Regulation 10	General exception relating to Key Decisions	Director Governance and Legal Services and Monitoring Officer
Regulation 16	Members' rights of access to documents	Director Governance and Legal Services and Monitoring Officer
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Director Governance and Legal Services and Monitoring Officer
<b>Building Act 1984</b>		
S.78	Signing of Notices	Strategic Director of Services
<b>Public Health Act 1936</b>		
S.85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Strategic Director of Services
<b>Public Health Act 1961</b>		
S.37	Control of any verminous article	Strategic Director of Services
<b>Public Health (Control of Disease) Act 1984</b>		
S11, 18, 20, 21, 22, 24, 29, 31, 36, 40,42, 43 and 48		Director Governance and Legal Services and Monitoring Officer
<b>Public Health (Infectious Diseases) Regulations 1988</b>		
<b>Regulations 6, 8, 9, 10</b> Schedule 3 and 4		Director Governance and Legal Services and Monitoring Officer
<b>Localism Act 2011</b>		
S. 33	Submission of written requests for Standards Dispensations	Director Governance and Legal Services and Monitoring Officer

S. 81	Administration of Community Right to Challenge	Director Governance and Legal Services and Monitoring Officer
S.87	Maintenance of List of Assets of Community Value	Director Governance and Legal Services and Monitoring Officer
<b>Freedom of Information Act 2000</b>		
S. 36	Qualified Person determining prejudice to effective conduct of public affairs	Director Governance and Legal Services and Monitoring Officer
<b>Local Government and Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	Director Governance and Legal Services and Monitoring Officer
S.3A	Employers certificate for exemption from politically restricted posts	Chief Executive Officer
S.4	Head of Paid Service	Chief Executive Officer
S.5	The Monitoring Officer	Director Governance and Legal Services and Monitoring Officer
S. 5	Deputy Monitoring Officer	Legal Team Manager
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	For the purposes of the composition of committees and nominations to political groups	Director Governance and Legal Services and Monitoring Officer
<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>		
Schedule 1, Part II, para 5.	Officer who will be given written notice of appointment or dismissal of officers listed in Schedule 2, Part II, paragraph 3	Chief Executive Officer

<b>Data Protection Act 2018</b>		
S. 69	Data Protection Officer	Information, Engagement and Performance Manager

## Council Procedure Rules

These rules set out how meetings of the Council and most committees will be conducted, for example, who can speak and when and how proposals are debated.

**Unless otherwise stated, or where 'working day' is used as a description, a deadline within this Constitution is deemed to be 5pm**

### 1. Annual Council Meeting

#### TIMING AND BUSINESS

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

#### 1.1A No requirement to hold an Annual Meeting

The requirement to hold an Annual Meeting is to be disregarded and, prior to 7<sup>th</sup> May 2021, an Annual Meeting of Council may only take place:

- a) Where called by the Chair or,
- b) Following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

#### 1.1B The annual meeting will:

- (a) elect a person to preside if the Chair of the Council is not present;
- (b) elect the Chair of the Council;
- (c) appoint the Vice Chair of the Council;
- (d) receive any declarations of interest;
- (e) approve the minutes of the last meeting;
- (f) receive any announcements from the Chair of the Council and/or the Head of Paid Service;
- (g) elect the Leader of the Council in the year of the District Council elections only;
- (h) receive the announcement of the appointment of the Deputy Leader and Members of the Cabinet;

- (i) consider any other business as set out in the notice of the meeting.

## **COMMITTEES AND OUTSIDE BODIES**

- (j) 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 Meeting nor are Executive Functions
- (k) decide the size and terms of reference for those committees;
- (l) decide the allocation of seats to political groups in accordance with the political balance rules set out in Appendix A;
- (m) receive nominations of Councillors to serve on each committee and outside body; and
- (n) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- (o) agree the scheme of delegation set out in Part 3 of this Constitution.
- (p) approve the financial threshold for Key Decisions.

## **2. Ordinary Meetings**

- 2.1 Ordinary meetings of the Council will take place in accordance with the agreed calendar of meetings. Ordinary meetings will:
- (a) elect a person to preside if the Chair of the Council or Vice Chair of the Council is not present.
  - (b) approve the minutes of the last meeting and the Chair will sign them as a correct record;
  - (bb) where the Minutes are approved by virtual means, arrangement will be made after the meeting and within 2 months, for signatures to be made in hard copy.
  - (c) receive any declarations of interest from Members;
  - (d) receive any announcements from the Chair of the Council, Leader, Members of the Cabinet or the Head of Paid Service;
  - (e) receive any Deputations or consider petitions submitted in accordance with the Council's Petitions Scheme.
  - (f) receive any questions from, and provide answers to, the public;

- (g) receive any questions from Members of the Council;
  - (h) deal with any business from the last Council meeting;
  - (i) receive reports from the Executive and the Council's committees and receive questions and answers on any of those reports as required by law or specifically referred by those bodies;
  - (j) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
  - (k) consider motions on notice;
  - (l) consider any other business specified in the summons to the meeting.
- 2.2 It is the right of Council at any ordinary or extraordinary meeting to establish or dissolve any board or committee (apart from the Cabinet) or to review its size and terms of reference, giving regards to existing rules around proportionality.
- 2.3 If a meeting of Council is to be cancelled before the notice and summons has been sent out, this is to be agreed with the Chair and Vice Chair of the Council and the Leader of the Council, or Deputy Leader in their absence.
- 2.4 Under regulation 491) of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, meetings may be moved or cancelled. This shall only be exercised with the consent of the Chair or, in the Chair's absence, the Vice-Chair.

### **3. Extraordinary Meetings**

- 3.1 The people or bodies listed below may require the Head of Paid Service to call Council meetings in addition to ordinary meetings:
- (a) the Council by resolution;
  - (b) the Chair of the Council;
  - (c) the Monitoring Officer;
  - (e) the Chief Financial Officer; and
  - (e) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.



- 3.2 When requested, the Head of Paid Service shall call a meeting of the Council unless he or she is of the opinion that the business to be discussed at the proposed meeting can conveniently wait until the next ordinary meeting of the Council.
- 3.3 \*No business may be conducted at an extraordinary meeting other than that specified in the resolution, request or requisition which led to it being called.

*\*The above paragraph does not restrict the agenda to one item of business and that such items as Questions and Motions shall be included on the agenda for any extraordinary meetings.*

#### **4. Time and Place of Meetings**

- 4.1 All Council meetings will be in accordance with the agreed Meetings Schedule or at such other time and/or place as may be determined by the Chair or, in the Chair's absence, the Vice-Chair in advance of the summons to the meeting being despatched.
- 4.1A For all purposes of the Constitution the term 'meeting' is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to 'place' is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

#### **5. Notice of Meetings**

- 5.1 The Monitoring Officer or other authorised officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules.
- 5.2 At least five clear working days before a meeting, the Monitoring Officer will send a summons signed by him/her by post or electronic mail to every Member of the Council or by leaving it at their usual place of residence. Members may provide details in writing of an alternative address or email to which he/she wishes summons to be sent to.
- 5.3 The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by any relevant reports.
- 5.3A The summons for a virtual meeting will specify the digital platform on which the meeting will be taking place and how Members can access it. Details of how the public may view or listen to the meeting will also be published with the summons.

## **6. Chair of Meeting**

- 6.1 The person presiding at a meeting of the Council may exercise any power or duty of the Chair of the Council. Where these rules apply to meetings of boards or committees, references to the Chair of the Council also include the Chair of boards or committees.
- 6.1A If the Chair is remotely attending a meeting and their connection is disrupted, the Vice Chair shall preside over the meeting in the Chair's absence. If both the Chair and Vice Chair are absent (or disconnected) from the meeting, the meeting will stand adjourned for 15 minutes. If the Chair or Vice Chair is unable to re-enter the meeting, the meeting shall be adjourned to a later date, or the business shall be considered at the next ordinary meeting.

## **7. Quorum**

- 7.1 Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of members or three voting members, whichever is the greater.
- 7.1A A Member attending a meeting remotely will be counted for the purpose of establishing a quorum so long as that Member can, when they are speaking, be heard (and seen where possible) and they can hear (and see where possible) the other Members attending the meeting and the Monitoring Officer, or other officer appointed to act on his/her behalf. In addition, a remote attendee must be able to be heard (and seen where possible) by, and in turn hear (and see where possible) any members of the public entitled to attend the meeting and who appointed to act on his/her behalf. In addition, a remote attendee must be able to be heard (and seen where possible) by, and in turn hear (and see where possible) any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting.
- 7.2 If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will stand adjourned.
- 7.3 During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. If this is caused by technical difficulties experienced by a Member trying to access the virtual meeting, then a period of 15 minutes shall be allowed to allow the issue to be resolved. If the meeting remains inquorate, remaining business will be considered at a time and date fixed by the person chairing the meeting. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 7.3A The failure of any technological provision, whether that leads to a partial or complete loss of contact, shall not invalidate any part of the

deliberations or any vote taken, providing a quorum is maintained. The person chairing the meeting may adjourn the meeting if they deem that appropriate whilst any technological issues are resolved.

- 7.3B If there is urgent or time-limited business that must be conducted at a meeting, it should be made clear to Members that the meeting would continue and a vote would be taken without their attendance in the event of a communication/technical failure.

## **8. Questions by the Public**

### **8.1 General**

- (a) Members of the public may ask questions of members of the Executive at ordinary meetings of the Council.
- (b) Time allowed for questions and answers shall not, without the consent of the Council, exceed 15 minutes, or in the case of one questioner, 5 minutes.
- (c) Questions and responses shall not be a matter of debate.

### **8.2 Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday twelve clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

### **8.3 Number of Questions**

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

### **8.4 Scope of Questions**

The Monitoring Officer may reject a question if:

- (a) it is not about a matter for which the Council has a responsibility or which affects the district;
- (b) it is defamatory, frivolous or offensive;
- (c) it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) it requires the disclosure of confidential or exempt information;

- (e) it breaches any procedure rule;
- (f) it relates to an item on the agenda for that Council meeting; or
- (g) it relates to a planning application that is in the process of being determined by the District Council.

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

#### 8.5 Record of Questions

The Monitoring Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

#### 8.6 Order of Questions

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

#### 8.7 Asking the Question at the Meeting

The Chair of the Council will invite the questioner to put the question to the member named in the notice.

##### 8.7A Management of Public questions for virtual Meetings

It may not be possible for the questioner to attend the meeting of Council by virtual means, and in those instances the clerk to the Council, prior to the commencement of the meeting, will have arranged for the response to their question to be submitted to the questioner in writing, thus allowing an opportunity for a supplementary question to be formulated and offered (without notice) in the meeting. Council Procedure Rules 8.8 and 8.9 still apply in this scenario.

The clerk will read the original question, following which the Member to which the question was put will respond, as per their prior written response. The clerk will then read the supplementary question which will be answered during the meeting.

#### 8.8 Supplementary Question

A questioner who has put a question in person may also put one brief supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise

directly out of the original request or reply. The Chair of the Council may reject a supplementary question on any of the grounds in rule 8.5 above or if the question takes the form of a speech.

#### 8.9 Response

An answer may take the form of:

- (a) a direct oral answer
- (b) where the desired information is in a council publication or another published work, a reference to that publication; or
- (c) a written answer circulated later to the questioner.

#### 8.10 Reference of Question to the Executive or a Committee

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

### 9. **Questions by Councillors**

#### 9.1 On Reports of the Executive or Committee

A Councillor may ask the Leader, the Chair of the Council or a Committee Chair questions without notice about an item in a report of the Executive or of that Committee when it is being considered.

#### 9.2 Questions on Notice at Council Meetings

Subject to rule 9.3, a Councillor may ask the Chair of the Council, the Leader, any Executive Members or the Chair any Committee a question about any matter in relation to which the Council has powers or duties or which affects the District which is not, in the opinion of the Monitoring Officer, illegal, scurrilous, improper or out of order.

#### 9.3 Notice of Questions

A Councillor may only ask a question under Rule 9.2 if either:

- (a) submitted the question in writing to the question to the Monitoring Officer no later than **midday, twelve clear working days** before the day of the meeting; or
- (b) the question relates to urgent matters, they have the consent of the Councillor to whom the question is to be put and the content of the

question is given to the Monitoring Officer by 9 am on the day of the meeting.

- (f) details of questions submitted by Councillors on notice will be circulated to Executive Members immediately after the deadline has passed.

#### 9.4 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) a written answer circulated to the questioner.

#### 9.5 Supplementary Question

A Councillor asking a question under Rule 9.2 may ask one supplementary question without notice. A supplementary question must arise directly out of the original question or reply.

#### 9.6 Number of Questions

Questions on notice are limited to one per Councillor per meeting, plus one supplementary question.

#### 9.7 Time for Questions

There will be an overall time limit of fifteen minutes on Councillors' questions with no extension of time and questions not dealt with in this time will be dealt with by written response.

#### 9.8 Format of Questions

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

#### 9.9 Withdrawal of Questions

A question which has been accepted and published may be withdrawn by the Member who asked it provided that they indicate this in writing to the Monitoring Officer and the Member to which the question has been asked not later than 24 hours in advance of the meeting.

## 10. **Motions - on Notice**

### 10.1 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least one Councillor, must be delivered to the Monitoring Officer **not later than midday on the day, twelve clear working days before the date of the meeting.** These will be entered in a book open to inspection by the public. Details of motions submitted by Councillors on notice will be circulated to Executive Members immediately after the deadline has passed.

### 10.2 Scope

Motions must be about matters for which the Council has a responsibility or which affect the area. The Chair of the Council may, on the advice of the Head of Paid Service, refuse a motion which is illegal, scurrilous, improper or out of order.

### 10.3 Motions Set Out in the Agenda

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

## 11. **Motions and Amendments - Without Notice**

### 11.1 The following motions and amendments may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Councillor arising from an item on the summons for the meeting;
- (f) to receive reports and recommendations of Committees or officers and to make any decisions necessarily arising;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;

- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Procedure Rule;
- (n) to exclude the public in accordance with the Access to Information Procedure Rules;
- (o) not to hear a Councillor further or to require a Councillor to leave the meeting; (rules 22.2 and 22.3) and
- (p) to give the consent of the Council where its consent is required by this Constitution.

## **12. Rules Of Debate**

### **12.1A Debate in Virtual Meetings**

In addition to the below provisions, in virtual meetings, Members, where possible, will indicate a wish to speak at the opening of a debate to allow the Chair to collate a list of Members to call upon. These will be heard in order of receipt.

### **12.1 Seconding Motions and Amendments**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded, without a seconder, the motion or amendment fails.

### **12.2 Right to Require a Motion in Writing**

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

### **12.3 Secunder's Speech**

When seconding a motion or amendment, a Councillor may reserve his or her speech until later in the debate.

### **12.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. A Member presenting a report of the Cabinet or other Member Group or moving a motion, of which notice has been given under Rule 10, may speak for up to ten minutes. No



other speech may exceed 5 minutes. The Chair of the Council may consent to extend the time limit on speeches.

#### 12.5 When a Councillor May Speak Again

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

- (a) to speak once on an amendment moved by another Councillor;
- (b) to move a further amendment if the motion has been amended since he or she last spoke;
- (c) if their first speech was on an amendment moved by another Councillor, to speak on the main issues (whether or not the amendment on which he or she spoke was carried);
- (d) to exercise a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

#### 12.6 Amendments to Motions

- (a) An amendment must be relevant to the motion and should:
  - (i) refer the motion to an appropriate body or individual for consideration or re-consideration;
  - (ii) leave out words;
  - (iii) leave out words and insert or add others;
  - (iv) insert or add words;as long as the effect of (ii) – (iv) above is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

- (g) After an amendment has been carried, the Chair of the Council will read out the amended motion before accepting any further amendment or, if there are none, put it to the vote.

#### 12.7 Alteration of Motion

- (a) A Councillor may alter a motion of which he or she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Councillor may alter a motion which he or she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 12.8 Withdrawal of Motion

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

#### 12.9 Right of Reply

- (a) The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion also has a right of reply at the close of debate on the amendment, but may not otherwise speak on the amendment.
- (c) The mover of an amendment shall have a right of reply to the debate on the amendment, just before the mover of the original motion.

#### 12.10 Motions which may be Moved During Debate

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

- (a) to withdraw the motion
- (b) to amend the motion
- (c) to proceed to the next business

- (d) that the question be now put
- (e) to adjourn a debate
- (a) to adjourn a meeting
- (b) to exclude the press and public in accordance with the access to information rules
- (h) that a Councillor be not further heard or to exclude the Councillor from the meeting (under rules 22.2 and 22.3).

#### 12.11 Closure Motions

- (a) A Councillor may move without comment the following motions at the end of a speech of another Councillor:
  - (i) to proceed to next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair of the Council thinks the item under discussion has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair of the Council thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed, he or she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or adjourn the meeting is seconded and the Chair of the Council thinks the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he or she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) When a motion that the debate be now adjourned is carried, the discussion shall be resumed at the next meeting, when the Member who moved its adjournment shall be entitled to speak first.

*(Members may use the term 'defer', however, in the context of a debate commenced this is classed as 'adjournment').*

12.12 Point of Order

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

12.13 Personal Explanation

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

**13. Previous Decisions and Motions**

13.1 Motion to Rescind a Previous Decision

A motion to rescind a decision arising from a motion moved and adopted at a Council meeting within the past six months cannot be moved unless the notice of motion is signed by at least one third of the all Councillors.

13.2 Motion Similar to one Previously Rejected

A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least one third of all Councillors of Council.

Once a motion or amendment to which this Rule applies has been dealt with, no Councillor can propose a similar motion or amendment within the next six months.

**14. Voting**

14.1 Majority

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

14.2 Chairman of the Council's Casting Vote

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

14.3 Show of Hands

Unless a recorded vote is demanded (under rule 14.4) the Chair of the Council will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

14.3A Voting in Virtual Meetings

Where a vote is taken within a meeting of Council, where affirmation may not be easily seen on screen or where Members are joining by audio means only, the clerk will assist the Chair and request a verbal affirmation by roll call. In this instances, the record of the vote will not be entered in to the Minutes as a Recorded Vote.

14.4 Recorded Vote

If three Councillors 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.

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

14.5 Right to Require Individual Vote to be Recorded

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

14.6 Voting on Appointments

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

The number of votes each Member has is restricted to the number of vacancies to be filled.

**15. Minutes**

15.1 Signing the Minutes

The Chair of the Council will sign the minutes at the next suitable meeting. The Chair of the Council will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

15.2 No Requirement to Sign Minutes of Previous Meeting at an Extraordinary Meeting

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

15.3 Recording Attendance

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.

Where the meeting is attended remotely, Members in attendance will be entered into the register by the clerk.

Any Member leaving a meeting before its conclusion must first indicate to the Chair their intention to leave.

**16. Petitions**

16.1 The Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. All petitions submitted under the Council's Petitions Scheme will receive an acknowledgement from the Council within 10 working days of receipt.

16.2 That acknowledgement will set out what the Council plans to do with the petition.

16.3 If a petition contains more than 1,000 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.

16.4 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.

16.5 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.

- 16.6 The Council will decide how to respond to the petition at this meeting.

*[Please refer to the Petition Scheme appended to the Constitution for full details.]*

## **17. Deputations**

- 17.1 Deputations may be received at any meeting of the Council following five clear working days written notice to the Monitoring Officer. They must be about matters for which the Council has a responsibility or which affect the area. The notice must be signed by at least five persons and set out the subject which the deputation wishes to raise and how it relates to the Council's functions or affects the area. The Chair of the Council may, on the advice of the Head of Paid Service, refuse a Deputation which is illegal, scurrilous, improper, out of order or relates to a specific planning application or relates to a matter on which there has been a previous similar deputation within the preceding six months.
- 17.2 A maximum of two Deputations only will be permitted at any meeting and they will be selected in the order notice is received. Only one Deputation will be permitted if the Monitoring Officer receives notice of a petition under Rule 16.
- 17.3 A Deputation may consist of up to five people, of whom no more than two may speak, except to answer Councillors' questions.
- 17.4 The Deputation may address the meeting for no more than five minutes and Councillors may then question the deputation for a further five minutes.
- 17.5 The relevant portfolio holder or appropriate Council Member may, if he or she chooses, then address the meeting for up to three minutes.
- 17.6 No vote will be taken on a Deputation. A Councillor may propose that the subject matter be placed on the agenda of the next ordinary meeting of the relevant committee, such a motion to be moved and seconded formally and put without discussion. If no such motion is moved or carried, the Deputation will be referred to the relevant Strategic Director or Head of Service who will respond to it in writing within 28 days.

## **18 Requirements for Members to Withdraw from Meetings**

- 18.1 Where a Member has a disclosable pecuniary interest in any business of the authority they must withdraw from the meeting room (including the public gallery) whenever it becomes apparent that the business is being considered, unless the member has been granted a dispensation.
- 18.2 Subject to paragraph 18.3 below and paragraph 11 (d) of the Code of Conduct, where a member has a significant other interest in any

business of the authority they must withdraw from the meeting room (including the public gallery) whenever it becomes apparent that the business is being considered.

- 18.3 A Member with a significant other interest in any business of the authority may still attend that 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. Immediately after making representations, answering questions or giving evidence the member must withdraw from the meeting room (including the public gallery) for the consideration and vote on the business.
- 18.3A Where a virtual meeting is taking place or a Member is attending the meeting remotely, if a Member is required to withdraw from the meeting they must do so by disconnecting their telephone/video call.

## **19. Use of Media and Other Communication Methods**

Subject to Rule 22, 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.

## **20. Exclusion of the Public**

- 20.1 The public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 22 (disturbance by the public).
- 20.1A When confidential or exempt issues as defined in Schedule 12A of the Local Government Act 1972 are under consideration at the meeting, no members of the public at remote locations must be able to hear or see the proceedings during such meetings. Any Member in remote attendance who fails to disclose that there are other persons present who are not so entitled will be in breach of their Code of Conduct responsibilities.

## **21. Councillors' Conduct**

### Speaking at Meetings

- 21.1 When a Councillor speaks at Council, firstly they should announce their name and Ward or Cabinet Portfolio (if more appropriate), and he/she must address the meeting through the Chair. Whilst there is no requirement, Councillors are permitted to stand to address Council should they wish to do so.
- 21.2 If more than one Councillor wishes to speak, the Chair will ask one to speak, and the other will refrain. Other Councillors must remain silent



whilst a Councillor is speaking unless they wish to make a point of order or personal explanation.

- 21.3 When the Chair of the Council stands during a debate any Councillor(s) then standing must sit down and the Council must be silent.
- 21.3A Where a virtual meeting is taking place or a Member is attending the meeting remotely, Members must comply with any Council guidelines on how they should indicate their wish to speak and other rules on participation during the course of debate.

#### Disturbance by Members

- 21.4 If a Councillor is guilty of misconduct by persistently disregarding the ruling of the Chair of the Council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any Councillor may move that the Councillor is not further heard. If seconded, the motion will be voted on without discussion.
- 21.5 If the Councillor continues to behave improperly after such a motion is carried, any Councillor may move either that the Councillor leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 21.6 If there is a general disturbance making orderly business impossible, the Chair of the Council may adjourn the meeting for as long as he or she thinks necessary.

#### **22. Disturbance By Public**

- 22.1 If a member of the public interrupts proceedings, the Chair of the Council will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.
- 22.2 If there is a general disturbance in any part of the meeting room open to the public the Chair of the Council shall order that part to be cleared.

#### **23. Suspension and Amendment of Council Procedure Rules**

- 23.1 Any of the Council Procedure Rules to which this Rule applies may be suspended by motion on notice or without notice.
- 23.2 Such a motion cannot be moved without notice unless at least one half of the whole number of Councillors of the Council are present.
- 23.3 Suspension can only be for the duration of the meeting from the point of resolution to the move in to private session.

**24. Application of Council Procedure Rules to Committees**

- 24.1 Rules 5 to 8, 11.1(a) to (p), 12 to 15 and 19 to 24 apply to meetings of all groups and committees.
- 24.2 Rule 13.2 does not apply to applications heard by either the Planning or the Licensing Committee. It does apply however to all other decisions taken by those Committees.

**25. Attendance at Committee Meetings by Members of the Council**

- 25.1 A Member of the Council may, with the approval of the appropriate Chair, attend any meeting of a Committee or Sub-Committee and, if so invited by the Chair of that Committee or Sub-Committee, may speak but not vote on business before that meeting.
- 25.2 No Member of the Council shall attend any Standing Committee or Standing Sub-Committee or any other Committee, Sub-Committee or other body set up by the Council of which he/she is not a member whilst that Committee/Sub-Committee/Other body is exercising any function which, in the opinion of the Head of Paid Service, is engaged in interviewing candidates for any position with the Council or in existing appellate functions in relation to appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council.
- 25.3 In the event of Executive, any Committee or Sub-Committee deciding in accordance with the Access to Information Procedure Rules to exclude the public whilst any matter of a confidential or exempt nature is discussed, any Member of Council who is present who is not a Member of Executive, that Committee or Sub-Committee may remain unless the Executive, Committee or Sub-Committee ask him/her to leave or if he/she 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**

**Proportionality Rules**

1. Eight clear working days in advance of the Annual Meeting of Council (or in advance of any meeting of Council which considers proportionality, the Monitoring Officer shall inform the Leader of each of the political groups showing what allocation of seats would, in the Monitoring Officer's opinion, best meet the requirements of section 15 of the Local Government and Housing Act.
  
2. Proposed nominations to Committees by the Political Groups must be given to the Monitoring Officer seven clear working days prior to the Annual Meeting of the Council, or as soon as practicable before the Annual Meeting.

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 Monitoring Officer as soon as practicable following the elections and the political parties to respond as soon as practicable in advance of the Annual Meeting.

<b>4.2</b>	<b>ACCESS TO INFORMATION RULES</b>
4.2.1	<u>Principles</u>
	<p>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.</p> <p>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.</p>
4.2.2	<u>Scope</u>
(1)	<u>Executive Arrangements:</u>
	Rules 4.2.2 to 4.2.12 apply to all meetings of the Council, Scrutiny Committees, the Standards Committee and regulatory committees and meetings of the Executive (together called meetings).
4.2.3	<u>Additional Rights to Information</u>
	These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.
4.2.4	<u>Rights to Attend Meetings</u>
	Members of the public may attend all meetings subject only to the exceptions in these rules.
4.2.5	<u>Notice of Meeting</u>
	The Council will give at least 5 clear days' notice of any meeting by posting details of the meeting at The Arc, Clowne.
4.2.6	<u>Access to Agenda and Reports Before the Meeting</u>
(1)	The Council will make copies of agenda and reports, which are open to the public, available for inspection at the above address at least 5 clear days before the meeting.
(2)	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.

(3)	Where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.
4.2.7	<u>Supply of Copies</u>
	The Council will supply copies of:-
	(i) any agenda and reports which are open to public inspection
	(ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
	(iii) if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item
	(iv) to any person on payment of a charge for postage and any other costs.
4.2.8	<u>Access to Minutes etc, After the Meeting</u>
	The Council will make available copies of the following for 6 years after a meeting:-
	(i) the minutes of the meeting or records of decisions taken, together with reasons for all, avoiding the disclosure of exempt or confidential information;
	(ii) 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;
	(iii) the agenda for the meeting; and,
	(iv) reports relating to items when the meeting was open to the public.
4.2.9	<u>Background Papers</u>
(1)	<u>List of Background Papers:</u>
	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:
	(i) disclose any facts or matters on which the report or an important part of the report is based; and

	(ii) 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)	<u>Public Inspection of Background Papers;</u>
	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.
4.2.10	<u>Summary of Public's Rights</u>
	These Rules constitute the written summary of the public's rights to attend meetings and to inspect and copy documents.
4.2.11	<u>Exclusion of Access by the Public to Meetings</u>
(1)	<u>Confidential Information – Requirement to Exclude public;</u>
	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)	<u>Exempt Information – Discretion to Exclude Public;</u>
	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.  Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention of Human Rights establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in the Article 6.
(3)	<u>Meaning of Confidential Information;</u>
	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)	<u>Meaning of Exempt Information;</u>
	Exempt information means information falling within the following <b>7</b> categories (subject to any condition) if and so long as, in all the

	circumstances of the case, the public interest in maintaining the exemption outweighs the public interest test in disclosing the information:	
	<b>Schedule 12A Access to information : Exempt Information</b>	
	<b>Part 1 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.  In all the above cases information is exempt if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.  Information falling within any of the paragraphs 1 to 7 is not exempt by virtue of that paragraph if it relates to proposed developments for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations.

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

If the Monitoring Officer thinks fit the Council may exclude access by the public to reports which in his/her opinion relate to items during which in accordance with Rule 4.2.11(4), 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.

#### 4.2.13 Application of Rules to the Executive

Rules 4.2.13 to 4.2.23 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.

#### 4.2.14 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 Chair 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 Chair of the Council may provide permission or, in his absence, the Vice Chair.
- (4) As soon as reasonably practicable after the Council has obtained agreement under paragraph 4.2.14(3) above they will publish a notice setting out why the item was urgent and could not be reasonably deferred.

#### 4.2.15 Key Decisions

In these Rules, a "key decision" means an Executive decision, which is likely:-



- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates: or;
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.

In determining the meaning of "significant" for the purposes of (a) above, the Council must have regard to any guidance for the time being issued by the Secretary of State in accordance with Section 9Q of the 2000 Act (guidance). The Council has decided that revenue income or expenditure of £75,000 or more and Capital income or expenditure of £150,000 or more is considered significant.

#### 4.2.16 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.

#### 4.2.17 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 4.2.18 the decision may still be taken:-
  - (a) where the Monitoring Officer 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 Monitoring Officer 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 5 clear days have elapsed following the day on which the Monitoring Officer made available the notice referred to in sub-paragraph (b).
- (2) As soon as reasonably practicable after the Monitoring Officer has complied with paragraph 4.2.17(1), he/she must publish a notice setting out the reasons why compliance with paragraph 4.2.16(1) was impracticable.

#### 4.2.18 Cases of Special Urgency

- (1) If by virtue of the date by which a decision must be taken paragraph 4.2.17 (General Exception) cannot be followed, then the decision can only be taken if the Monitoring Officer 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 Chair of the Council, or in his/her absence the Vice-Chair will suffice.
- (2) As soon as reasonable practicable after the Monitoring Officer has obtained agreement under paragraph 4.2.18(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.

#### 4.2.19 Recording of Executive Decisions

After any meeting of the Executive or any of its Committees, whether held in public or private, the Monitoring Officer 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.

#### 4.2.20 Recording of Executive Decisions Made by Individuals

- (1) An Executive Decision is defined as a decision in connection with the discharge of an Executive function, which will, or is likely to incur expenditure or savings in excess of £75,000 or generate revenue return/income in excess of £150,000 as a specific consequence of that decision.
- (2) 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 and Civic Team.
- (3) 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.

#### 4.2.21 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.

#### 4.2.22 Additional Rights of Access to Documents for Members of Overview and Scrutiny Committees

- (1) Subject to Rule 4.2.22(3), 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) Where a member of an overview and scrutiny committee requests a document which falls within paragraph 4.2.22(1), the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the executive receives the request.
- (3) Scrutiny Committees are 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) Where the Executive determines that a member of a scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in Rules (1) or (3), it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

#### 4.2.23 Reports to Council 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.

#### 4.2.24 Reports to Council on Special Urgency

The Leader will submit an annual report to Council containing details of each Executive decision taken under the Special Urgency procedure during the period since the last report.

## 4.3 BUDGET AND POLICY FRAMEWORK 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	<ul style="list-style-type: none"> <li>Finance and Corporate Overview Scrutiny Committee</li> </ul>
Budget	<ul style="list-style-type: none"> <li>Council</li> <li>Finance and Corporate Overview Scrutiny Committee</li> <li>Executive</li> </ul>
Capital Strategy	<ul style="list-style-type: none"> <li>Finance and Corporate Overview Scrutiny Committee</li> </ul>
Corporate Plan	<ul style="list-style-type: none"> <li>All Scrutiny Committees</li> </ul>
Crime & Disorder Reduction Strategy	<ul style="list-style-type: none"> <li>Climate Change and Communities Scrutiny Committee</li> </ul>
Health and Well Being Strategy	<ul style="list-style-type: none"> <li>Climate Change and Communities Scrutiny Committee</li> </ul>
Housing Strategy	<ul style="list-style-type: none"> <li>Customer Services Scrutiny</li> </ul>
Business Growth Strategy	<ul style="list-style-type: none"> <li>Local Growth Scrutiny</li> </ul>
Licensing Policy	<ul style="list-style-type: none"> <li>Licensing Committee</li> </ul>
Local Plan	<ul style="list-style-type: none"> <li>Planning Committee</li> </ul>
Pay Policy Statement	N/A

Sustainable Community Strategy	<ul style="list-style-type: none"> <li>• Climate Change and Communities Scrutiny</li> </ul>
Treasury Management Strategy	<ul style="list-style-type: none"> <li>• Finance and Corporate Overview Scrutiny Committee</li> <li>• Executive</li> <li>• Council</li> </ul>

#### 4.3.2 The Framework for Executive Decisions

- (1) 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.
- (2) 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

- (1) 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.
- (2) 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.
- (3) The plan, strategy or budget together with any recommendations from the body will then be reported to Executive who will confirm the contents of the proposal before recommending it to Council.

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

- (1) 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.
- (2) 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 Financial 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 and inform the relevant Portfolio Holder. 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

- (1) 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 agrees that the decision is a matter of urgency.
- (2) 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.
- (3) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### 4.3.6 Virement

- (1) Members of the Senior Leadership Team (SLT) shall have the authority to transfer savings from one budget area towards additional expenditure in another budget area. Any savings secured from staffing budgets may be vired to agency or overtime budgets in order to maintain services with the agreement of SLT. All other vacancy savings will be utilised in order to meet corporate vacancy management targets. Managers within the Accountancy Section shall be entitled to vire budgets for housekeeping purposes within each service area.

The SLT member is required to inform the relevant Portfolio Holder when the virement is in excess of £25,000.

- (2) No officer may vire funds from the Transformation Reserve, authorisation of which is restricted to the Director of Corporate Resources and Head of Paid Service.

**Delegated Decisions relating to Transformation Projects to be initialled by the Section 151 Officer to evidence that she has seen them.**

#### 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 which:-

- (a) will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (c) 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

- (1) An Executive decision can be made either by the Executive at a formally called meeting or under delegated powers by an officer of the Council in accordance with the delegation scheme. 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 Financial Officer.
- (2) 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 and (where appropriate) the delegated decision maker, must meet to decide what action to take in respect of the three officers' report.

- (3) Where the three officers conclude that there was no departure from the Budget and Policy Framework, Executive will prepare a report to the relevant Scrutiny Committee.



- (4) If the decision called-in 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 decision will be referred 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 Proper Officer will request for Council to meet within 10 working days from the consideration by Executive of the Call-In report.

A meeting of the relevant Scrutiny Committee will be called to consider the matter fully prior to a meeting of the Council.

At the Council 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**

- (1) 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.
- (2) 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 (ii to vii) above.
- (3) 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.
- (4) 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?**

- (1) 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.

- (2) The Monitoring Officer, or an officer acting on his/her behalf, shall be responsible for calling meetings.
- (3) 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

- (1) 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 this Constitution.
- (2) 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

##### (1) 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.

##### (2) Rights to Attend;

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

##### (3) 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 set out in Part 4.5 of this Constitution 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?

- (1) The Monitoring 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 Monitoring Officer will comply:-
  - (i) Any Member of the Executive or a Scrutiny Committee,
  - (ii) One of the Scrutiny Committees or the Council have resolved that an item be considered by the Executive.
  - (iii) The Section 151 Officer
  - (iv) Any Director or Head of Service.
- (2) 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 Committees**

- (1) The Council will have four Scrutiny Committees which will perform all scrutiny functions on behalf of the Council, as set out in Part 2, Article 6 of this Constitution. The four Scrutiny Committees will be the;
  - Finance and Corporate Overview Scrutiny Committee
  - Customer Services Scrutiny Committee
  - Local Growth Scrutiny Committee
  - Climate Change and Communities Scrutiny Committee.
- (2) The Terms of Reference of the Scrutiny Committees 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.

The membership of each Committee will reflect the political composition of the Council. Members will be appointed at the Annual Council Meeting, and subsequently as required following a change in political composition and/or responsibilities.

### **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 Committees**

The Scrutiny Committees 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 may be called by the Monitoring Officer if considered necessary following consultation with the Chair of the relevant Scrutiny Committee. Further meetings may be arranged as required on an Informal basis, to enable Review work to be completed.

#### 4.5.5 Quorum

The quorum for each scrutiny committee meeting will be one quarter of the whole number of members or three voting members, whichever is the greater.

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

The Chair of each Scrutiny Committee and any Sub-Committees will be drawn from among the Councillors sitting on the relevant Scrutiny Committee or Sub-Committee, and be appointed by the Annual Council Meeting.

#### 4.5.7 Work Programme

The Scrutiny Chairs will be responsible for setting the Annual Work Programme for each of the four Scrutiny Committees and any Sub-Committees and in doing so shall take into account the wishes of Members of the four Scrutiny Committees or Sub-Committees including the wishes of those who are not Members of the largest political group on the Council. The Annual Work Programme shall include matters on which there are requests from the Council or the Executive for advice, where this can be accommodated

#### 4.5.8 Agenda Items

- (1) Any Member of the relevant Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Governance & Civic Manager of an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request, the Governance & Civic Manager will notify the Scrutiny Officer who will ensure, in consultation with the relevant Scrutiny Chair, that it is included on the next available agenda.
- (2) Any Member of the Council who is not a member of the relevant Scrutiny Committee or Sub-Committee may give written notice to

the Governance & Civic Manager that he/she wishes to refer to that Committee or Sub-Committee any matter relevant to the Committees functions which is not an excluded matter. If the Governance & Civic Manager receives such a notification, then he/she will include the item on the first available agenda of the relevant Scrutiny Committee for consideration by the Committee. The Member concerned shall be entitled to address the Committee.

- (3) The definition of an excluded matter in 4.5.8(2) of these Rules is as follows:
- (a) a local crime and disorder matter which may be referred to the relevant Scrutiny Committee under the provision of 4.5.8(5) of these Rules;
  - (b) any matter relating to a planning or licensing decision;
  - (c) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda or discussion at a meeting of an Overview and Scrutiny Committee or Sub Committee.

A matter will not be defined as an excluded matter under paragraphs a) to c) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis.

- (4) The relevant Scrutiny Committee shall also respond to requests from the Council, as soon as their work programme permits - 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. Policies/strategies will be considered by the relevant Scrutiny Committee before submission to the Executive.

- (5) Any Member of the Council who is not a member of the relevant Scrutiny Committee has the right to refer a crime and disorder matter affecting his or her ward to the relevant Scrutiny Committee. The power to do this is known as raising a Councillor Call for Action (CCfA) but must be exercised in accordance with the guidance and procedures set out in paragraph 4.5.20 of the Scrutiny Procedure Rules. Any Councillor who is already a member of the relevant Scrutiny Committee and who wishes to refer a crime and disorder matter to the Committee may do so under paragraph 4.5.8(1) but must have regard to the guidance in Part 4.5.1 if the matter being raised is a CCfA.
- (6) If the relevant Scrutiny Committee decide not to review or scrutinise a matter or not to make a report or recommendations to the Council or Executive (as appropriate) following the referral of a crime and disorder matter to the Committee in accordance with paragraph 4.5.8(5) of these Rules the Committee must notify the Councillor who made the referral of its decision and the reasons for its decision.

#### 4.5.9 Policy Review and Development

- (1) The role of the Scrutiny Committees, 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.
- (2) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Scrutiny Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (3) 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 and Recommendations from the Scrutiny Committees and consideration by Executive/Council

- (1) Once it has formed recommendations on proposals for development, the relevant Scrutiny Committee will prepare a formal report and submit it to the Monitoring Officer for 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).
- (2) If the Scrutiny Committee cannot agree on one single final report to Executive, or Council as appropriate, then up to one minority report may be prepared and submitted for consideration by Executive or Council with the majority report.
- (3) Where proposals are presented to the Executive, it shall consider the report of the Scrutiny Committee at its next ordinary meeting following submission of the report to the Monitoring Officer.
- (4) 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.

If the Monitoring Officer 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 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.

- (5) The Executive, or Council (if appropriate), shall consider the report of the relevant Scrutiny Committee and respond to their next available meeting, or within a maximum of two months of receiving it.
- (6) For crime and disorder matters (including crime and disorder CCfAs) the Council or Executive (as appropriate) and any of the other responsible authorities or co-operating bodies to whom the report or recommendations have been sent must respond in writing and within 28 days from the date of the report or

recommendations, or if this is not reasonably possible, as soon as reasonably possible thereafter. The Scrutiny Committee must provide the Councillor who made the referral of the crime and disorder matter in accordance with paragraph 4.5.8(5) of these Rules a copy of any report or recommendations made to the Council or Executive (as appropriate) after consideration of that referral by the Scrutiny Committee. If the Scrutiny Committee has published its report then the Executive will publish its response.

- (7) 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.

#### 4.5.11 Rights of Scrutiny Committee Members to Documents

- (1) In addition to their rights as Councillors, Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. Members will also be informed of the Council's Key Decisions.
- (2) Nothing in paragraph 4.5.12(1) prevents more detailed liaison between the Executive and Scrutiny Committees as appropriate depending on the particular matter under consideration.

#### 4.5.12 Members and Officers Giving Account

- (1) 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 Financial Officer, the Monitoring Officer, and any member of the Senior Leadership Team and/or the relevant Service Manager, 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.

- (2) 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

- (1) A Scrutiny Committee may invite people other than those people referred to in paragraph 4.5.12 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.
- (2) The Scrutiny Committee designated as a Crime and Disorder Committee under Section 19 of the Police and Justice Act 2006 may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions. (These are the authorities responsible for the crime and disorder strategy in relation to the local authority area as set out in Section 5 of the Crime and Disorder Act 1998).

#### 4.5.14 Call-In of Key Decisions

- (1) 'Call-in' should not be confused with the scrutiny of anticipated decisions before they are made (i.e. matters on which Scrutiny Committees can formulate proposals and recommendations.) 'Call-in' refers to the calling in of a decision after it is made but before it is implemented, and only applies to Key Decisions.
- (2) When a Key Decision<sup>1</sup> is made by the Executive or a committee of the Executive, or under joint arrangements, or in line with any delegation within the Constitution, the decision shall be published electronically and shall be available at the main offices of the Council within two working days of being made.
- (3) Copies of the Notice of Decision will be provided to all Members within the same timescale.

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<sup>1</sup> A Key Decision is an Executive decision likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates or which is significant in terms of its effects on communities living or working in an area comprising two or more wards in the District. The Council has decided that revenue income or expenditure of £75,000 or more and capital income or expenditure of £150,000 or more is considered significant.

- (4) All Key Decisions will come into effect five working days after the publication of the decision unless three Scrutiny Members give notice in writing to the Governance & Civic Manager requesting to call-in the decision.
- (5) Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in Article 13.2 of this Constitution; where a key decision has been taken which was neither published in accordance with the requirements for the list of Key Decisions, not subject to the 'general exception' or 'special urgency procedures' set out in this Constitution or where a decision is outside the policy or budgetary framework.
- (6) If no notice requesting call-in of a Key Decision is received in this five working day period, the decision may be implemented.
- (7) The call-in request should be on a completed 'call-in' request form and include the names and signatures of the three signatories, the decision-making principles it is believed have been breached and also the reasons for this. The decision-making principles are:-
  - Proportionality (the decision must be proportionate to the desired outcome)
  - Due consultation and the taking of professional advice from officers
  - Respect for human rights
  - A presumption in favour of openness
  - Clarity of aims and desired outcomes
  - Regard for equal opportunities
  - Options are considered and reasons for the decision given
  - Consideration of all relevant factors
  - Decision is in the best interests of the District as a whole
- (8) Upon receipt of the call-in form, the Governance & Civic Manager will consider the request to ensure the correct information has been submitted. The Monitoring Officer may reject it if:-

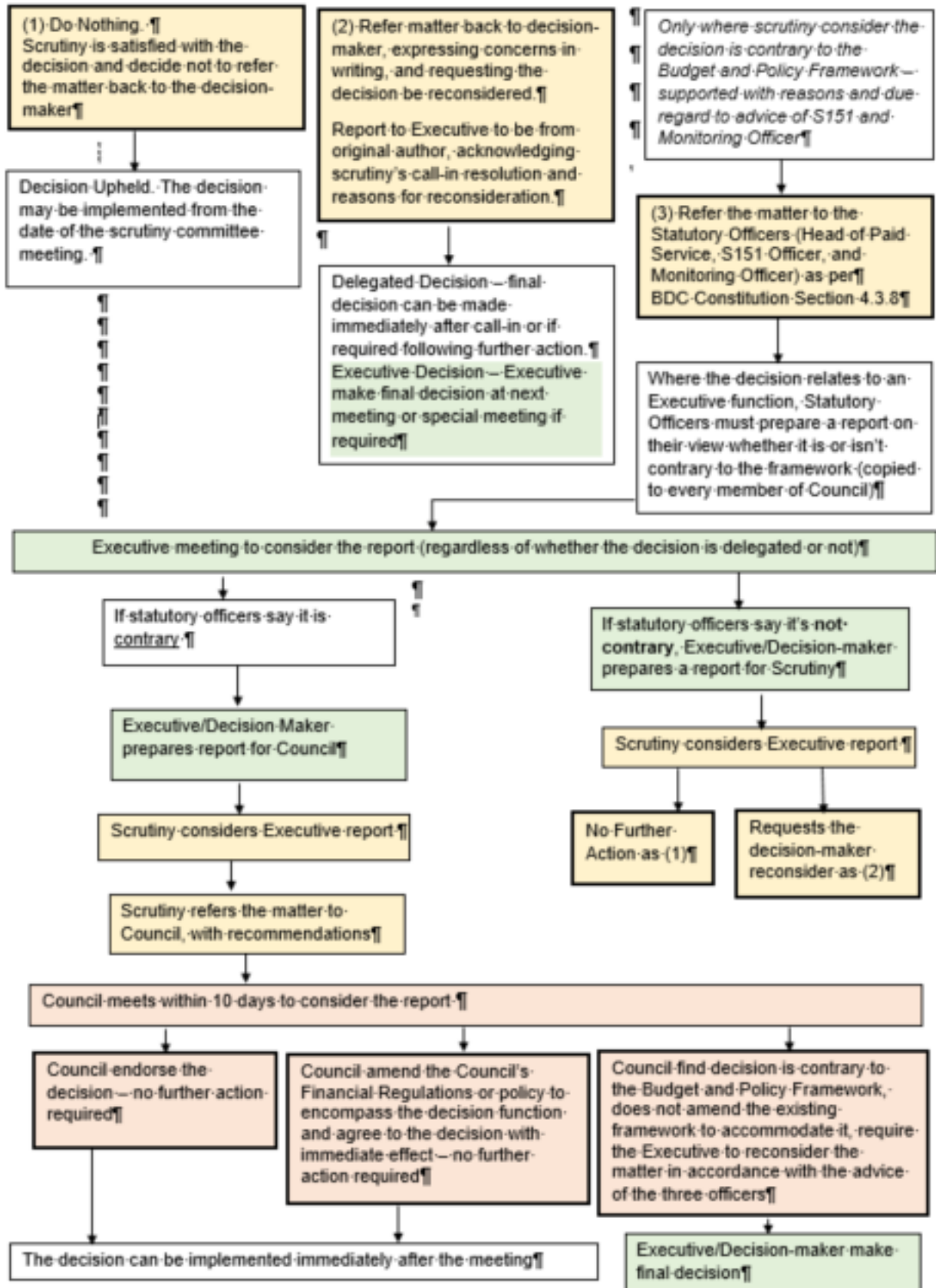
- It relates to a non-Executive decision or is a decision where a statutory appeal is available
  - Insufficient information has been provided
  - It is vexatious, malicious or politically motivated
  - It contains insufficient evidence as to how the decision making principles have been breached
  - The decision has been previously called-in
  - The reasons given have been addressed in a previous call-in
- (9) Reasonable steps will be taken to make the lead signatory aware of any issues regarding the validity of the call-in request prior to the closure of the five working day call-in period.
- (10) Upon determining that the call-in request is valid, the Monitoring Officer will decide, having regard to the functions of each Scrutiny Committee, which Scrutiny Committee will hear the call-in. The Executive/decision-maker and relevant Council officers will also be notified of the call-in request. The Governance & Civic Manager will then call a meeting of the relevant Scrutiny Committee.
- (11) Where two or more valid call-ins are requested on the same issue, the Monitoring Officer should liaise with those requesting (and with the relevant Chair) to ensure that the matters can be considered together, without prejudicing either individual request or requesters.
- (12) The reports to be considered by the Scrutiny Committee should be provided by officers and should reflect the same material that has gone to the original decision-maker. However, it is reasonable for those requesting the call-in to expect additional information to be provided.
- (13) The relevant Scrutiny Committee must meet to consider the call-in as soon as reasonably practicable and at the latest within 20 working days of the receipt of the call-in notice. If the meeting does not take place in this period then the decision may be implemented. Special meetings of the Scrutiny Committee will be called if necessary to consider a call-in in this period.
- (14) The lead signatory, being the first named Member on the call-in, will be invited to attend the relevant Scrutiny Committee to present the call-in, outline the reasons for the request and answer questions from the Committee. They will not be entitled to vote unless they are a Member of the Scrutiny Committee that

considers the call-in. The relevant Executive Member/decision making officer will also be entitled to attend the meeting and be invited to address the Scrutiny Committee and answer questions from the Committee. The format for the call-in consideration is set out in the Call-In Procedure Rules.

- (15) If, having considered the decision, the Scrutiny Committee is still concerned about it; they may refer the matter back to the decision maker setting out in writing the reasons for its concerns. If the decision is a decision made by the Executive, the Executive shall reconsider it at their next meeting, (or a special meeting if necessary), amending the decision or not, before adopting a final decision.
- (16) If the Scrutiny Committee decides not to refer the decision back to the decision-maker, it may be implemented on the date of the Scrutiny Committee.
- (17) If the Scrutiny Committee concludes that the decision is outside the Budget and Policy Framework, then it may refer the decision to Council. When exercising this option, the Scrutiny Committee must evidence how and why the decision is outside the Framework and give due regard to the advice of the Chief Financial Officer and Monitoring Officer on this matter. This is contained within section 4.3.8 of the Budget and Policy Framework Rules.
- (18) If the matter is referred to Council and the Council does not object to a decision that has been made, then the decision may be implemented on the date of the Council meeting.

#### Call-In Procedure Flowchart

On hearing evidence, the Committee can take one of the following courses of action:



#### 4.5.15 Call-In and Urgency

- (1) 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 Chair 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 Chair of the relevant Scrutiny Committee, permission of the Chair of the Council may be sought and in their absence, the Vice-Chair'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.
- (2) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

#### 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) Completion of Review

Where the Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(4) Report Following Review

Following any investigation or review, the relevant Scrutiny Committee shall prepare a report and submit the report to the Executive and/or Council as appropriate and shall make its report and findings public, subject to the Access to Information Rules set out in Part 4.2 of this Constitution.

4.5.18 Procedure for handling petitions at Scrutiny Committees

- (1) Scrutiny Committees have an important role in relation to petitions submitted to the Council. Petitions must be handled in accordance with the Council's petition scheme as set out in Part 7 of this constitution.

4.5.19 Matters within the Remit of more than one Scrutiny Committee

Where a Scrutiny Committee or Sub-Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee or Sub-Committee, then the Committee conducting the review shall invite the Chair of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

Two or more Scrutiny Committees may, from time to time, establish working groups comprising members from their Committees to look into issues of mutual concern.

## COUNCILLOR CALL FOR ACTION – GUIDANCE

### 4.5.20 Councillor Call for Action (CCfA)

#### (1) What is Councillor Call for Action (CCfA)?

The Councillor Call for Action (CCfA) is a mechanism through which Councillors can raise issues relating to a local crime and disorder issue within the ward they represent. These issues are ones of significant community concern and where the usual channels for resolving such issues have been exhausted or have proved unsuccessful at resolving the issue. The CCfA is an act of last resort.

It is important to recognise that CCfA is not guaranteed to solve a given issue. CCfA provides a method for discussing such issues and, through discussion, trying to overcome them.

The CCfA should no longer be used for local government matters unless there are concerns of systematic failure.

#### (2) What does CCfA cover?

CCfA covers local crime and disorder matters of significant community concern. These could be issues identified directly by the Councillor or issues raised by the local residents with the Councillor.

#### Definition of a local crime and disorder matter

Local crime and disorder matter: A local crime and disorder matter, in relation to a member of a local Authority, has been defined to mean a matter concerning:

- i. crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- ii. the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

Other matters (not crime and disorder)

Due to legislation changes there are now fewer restrictions on how Councillors can raise other matters. Under the rules in the Constitution within Part 4.5.8, any Scrutiny Member may request an item be placed on Scrutiny Committee relating to the Committee's functions, provided it is not an excluded matter (see section 3 of this guidance).

**For help with individual CCfAs as to whether they are covered, Members can ask Governance & Civic team or Legal Services or the Solicitor to the Council.**

(3) What issues are excluded from referral as a CCfA?

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes the following matters from referral as a CCfA:

- (i) any matter relating to a planning decision;
- (ii) any matter relating to a licensing decision;
- (iii) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment; unless the allegation is that a function for which the Authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis;
- (iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of an overview and scrutiny committee or any of its sub-committees.

A matter will not be defined as an excluded matter under paragraphs i) to iv) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis.

(4) Who can raise a CCfA?

Any Member of the Council including an Executive Member may raise a CCfA. This is a Council wide process and excludes no Member.

A Councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for Councillors in multi-member wards to agree – any of them can refer a matter.

It is up to Councillors using this guidance to decide:

- which issues to take forward as CCfAs and champion;
- when an issue should be referred to the relevant Scrutiny Committee; and
- when to reject an issue.

It is a matter of judgement for a Councillor to decide which local crime and disorder matters to champion and each local Councillor will be accountable to the local community for these judgements.

(5) What must the Member do before the CCfA can be used?

Prior to a Councillor referring a matter as a CCfA to the relevant scrutiny committee, a Councillor must have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at Ward level. Councillors should:

- For local crime and disorder matters, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.

A Councillor must exhaust other possible methods of resolution.

Other possible means of resolution and/or raising the matter include but are not limited to:-

- Using Scrutiny Committee Call-In where it has not been used on the same issue before, and Executive has made a decision relevant to the issue
- Requesting the item be placed on the Scrutiny Committee work plan

- Raising the matter at Executive
- A Council Motion
- Raising the matter with the local MP
- Formal letters written on behalf of constituents
- Raising the matter with a fellow Councillor in another authority e.g. a County Councillor
- Raising the matter with the relevant member of Senior Leadership Team
- Raising the matter with the CEO
- Raising the matter with the Leader
- A Petition could be submitted to the relevant organisation
- Raising the issue directly with the organisation responsible
- Holding a public Meeting

**Reject if it is any of the following:**

- An individual complaint (unless it is a series of individual complaints demonstrating “systematic failure” in a particular area)
- Vexatious, discriminatory or not reasonable (see notes at end).
- It is being used as a “second bite of the cherry” e.g. where a previous call-in has failed, or a petition has already been considered.

**Accept if it is:**

- A crime and disorder issue of genuine local concern; and
- All other avenues for resolution have been followed, and
- This now seems to be the most appropriate way to deal with it.

**The CCfA Request Form also contains a checklist of queries to consider prior to submission of a CCfA, and alternative courses of action.**

(6) What is resolution of the matter?

Councillors will be using CCfA to try to resolve matters that appear to be going nowhere and where all other avenues for resolution have been exhausted. The CCfA will only offer a possible resolution in circumstances where other actions have failed to resolve a matter. Resolution of a matter may not mean the same to all. In this context its meaning is dependent on the outcome you

are seeking. You will need to explain what outcome you want when you put forward the matter as a potential CCfA. However there may be barriers to the resolution you want - for example the absence of funding.

Possible forms of resolution according to the guidance include the following, though the actual form of resolution will depend on the nature of the CCfA:-

- A response has been received from either Executive or Council as appropriate
- You are satisfied with the outcome as set against your original objective
- The constituent who raised the matter is satisfied
- The Scrutiny Committee is satisfied with the outcome
- The matter is to be put forward on the list of future reviews for the next municipal year.

(7) Notifying Governance & Civic Team that you wish to make a Councillor Call for Action.

You can either ring or call in person or complete the Request Form yourself. If you ring or call personally a member of Governance & Civic Team will help you complete the form and explain the exclusions. However if you wish to complete the form yourself you can still ask questions on the details.

Although you are being asked to complete this form (on your own or with officer help) the idea of CCfA is to be as unbureaucratic as possible. However the Council is under a legal duty to consider a properly made CCfA so the CCfA needs recording accurately and entering promptly into the meetings system.

A Member raising a CCfA can present this to Scrutiny Committee verbally or he/she can write a report and present that.

(8) What will happen to the CCfA?

Provided the CCfA meets the criteria it will be submitted to the next available relevant Scrutiny Committee. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

It will be for the member raising the CCfA to gather any information required for submission to the Scrutiny Committee. A failure to do so may result in Scrutiny Committee not being able to consider the matter at the designated meeting. Any reports prepared by the

Councillor would be circulated along with the agenda and other reports for the meeting. This information will need to take account of the disclosures of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972, and the Council's Access to Information Rules.

(8) Procedure at Scrutiny Committee Meetings

The Chair will provide a short introduction to the issues and then invite the Councillor who has raised the CCfA to briefly outline the reasons behind the CCfA, the action taken and responses taken to date and the outcomes sought.

The Chair will then open the discussion and invite other Scrutiny Committee members to ask questions to help clarify the issues and outcomes sought and the appropriate outcome.

The relevant Portfolio Holder, senior officers and/or (where appropriate) representatives from partner organisations will be invited to attend and provide information, respond to questions and assist the Committee to arrive at the appropriate outcome.

Executive Members of partner organisations and/or their officers are not under any obligation to attend Scrutiny meetings - but again in the spirit of closer partnership working we hope they will agree to attend and help resolve CCfAs if requested.

CCfA can be a useful tool for partners. It can involve them in working more closely with local Councillors and by extension, with local communities. Local Councillors can in turn provide valuable advice to partners on local concerns and issues and can act as a vital conduit for information and discussion.

The Chair will sum up the outcome of the debate.

The Committee may resolve the issue at that meeting, or set up a scrutiny review to explore the issue in detail. The Committee may agree a report and any recommendations it wishes to make on the matter and refer these to the Executive. Partners under a duty to respond have two months to do so.

(9) Potential Outcomes

Following a formal hearing, there are a number of potential outcomes from the Committee meeting:



- Where a Committee decides not to take any further action in respect of a Crime and Disorder CCfA (such as to carry out a review of the matter) it will inform the Member who referred the matter, in writing, of its decision and its reasons for that decision.
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue.
- Should a CCfA hearing result in a report or recommendations to the Executive or Council being made, a response to the recommendations, setting out any action it intends to take, if any, will be given within two months of the report or recommendations being notified to the Executive or Council.
- Should a CCfA hearing result in a report or recommendations to a partner organisation, such organisations will also be requested to make a response to the report or recommendations. Partners have a duty to provide information to Scrutiny Committees when requested and to consider and respond to Scrutiny Committee reports and recommendations, setting out what action they will take in response, or their reasons for taking no action, within two months of receiving the report.

Once the Committee has completed its work on the CCfA referral, the Member who made the CCfA referral will receive a copy of any report or recommendations made. The reply will also be printed on the Council's website (unless there are reasons why the committee treats the matter as a confidential item or an exempted item and as a result the report is not made public).

As per the case with scrutiny review recommendations, there would be a minimum 12 month monitoring period for any recommendations made.

## (10) Explanatory Notes

### Definition of a Complaint

For the purpose of the Council's procedure the Council accepts the Local Government Ombudsman's definition.

*"An expression of dissatisfaction by one or more members of the public about the Council's action or lack of action or about the standard of a service, whether the action was*

*taken or the service provided by the Council itself or a person or body acting on behalf of the Council.”*

Statutory Regulations state that any matter which “is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee is to be excluded”.

Definitions of “vexatious” “persistent” “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee is to be excluded”.

Vexatious/Persistent

Whether a request is vexatious is a flexible balancing exercise, Deciding taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid –it may relate to a systematic problem that has not been effectively resolved. Similarly, a request which some members may regard as vexatious, for political reasons, may actually be entirely reasonable.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor’s requirements.

Discriminatory

A modern interpretation of the word “discrimination” is provided at Section 13 of the Equality Act 2010, in relation to protected characteristics, as follows:

*A person (A) discriminates against another (B) if because of a protected characteristic, A treats B less favourably than A treats or would treat others. Protected characteristics are defined in section 4 of that Act as: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.*

Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret “not reasonable” as being the same as the legal word “unreasonable”. It is best to consider it as a qualifier to the word “vexatious”, as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

# COUNCILLOR CALL FOR ACTION – REQUEST FORM

Councillor's name: .....

Councillor's Parish or Ward: .....

Date: .....

Parish/ Ward/ Locality affected by Councillor Call for Action issue: .....

.....

**Description of Councillor Call for Action**

Please outline the issue you wish to raise

Please set out the background to the issue and why you think it should be considered as a Councillor Call for Action.

**Desired outcome or "resolution" of the issue.**

Please consider whether the following exclusions apply to the issue you wish to raise. Alternative contacts are given below where appropriate:-

<b>Consideration</b>	<b>Exclusion</b>	<b>Action required</b>
Is the matter a Planning or Licensing matter?	Yes	The Councillor Call for Action does not apply to regulatory matters which have their own method of resolution.
Is the matter a complaint against a member of staff or related to an employee disciplinary or other HR matter	Yes	Refer to the HR & Payroll Manager to be picked up under the Council's Disciplinary or other relevant HR procedure.
Is the matter a complaint against another member?	Yes	Refer to the Solicitor to the Council to be dealt with by the Standards Committee under the Local Assessment of Complaints Procedure.
Is the matter vexatious?	Yes	The Councillor Call for Action excludes vexatious complaints. Refer to the Compliments, Comments and Complaints Procedure as it contains a definition of vexatious complaint used in considering customer complaints. This should be applied to CCfA. The Customer Services Manager or the Customer Standards & Complaints Officer can give further advice.
Is the matter discriminatory?	Yes	Refer to the definition in the Corporate Equality Scheme or ask the Information, Engagement & Performance Manager for further advice.
Is there another method of resolution?	Yes	Councillor Call for Action is a last recourse and should not be used in the first instance to try to resolve a matter. Other ways of dealing with issues are given in the Councillor Call for Action guidance.
Is this an individual service complaint/issue?	Yes	Unless this is a complaint of systemic failure the matter should be referred to the Customer Services Manager to be dealt with under the Compliments, Comments and Complaints system. The Councillor Call for Action is not for use with individual service complaints.  Where there are multiple instances of failure indicating a systemic failure, then a CCfA could be considered for an excluded matter.

<b>Consideration</b>	<b>Exclusion</b>	<b>Action required</b>
Is the matter the subject of a current call-in by Scrutiny Committee?	Yes	The Councillor Call for Action cannot be used where there is a Call-in on the same matter currently going through Scrutiny Committee.
Is the matter an Executive decision that could still be called-in through Scrutiny members' powers?	Yes	The matter should first face Scrutiny Committee Call-in and any other possible means of resolution before CCfA is considered.
Is the matter already included in the current scrutiny work plan?	Yes	Refer the matter to the Scrutiny and Elections Officer to include as part of the review already planned.
Is the matter a wider policy issue which could be addressed as part of the Scrutiny Committee's future work plan?	Yes	Refer the matter to the Scrutiny and Elections Officer to put on the list of matters to be considered by Scrutiny Committee for future reviews.

The Councillor Call for Action is a last resort and should only be used where other action has failed. The Councillor Call for Action guidance gives a list of other actions which could be taken and advice can also be sought from relevant officers.

- Where else has this matter been considered or what other action has been taken to resolve this issue? (Give evidence of consultation/action by other Ward Councillors/officers.)
- Have other agencies been contacted? (For example has it been to Scrutiny Committee previously?)

Please list these below and provide details of the outcomes of these actions e.g. responses.

If the Councillor has not exhausted other possible means of resolution, he/she should be referred to the examples of alternative means of resolution listed in the guidance. **The matter cannot be dealt with as a Councillor Call for Action in these circumstances.**

**If the Councillor has exhausted all other possible means and has listed sufficient evidence that there is a crime and disorder issue of genuine local concern, then a CCfA would seem the most appropriate way to deal with it.**

***\*This part of the form is to be completed by the Governance & Civic Team.***

Log Number of Councillor Call for Action: .CCfA \_\_\_\_/20\_\_\_\_

- Is the matter going to be dealt with as a CCfA ? Yes/No (if no state reason).

- If the matter is not excluded by one of the above exclusions, refer to the next possible meeting of the relevant Scrutiny Committee.

Date of Scrutiny Committee:

.....

Date that Governance & Civic Team informed to put on the agenda:

.....

Inform the Councillor, that he/she will need to either write a report or verbally present the item and any supporting evidence at the Scrutiny Committee. In either case, the agenda item will need to identify the nature of the Councillor Call for Action so discuss an agenda item title with the Councillor. If the member is to write a report, give details of the deadlines.

- Is a report to be written by the member or will the member present the report verbally to the meeting?

(delete as appropriate) **Written Report/Verbal Presentation**

- If the member is to write a report for inclusion with the meeting agenda, give details of the deadlines.

Date of deadline for written report:

.....

**In any case where the Councillor disputes whether a matter can be treated as a CCfA, this should be referred to the Solicitor to the Council for determination.** The Solicitor to the Council will consult the relevant Scrutiny Chair before reaching a decision.

**Please note that this Councillor Call for Action request may be released under the Freedom of Information Act.**



## **EXECUTIVE/SCRUTINY PROTOCOL**

### 4.5.21 Executive/Scrutiny Protocol

This protocol sets out an agreed way of working in respect of:-

- Attendance by Executive Members at Scrutiny Committees;
- Attendance by Executive Members at Informal Scrutiny Committees;
- Attendance by Officers at Scrutiny Committees;
- Attendance by Scrutiny Members at Executive;
- Referral of items by Executive (or Council) to Scrutiny for inclusion in the Work Programme;
- Development of the Scrutiny Work Programme
- Policy Review and Development;
- The submission of Scrutiny reports to the Cabinet (and Council);
- Responding to Scrutiny recommendations;
- Compliance with the Protocol.

#### (1) Attendance by Executive Members at Scrutiny Committees

Members of the Council and Executive may attend meetings of a Scrutiny Committee to observe proceedings.

Executive Members may speak at Scrutiny Committee meetings at the invitation of the Chair.

Attendance by Executive Members at Scrutiny Committees is expected wherever an agenda item relates to their Portfolio. This may be a Policy/Strategy report; performance update or in relation to a review undertaken. Where possible the Executive Member should take an active part in presenting the report, supported by officers.

Executive Members will be informed at an early stage about Scrutiny reviews and agenda items that are wholly or partly within the remit of their Portfolio.

When attendance is required sufficient written notice (includes email) will be given and the purpose of the attendance explained. This will include circulation of agenda papers and official meeting appointments in advance of the meeting.

(2) Attendance by Executive Members at Informal Scrutiny Committees

Attendance by Executive Members at review working groups/Informal Committee is to inform debate, clarify matters and contribute to a specific topic rather than to be held to account in respect of matters relating to the Portfolio Holder's responsibilities.

When attendance is required sufficient written notice (includes email) will be given and the purpose of the attendance explained. This will include circulation of agenda papers (where relevant) and official meeting appointments in advance of the meeting.

(3) Attendance by Officers at Scrutiny Committees

As outlined in the Scrutiny Procedure Rules there are specific circumstances in which officers will be required to attend Committee.

Officers will be given sufficient notice of the meeting and any report requirements. Agenda papers will be circulated giving at least five working days' notice of the meeting at which he/she is required to attend.

Officers in attendance at Scrutiny Committee meetings should be prepared to assist Executive Members in the provision of information to the Committee in response to any question raised.

They should also be prepared to support the Executive Member in presentation of report to Committee.

(4) Attendance by Scrutiny Members at Executive

Members of a Scrutiny Committee may attend meetings of the Executive to observe proceedings.

Members of a Scrutiny Committee may speak at Executive meetings at the invitation of the Leader.

The Chair or Vice-Chair of the relevant Scrutiny Committee will be invited to attend the Executive meeting to present scrutiny reports and recommendations.

(5) Referral of items by Executive (or Council) to Scrutiny for inclusion in the Work Programme

In making a referral to Scrutiny, the Portfolio Holders, Executive or Council should:

- Direct the referral to the Chair of the relevant Scrutiny Committee;
- Specify the reasons for the referral;
- Indicate what type of response is being sought (e.g. spotlight review);
- Provide information on any relevant timescales.

The relevant Scrutiny Committee Chair will determine which meeting of the Committee will receive and consider the referral and report back its decision to the Portfolio Holder, Cabinet or Council within agreed timescales.

Where the review suggestion is identified early enough the Executive/Executive Member should complete the Topic Submission Form and present to Scrutiny Committee for discussion prior to the start of the municipal year – where possible by 30<sup>th</sup> April.

Where the topic suggestion is in-year, the Executive/Executive Member should submit the completed form to the relevant Scrutiny Committee.

Attendance at the meeting where the suggestion is considered, to enable effective presentation to Scrutiny is expected, this can include attendance by lead officers.

(6) Development of the Scrutiny Work Programme

The work programme is a flexible plan which outlines the programme for the coming municipal year and is usually developed at the first meeting of each Scrutiny Committee after the Annual Council. The programme is drawn together by the Chair and members of the Committee and can include issues put forward by Members, topics that arise during discussion with Portfolio Holders and senior officers, concerns generated from Corporate Complaints, issues highlighted from the results of Citizen's Panel surveys, performance data and potential issues arising from corporate priorities.

All suggested topics for review should be presented to the Committee on the Topic Suggestion Form, to enable the Committee to assess suitability of suggestions using the prioritisation aid.

Topic suggestions are invited from Executive, all Non-Executive Councillors, Senior Leadership Team, senior managers, and the Equality Panel.

Consideration is also given to the Internal Audit Plan to ensure there is no duplication of work.

Each review topic suggestion will be given a score as a result of the prioritisation process and then progressed accordingly.

The work programme will also include all necessary monitoring reports in relation to elements of the Budget & Policy Framework that correlate to the Scrutiny Committee's terms of reference.

The Scrutiny Committee's will consider their work programmes at every meeting and adapt as required to include additional items, where possible, or adjust the timing of reports, where required.

#### (7) Policy Review and Development

As per the Council's corporate approach to Strategy and Policy development, the relevant Scrutiny Committee will need to be engaged as part of the development of any new Strategy or Policy. This will likely be within the consultation phase and again with the final draft document prior to submission to Executive.

In relation to those Strategies contained in the Budget & Policy Framework, the relevant Scrutiny Committee will also receive a minimum of an annual monitoring update on progress/performance against the objectives agreed.

#### (8) The submission of Scrutiny reports to the Executive (and Council)

The relevant Portfolio Holder(s) and lead officer(s) will be informed of the scope and timing of the Scrutiny review at an early stage, ideally prior to formal approval by the Scrutiny Committee.

Prior to finalising their reports, Scrutiny Committees will discuss their emerging recommendations with the Portfolio Holder(s) and lead officer(s).

The relevant Portfolio Holder(s) and lead officer(s) will be invited to attend the Scrutiny meeting that considers the review report.

Scrutiny review reports will be considered by relevant members of Senior Leadership Team before their submission to Executive, in order to provide a view on the feasibility of recommendations, including information on the costs, risks and benefits.

The relevant Portfolio Holder will be briefed by the lead officer and/or the Scrutiny & Elections Officer prior to the submission of the report to Executive.

The Chair/Vice-Chair of the relevant Scrutiny Committee will be invited to the Executive meeting (or Council where appropriate) to present Scrutiny review reports, **for Members to consider the Review Report and endorse, reject or amend the recommendations.**

(9) Responding to Scrutiny Recommendations

Executive will respond to recommendations from Scrutiny as soon as possible and within a maximum of two months. Any extension to the timescales will be agreed with the Chair of the relevant Scrutiny Committee.

If Executive fails to consider the recommendations or agree extensions to timescales, the report will be submitted to the next meeting of Council for consideration.

Executive's response will indicate whether each Scrutiny proposal/recommendation is accepted, rejected or deferred, giving reasons for that decision. This will be set out in an action plan acknowledging resources required, lead officers, comments from the service and delivery timescales.

Executive's decision on the recommendations will be reported to the next scheduled meeting of the relevant Scrutiny Committee for consideration.

The Scrutiny Committee will consider Executive's response and action plan and **commence a 12 month Post-Scrutiny Monitoring period, with an Interim Update at six months.**

The relevant Portfolio Holder and lead officer will prepare progress reports in line with the agreed monitoring timescales and will attend the Scrutiny Committee meeting to present it.

(10) Compliance with the Protocol

The Monitoring Officer is responsible for overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny. Matters relating to the protocol's success will be reported to full Council through the scrutiny annual report. The role also includes promoting the role of the authority's Scrutiny Committees, providing support and guidance to Members and officers relating to the functions of the Scrutiny Committees and providing a link

between the Executive, Scrutiny Committees and the Senior Leadership Team.

The Scrutiny & Elections Officer will support the Monitoring Officer in ensuring compliance with the protocol. Acting in an advisory role with Scrutiny Members.

## **4.6 CALL-IN PROCEDURE**

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

Any Member of any of the four Scrutiny Committees, with the support of two further Scrutiny Committee Members from within the membership of the four Committees.

### **4.6.2 Deadline Date for Calling In Decisions**

The deadline date for any decision eligible for call-in will be published on the decision notice produced within two working days of the decision being taken. The time scale for call-in is five clear working days from the publication date of the decision notice.

### **4.6.3 Method by which Items May be Called-In**

All Call-in requests must be received on a Call-in Request Form prior to the close of the Call-in Period. However, Members may give early notice of Call-in, in writing, in person or over the phone.

### **4.6.4 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.

### **4.6.5 What may be Called-In**

Any Key Decision on an Executive agenda other than an agenda item which is part of the Budget and Policy Framework, or any Key Decision made by the Leader/Portfolio Holder or officers under delegated powers.

### **4.6.6 Call-in Process**

- (1) The process for considering the Call In is set out below:
  - (a) Lead signatory submission – The lead signatory to the Call-in will be invited to address the Scrutiny Committee and make a statement of explanation in respect of the decision called-in. They should aim to explain how the decision is in breach of the decision-making principles. The address should be limited to 20 minutes. The lead signatory may

share the 20 minutes with other signatories. The Scrutiny Committee may ask questions of the lead signatory. The three signatories to the Call In are asked to set out their reasons for calling in the item.

- (b) Portfolio Holder/Decision-Maker submission – The lead Portfolio Holder (or the Decision-maker if a delegated decision) will be invited to address the Scrutiny Committee. Relevant officers can be called upon to support the submission. The address should be limited to 20 minutes and should address the reasons given by the lead signatory for the call-in. They should also aim to explain why the decision has not breached the principles of decision-making. The Scrutiny Committee may ask questions of the portfolio-holder/decision-maker.
- (c) Scrutiny Committee deliberations – The Scrutiny Committee needs to make a decision based on the discussion that has taken place. The Chair should make it clear that no submissions from the Portfolio Holder/Decision-Maker or lead signatory (or any other signatory if they have already spoken) will be heard whilst the Committee deliberates. The Call-in signatories, Portfolio Holder and Officers may remain in the room while this happens.
- (d) Right of Reply – The Portfolio Holder/Decision-Maker followed by the lead signatory may exercise a right of reply responding to the submissions and questions previously heard. No questions may be asked after the Rights of Reply. Closing statements should last no longer than 5 minutes.
- (e) Scrutiny Committee decision – The Scrutiny Committee may decide to:
  - Take no further action.
  - Refer the matter back to Executive, or to the Decision-maker for delegated decisions, setting out the reasons for its concerns within the resolutions agreed in the Call-in meeting.
  - Refer to the statutory officers if deemed to be contrary to or not wholly in accordance with the Budget & Policy Framework.

All Members of the Scrutiny Committee designated to hear the Call-in may participate in the vote, including any



signatories to the Call-In, providing they are Members of the Committee

- (2) If the Committee decides on the evidence considered to take no further action and endorses the decision, then the original decision may be implemented immediately after the meeting.
- (3) If the Committee decides to refer the matter back to the Executive/Decision-maker then it will be reconsidered by them subsequent to the Scrutiny Committee meeting, with the outcome of the reconsideration reported back to the next available Scrutiny Committee.

If the matter is to be reconsidered by Executive, the onus is on the original report author/Portfolio Holder to re-submit the matter to Executive, with the inclusion of Scrutiny's findings from the Call-in and recommendations in relation to the original decision.

Having reconsidered the original decision, the Executive/Decision-maker may decide to affirm their original decision, withdraw the decision or to take a different decision.

While reasons do not need to be given as part of the final response to Scrutiny's resolutions, doing so is considered good practice.

- (4) The Committee may not refer the matter to Council unless, supported with reasons and evidence and advice from the 3 statutory officers, it is deemed to be contrary to or not wholly in accordance with the Budget & Policy Framework. The Executive must be involved in the process before Council considers the matter, as per the flowchart at 4.5.14.

## Notice of Call-in Request

In accordance with Rule 4.5.14 of the Scrutiny Rules that are contained within the Council's Constitution, we the undersigned hereby give notice that we wish to call-in the following Key Decision:

Decision (please include minute / delegated decision no.)	
Title of item / decision	
Date of Decision Publication	

We believe that the following principles of decision-making have been breached by the making of this decision (tick only those that apply):

Principle	Tick	Reason why breached
Proportionality		
Due consultation and the taking of professional advice from officers		
Respect for human rights		
A presumption in favour of openness		
Clarity of aims and desired outcomes		
Regard for equal opportunities		
Options are considered and reasons given for the decision		
Consideration of all relevant factors		
Decision is in the best interests of the District as a whole		

As signatories to the form, we confirm we have read and understand the guidance on Call-in.

Lead signatory: .....

Name: ..... Date:.....

Signed: .....

Name: ..... Date:.....

Signed: .....

Name: ..... Date:.....

## Completion of Call-In Request Form – Guidance Note

- (1) Only Key Decisions not already implemented can be called-in.
- (2) Once a Call-in of a decision has taken place that decision cannot be called-in again for the same issues. However, if a revised decision has been made, following previous call-in, and Members believe there is evidence of a different breach, this can be called-in.
- (3) You should only submit evidence against the decision-making principles you believe have been breached. Evidence is NOT required against all the principles.
- (4) When providing reasons of why a principle has been breached, include clear evidence:
  - a. You can make reference to the reports presented as part of the decision.
  - b. You can provide additional documentary evidence e.g. evidence of local opinion/correspondence.

### Examples:

Where a decision is called-in due to a perceived breach of 'Due consultation' and Members believe there is evidence of local opinion that has not been considered, the Members completing the Call-In Request should include evidence of correspondence received that supports the view of the local area. This is particularly important where this could contradict consultation evidence already considered by the decision-maker.

Ensure that the issue being challenged as part of the Call-in is within the boundary of what Scrutiny can address. Scrutiny cannot challenge an issue that should be addressed by a Regulatory Committee such as Planning or Licensing. For example, where reference is made to the impact of a proposed development on the biodiversity of the area, this is a planning consideration to be considered by Planning Committee as part of any planning application – not an issue Scrutiny can impact.

Reference to issues that are beyond the decision in question and that have been dealt with by other processes will not add weight to the Call-in. For example, reference to the impact on highways is in fact a planning consideration which requires a response from DCC Highways in relation to any planning applications impacting the area of the District in question. This is beyond the remit of Scrutiny.

## **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 Director of Finance & Section 151 Officer, the Chief Financial 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 Director or Assistant Director shall consult with the Chief Financial Officer and such report shall include a note of the Chief Financial 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 Financial Officer and the relevant officers 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 Financial Officer and is responsible for ensuring good financial governance across the Authority.
- (6) Section 114 of the Local Government Finance Act 1988, requires the Chief Financial Officer to report on unlawful or potentially unlawful expenditure of a course of action likely to cause loss or deficiency.
- (7) The SLT member is required to inform the relevant Portfolio Holder when the virement is in excess of £25,000

### **4.7.2 Revenue Estimates**

- (1) The detailed form of revenue estimates shall be determined by the Chief Financial 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 Financial Officer in consultation with the Chief Executive and then referred to Senior Leadership 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 Financial Officer make recommendations to the Council on the approval of a four-year medium term forecast and the amount of the Council Tax to be levied.
- (4) The four-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 Value For Money)
  - (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 Director or 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) Members of the Senior Leadership Team (SLT) shall have the authority to transfer savings from one budget area towards additional expenditure in another budget area. Any savings secured from staffing budgets may be vired to agency or overtime budgets in order to maintain services with the agreement of SLT. All other vacancy savings will be utilised in order to meet corporate vacancy management targets. Managers within the Accountancy Section shall be entitled to vire budgets for housekeeping purposes within each service area.

The SLT member is required to inform the relevant Portfolio Holder when the virement is in excess of £25,000.

No officer may vire funds from the Transformation Reserve, authorisation of which is restricted to the Head of Paid Service.

**Delegated Decisions relating to Transformation Projects to be initialled by the Section 151 Officer to evidence that she has seen them.**

- (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 Financial Officer shall ensure that each Director and Assistant 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 four-years shall be prepared annually by the Chief Financial Officer, in consultation with and the Senior Leadership 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 Value For Money 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 Financial 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 Financial Officer to arrange for a satisfactory, and as far as possible, consistent 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 Financial Officer. All such accounting records shall be in accordance with appropriate legislation and relevant codes of accounting practice.

- (3) The Chief Financial 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 Financial Officer shall be responsible for the preparation of the Council's Annual Accounts and shall prepare a Statement of Accounts by 31st May each year, in accordance with the Accounts and Audit Regulations 2015. The Audit Committee shall approve the audited Statement of Accounts by 30<sup>th</sup> September each year.

#### 4.7.5 Banking Arrangements

- (1) The Chief Financial 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 Financial Officer.
- (3) All banking stationery, including cheques, shall be ordered on the authority of the Chief Financial 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 Financial Officer. The Directors and Assistant Directors shall provide the Chief Financial 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 Financial Officer on the occasion of any change. All accounts issued in respect of monies due to the Council shall be made through the Chief Financial Officer or under arrangements approved by that officer.

- (2) Each Assistant Director or Director shall furnish the Chief Financial 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 Financial 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 due to, or to be paid by the Council, shall be ordered, controlled and issued to Departments by the Chief Financial Officer.
- (5) All monies received on behalf of the Council in any Department shall be deposited promptly and intact with the Chief Financial 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 Financial Officer, the Council's bankers or as otherwise directed by the Chief Financial Officer.

#### 4.7.7 Insurance

- (1) The Chief Financial 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 Financial 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 Financial Officer immediately of any loss, liability, or damage, or any event or circumstances likely to lead to a claim.



- (4) No employee, or anyone covered by the Council's insurances, shall admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.
- (5) The Chief Financial Officer shall annually, or at such other period as that officer may consider necessary, review all insurance in consultation with the Directors or Assistant Director 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 Financial Officer or other officer so designated.
- (2) The Chief Financial 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 Financial Officer shall be empowered to name the Council's bankers as registrar in respect of any particular issue when she 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 Financial 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 Financial 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 Financial Officer as appropriate of the circumstances.
- (6) This Council adopts CIPFA's "Code for Treasury Management in Local Authorities". The Council will develop and maintain a Treasury Management Strategy to be approved by Council as part of the budget process. Officers must ensure that all Treasury Management activity is conducted in accordance with this Strategy. Council will monitor adherence to that Strategy.
- (7) 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.

- (8) All Executive decisions on borrowing, investment or financing shall be delegated to the Chief Financial 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".
- (9) The Chief Financial 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 Financial 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 Financial Officer.
- (2) Where the Chief Financial 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 Financial 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 Financial Officer as provided in these regulations.
- (4) Payment shall be limited to minor items of expenditure of amount and nature approved by the Chief Financial 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 Financial 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 Financial 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 Financial 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 Financial 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 Financial Officer by the appropriate Director or Assistant Director with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Financial Officer on the occasion of any change.
- (4) All orders must be placed in accordance with the Council's Procurement Strategy and policies. Standard terms and conditions must not be varied without the prior approval of the Section 151 or the Monitoring Officer. Before placing any order, officers must satisfy themselves that it secures best value for the Council and that the achievement of such best value can be evidenced.

#### 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 Director or Assistant Director or such officer nominated by the Director or 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 Financial 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 Assistant Director shall, as soon as possible after 31st March and in any case not later than the date set by the Chief Financial Officer, notify the Chief Financial Officer of all outstanding expenditure relating to the previous financial year.
- (6) A list of officers authorised to sign on behalf of the Directors and Assistant Directors, together with specimen signatures, shall be supplied to the Chief Financial Officer by the appropriate officer with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Financial 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 Financial Officer immediately after execution.
- (2) Where contracts provide for payment to be made by instalment, the Director or 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 Director or Assistant Director and reported to the relevant committee 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 Director or Assistant Director and all relevant documents, including measurement and working papers and minutes of site meetings to be made available to the Director or 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 the Internal Audit Consortium, who shall be entitled to receive such information and explanations as the Head of the 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 Chief Executive under arrangements approved and controlled by the Chief Financial Officer. The Chief Executive 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 Chief Executive and shall be certified in manuscript. A list of officers authorised to sign together with specimen signatures shall be supplied to the Chief Executive by the appropriate Director or Assistant Director with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Executive on the occasion of any change.

- (3) The Chief Executive is authorised to implement annual increases in salaries and wages in accordance with locally agreed schemes.
- (4) The Chief Executive shall notify the Chief Financial 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 Chief Executive 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 Financial Officer with a note of any limit applying thereto. Amendments to such lists shall be notified to the Chief Financial Officer.
- (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 Financial Officer.
- (6) The Chief Executive shall be authorised to implement national amendments to rates of travelling and subsistence allowances and incidental expenses.

#### 4.7.15 Security

- (1) Each 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 relevant Director in any case where security arrangements may be needed.

- (2) Maximum limits for cash holdings shall be agreed with the Chief Financial 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 relevant Director forthwith. Arrangements for the retention of duplicate keys must be expressly approved by the Chief Financial Officer.
- (4) The Senior Information Risk Officer 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 Director of Governance and Legal Services & Monitoring Officer shall have custody of all title deeds and agreements under secure arrangements 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 their Department and shall see that all stocks and stores received and issued are promptly recorded.
- (2) The Chief Financial Officer, in conjunction with a Director or Assistant Director as appropriate, shall make such arrangements for stock taking as the Chief Financial Officer may deem necessary.
- (3) The Chief Financial Officer shall be entitled to receive from each Director or Assistant Director as appropriate such information as the Chief Financial Officer requires in relation to stores for accounting, costing and financial records.
- (4) The level of stocks shall be agreed between the Director and 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.

#### 4.7.17 Council Assets

- (1) The Monitoring Officer, or such other officer nominated by the Monitoring Officer, 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 Financial Officer.

- (2) The Chief Financial Officer and Senior Valuer will maintain an up-to-date 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 Financial Officer shall be entitled to receive from the Director or Assistant Director, as appropriate, such information as the Chief Financial 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.

#### 4.7.18 Member's Allowances

- (1) The Director of Governance and Legal Services & Monitoring Officer shall operate the payment of Members' Allowances and expenses in accordance with the Council's approved scheme.
- (2) The Director of Governance and Legal Services & Monitoring Officer 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 Director of Governance and Legal Services & Monitoring Officer 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 2015 states: A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance



processes, taking into account public sector internal audit standards or guidance.

- (3) The Council, advised by the Chief Financial Officer, will ensure that appropriate arrangements for undertaking the external audit of the Council's Statement of Accounts and financial arrangements are in place.
- (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 assurance and consulting activity designed to add value and improve the organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.
- (6) The Internal Audit Consortium will comply with its own Audit Charter and the standards set out in the Public Sector Internal Audit Standards (2013).
- (7) A continuous internal audit will be provided by the Internal Audit Consortium in accordance with an internal audit plan agreed by the Chief Financial 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 Governance Statement.
  - (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) Whether operations are being carried out as planned and objectives and goals are being met.
- (8) Accordingly, the Chief Financial Officer and the Head of the Internal Audit 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 employee's 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
- (9) The Head of the Internal Audit Consortium will issue audit reports promptly to the Assistant Director/Director concerned and to the Chief Financial Officer (as client officer) detailing the findings and any recommendations arising from each audit.
- (10) 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 Internal Audit Consortium Manager of any internal controls or changes to internal controls.
- (11) The Internal Audit Consortium Manager 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 has a zero tolerance of all forms of fraud and corruption whether that arises within the Council itself, from its suppliers, its contractors or from partner agencies. The strong counter fraud and corruption culture characterised by zero tolerance is supported and promoted by Members and senior officers.
- (2) The Council has approved an Anti-Fraud and Corruption Strategy and employees, elected Members and those who work with the Council staff are required to abide with the standards set out within that Strategy. It also contains details of the 'Whistleblowing' arrangements in place. Supporting the Zero Tolerance approach to Fraud is the Council's Confidential Reporting or Whistleblowing Policy. Members,

employees and those who work with the Council are expected to use Whistleblowing if they suspect any impropriety, breaches of procedure or acts of fraud or corruption by other members of staff, Council Members, occupants of Council properties and recipients of Housing or Council Tax Benefits.

- (3) 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 Internal Audit Consortium Manager
  - (c) The Chief Financial Officer
  - (d) The Directors
- (4) The officer to whom this is reported should then pursue the matter in accordance with the Anti-Fraud & Corruption Strategy.
- (5) 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 Head of Partnerships and Transformation shall be responsible for the supervision, development and administration of the Council's computer policies.
- (2) The Director of Finance and Chief Financial 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 Financial 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 General Data Protection Regulation and Computer Misuse Act 1990.
- (5) Any breach of these Financial Regulations should be reported immediately to the Chief Financial Officer or to the Internal Audit Consortium. 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 Financial Officer.

## 4.8 CONTRACT PROCUREMENT RULES

### 4.8.1 Introduction

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 both that the Council complies with the statutory framework and obtains value for money including the required level of quality and performance from 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 and the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016, and the Utilities Contracts Regulations 2016 as appropriate (“the Regulations”).

- (1) E-procurement procedures shall be used wherever possible. These include e-tendering, purchase cards, etc. Where appropriate e-auctions may be used, so long as provision is made for this in the advert. Requests for quotations, Selection Questionnaire and invitations to tender should wherever practical be issued to tenderers by electronic means. Where e-tendering is utilised then this must be undertaken by way of the corporate e-tendering system which is managed on the Council’s behalf by the Procurement Unit.
- (2) 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.
- (3) All procurement arrangements must ensure compliance with the Council’s responsibility in respect of the Freedom of Information Act, Environmental Information Regulations 2004 and the Data Protection Act and the General Data Protection Regulation.
- (4) Generally the rules set out in part 4.8.5 must be followed when procuring all good, services or works. Part 4.8.4 contains the exemptions to the normal rules.
- (5) Any employee who fails to comply with Contract Procedure Rules may be subject to disciplinary action.
- (6) **Definitions of terms used in these rules;**

**Code of Practice** Means the Council’s Code of Practice for Procurement including accompanying guidance.

**Contract** Means any form of contract, agreement or other arrangement for the supply of goods, services or works.

**Commissioning Officer** Means any officer who proposes to procure goods services or works.

**DLL** Means Dragonfly Development Limited Company number 10314889 Registered office address The Arc, High Street, Clowne, Chesterfield, Derbyshire, S43 4JY (a Company wholly owned by Bolsover District Council).

**DMBL** Means Dragonfly Management (Bolsover) Limited (DFM) Company number 14767220 Registered officer address The Arc, High Street, Clowne, Chesterfield, Derbyshire, S43 4JY (a Company wholly owned by Bolsover District Council and structured as a Teckal Company).

**Goods** Covers all supplies and materials that the Council purchases or obtains.

**Senior Officer** Means one of the following: Chief Executive, Directors, and Assistant Directors.

**Services** Includes all services which the Council purchases or obtains including advice, specialist consultancy work, agency staff, etc.

**The Regulations** means the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016, and the Utilities Contracts Regulations 2016 and any statutory enactment of them.

**Threshold** means the financial thresholds determined from time to time under the Regulations.

**Works** Includes all construction and repairs in respect of physical assets (buildings, roads, etc.).

#### 4.8.2 Compliance with Contract Procedure Rules

- (1) The provisions contained in these Rules are subject to the statutory requirements of the United Kingdom. It should be noted that the majority of Council contracts are below the Thresholds. The letting and content of contracts shall conform with the Regulations and all other statutory requirements.
- (2) The Regulations cannot be waived, since a failure to comply with legislation may result in a legal challenge with consequent reputational and financial risk. These Rules can only be waived in the circumstances listed in 4.8.4. If you are uncertain, advice should be sought from a member of the Procurement Service or Legal Services.

- (3) In estimating relevant contract values, officers shall have regard to the following rules regarding aggregation. The estimated or proposed contract value is the value or consideration for the contract as a whole (not an annual value) and any contract with an option to extend the contract period will be valued to include any provision for such extension period. For example, a three year option to extend for a further two years will be valued as the consideration for a five year contract.

#### Partnerships

- (4) 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.

Where Partnership arrangements, or working with other public bodies, are used in order to procure goods or provide services then consultation must take place with both the Director of Governance & Monitoring Officer and the Director of Finance & Section 151 Officer prior to entering into such arrangements. Such arrangements should only be pursued on the basis that appropriate approval from the Council's statutory officers and from appropriate Council bodies have been secured prior to any formal commitments being given.

#### 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 £25,000
  - (d) £25,001 to £75,000
  - (e) £75,001 to the relevant Threshold
  - (f) Over the relevant Threshold

The specific rules for each of the above categories is contained in part 4.8.5 of these rules.

- (2) In all instances, goods, services or works should be obtained via one of 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) framework contracts established by Purchasing Consortia or other Local Authorities (following advice from the Procurement Service)
- (f) 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, or to circumvent the procedures set out within this document.

In considering whether to utilise any of the above options officers must take into account the fact that their use is 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.
- (4) Before entering into a contract, the Commissioning 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) 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
  - (d) For contracts where there are clear risks, and for all contracts over £75,000, produce and maintain a documented risk register for the procurement process and for the eventual contractual relationship. As a minimum documentation should be maintained analysing all risks, identifying how they will be managed, and naming responsible officer(s).
- (5) Before entering into a contract the Commissioning 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 these Rules have been complied with, and that the proposed contract represents value for money; and
- (c) For all contracts that exceed £75,000, the Commissioning 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 a designated financial officer, who shall advise on what, if any, security should be provided by the contractor.

(6) Advertising

All tenders shall be advertised as required by the Regulations and full details should be available electronically. As part of the Government's Transparency Agenda details of all forthcoming contracts should be published on the Council's website at the earliest opportunity. Such details should be notified via email to the Chief Financial Officer. Where the contract value is above £25,000 details must also be published on the **Government's Contracts Finder website**. Details of such contracts must be provided to the Procurement Service who will arrange for appropriate advertising to be undertaken. Contract award notices shall be published on Contracts Finder within 90 days of the contract being advertised.

Officers should consider whether the contract will be of benefit to other public sector bodies. If so, consideration should be given to including text along the following lines 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, Nottinghamshire, DDL and DMBL may choose to access the concluded contract, without creating any obligation on behalf of any of them to do so."

Such text should only be incorporated with the approval of the Procurement Service.

- (7) All above Threshold public sector procurement notices shall be referred, in advance of posting on the Governments Find a Tender website, to the Procurement Service to advise on wording.
- (8) Where the contract is over the relevant Threshold the Council must offer unrestricted and full direct free of charge access online to the

procurement documents from the date of publication of the notice on the Find a Tender website.

#### 4.8.4 Exemptions to Contract Procedure Rules (only applicable to below Threshold matters)

(1) In exceptional circumstances and 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, no reasonably satisfactory alternative is available. A proprietary article is an item which the vendor has exclusive rights to sell.
- (b) The work to be executed or the goods or services to be supplied are controlled by a statutory body and there is no reasonable prospect that works, goods or services can be executed or supplied by another statutory or non-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 would not be in the interests of the service or the Council to tender the contract.
- (d) The contract is for the execution of work or the supply of goods or services to be required so urgently as to preclude the invitation of tenders.
- (e) The contract relates to commissioning of projects funded by external grant where, for example, there is no (or insufficient) marketplace to tender for the supply of goods, services or works required.
- (f) The contract relates to a project where there is no (or insufficient) marketplace to tender for the supply of goods, services or works required.

**A decision on whether any of the above exemptions applies shall be made only by a Senior Officer by a formal Delegated Decision. In making the decision the Senior Officer shall consult with the Procurement Service and the relevant Portfolio Holder.**

(2) 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 Procurement

Service to ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK procurement directives and regulations.

- (3) Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed.
- (4) (i) For below Threshold matters all contracts may be awarded directly to DMBL without a Tender / request for quote process.  
  
(ii) For above Threshold matters, subject to compliance with the conditions set out in Regulation 12 of the Public Contract Regulations 2015 contracts may be awarded directly to DMBL without a Tender / request for quote process.
- (5) For below Threshold matters contracts may be awarded directly to DDL without a Tender / request for quote process at the discretion of a Senior Officer by a formal Delegated Decision.

#### 4.8.5 Contracting & Financial Guidelines

- (1) Commissioning Officers should look to order goods and services that are required in-house or through a framework or consortium arrangement as 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 or there is no suitable framework then an alternative supply may be sourced following the rules set out below. In these circumstances the authorised officer must record why the goods or services have been procured through other means, and retain a formal copy of that document. In all circumstances a purchase order must be issued as required by financial regulations.
- (2) It is good practice (for all but small value and routine purchases) to obtain a written quotation. For further information on this, please contact a member of the Procurement Service.
- (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 and preferably from at least three suppliers. There is no mandatory procurement involvement but any subsequent award of goods or services must be reported by the Commissioning Officer to the Procurement Service for noting on the Council's Contracts Register. There is a spreadsheet to record these purchases managed by Finance:  
<S:\Finance and Revs&Bens\Finance BDC\PUB\BDC Quotation Database>

- (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. There is no mandatory procurement involvement but any subsequent award of goods or services must be reported by the Commissioning Officer concerned to the Procurement Service for noting on the Council's Contracts Register. There is a spreadsheet to record these purchases managed by Finance: <S:\Finance and Revs&Bens\Finance BDC\PUB\BDC Quotation Database>
- (5) **Contracts £5,001 to £25,000**  
Procurement of goods and services estimated to be for amounts in the range £5,001 to £25,000 shall be by request for quotation (RFQ) from at least three suppliers. Commissioning Officers should seek advice from Procurement prior to commencing the procurement. Any subsequent award of goods or services must be reported by the Commissioning Officer concerned to the Procurement Service for noting on the Council's Contracts Register.
- (6) **Contracts £25,001 to £75,000**  
Procurement of goods and services estimated to be for amounts in the range £25,001 to £75,000 shall be by formal request for quotation (RFQ) from at least three suppliers. Unless Procurement Services advises that a formal Invitations to Tender should be undertake. Details must also be published on the Government's Contracts Finder website, which must be done through the Procurement Service as a mandatory requirement.
- (7) **Contracts £75,001 to the relevant Threshold**  
Procurement of goods and services estimated to be for amounts in the range of £75,001 to the relevant Threshold shall be by formal open Invitation to Tender (ITT) and advertised on Contracts Finder.
- (8) **Contracts having a value of the relevant Threshold or above**  
Procurement of goods and services estimated to be for amounts in the range of the relevant Threshold AND ABOVE shall be by formal Invitation to Tender (ITT) managed through the corporate e-tendering system and advertised on the Find a Tender website. Where contracts of this value are undertaken then appropriate professional support must be secured from either the Procurement Service or from an appropriately qualified external advisor. Both the Director of Governance & Monitoring Officer and the Chief Financial Officer must be made aware of the position.

In considering whether or not a procurement exercise is caught by the Thresholds you must consult with Procurement Services. In particular you should consider whether extensions to a contract, or operating it for a period in excess of one year, will exceed the relevant Threshold. Where any contract has a value above or approaching the relevant Threshold limits it is the responsibility of the client officer to ensure that appropriate legal advice is secured throughout the tendering and contractual process.

(9) **SME Participation**

To facilitate SME participation in awards of contracts consideration should be given to dividing contracts into smaller lots where appropriate. Procurement Services will advise on whether a contract could be divided. Where a contract may be divided the relevant officer shall consult with a Senior Officer. If a decision is taken not to divide a contract into lots then the responsible officer must maintain a written summary of the reasoning underlying that decision.

4.8.6 Probity

- (1) In every instance appropriate written documentation must be retained together with the rationale for the decision making process. This documentation shall meet as a minimum the requirements specified in the 2015 Public Contract Regulations. In addition, any information that may be required for submitting annual reports to the Government or other agencies must be maintained.
- (2) Documentation in either paper or electronic format must be appropriately filed and retained for an appropriate period of time. The Council's Document Retention Policy will provide appropriate background guidance but ultimately the Senior Officer involved must determine the retention period.
- (3) All contracts for goods, services and works must be registered on the Contracts Register and the original contract documents held centrally and securely in Legal Services.
- (4) Tenderers may be offered a debrief, to assist them in preparing future bids. The Commissioning Officer should also keep a record of all debrief requests and responses.
- (5) In accordance with the Regulations, any company responding to an invitation to tender shall be excluded from the tender process if it, or its directors have been convicted of; corruption, bribery, cheating the revenue, fraud or theft, fraudulent trading, an offence in connection with taxation, an offence under Counter Terrorism legislation or money laundering. Where a service has information relating to the above, contact Legal Services or the Procurement Service for advice.

#### 4.8.7 Receipt and Custody

- (1) Tenders are managed by way of a corporate e-tendering system operated by the Council's Procurement Service. This provides a clear electronic audit trail of the tender process.
- (2) Responses to Selection Questionnaire (SQ) and quotations (RFQs) 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) Where e-tendering is used, all tenders will be submitted to and held in a secure electronic vault. This may only be opened by the Procurement Service after the due date for tenders has closed.
- (2) The lead officer of the evaluation team is responsible for ensuring that the team is adequately resourced to ensure compliance with the Public Contract Regulations and with accepted good practice. A report outlining the results of the evaluation process will then be presented to Executive, if necessary, to approve the award of the contract.

#### 4.8.9 Extension of Deadline for Receipt of Tenders

Where a tender is submitted in competition and is received after the specified time then it shall be disqualified. Before the specified time has been reached, the Director of Governance & Monitoring Officer may determine whether to extend the deadline.

#### 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 evaluated on the basis of "most economically advantageous" tender (MEAT) that complies with the requirements of tender documents, is not excluded by virtue of Regulation 57 of the Regulations and meets the selection criteria. Cost-effectiveness and price quality ratio may be taken into account when determining MEAT.
- (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 above Threshold procurements, a statutory minimum standstill period after the award decision is issued is required to allow companies an opportunity to challenge the decision. The standstill time depends on the circumstances and is set out in Regulation 87 of the Regulations.
- (5) A voluntary waiting period is operated for procurements below the relevant Threshold, at the discretion of the Procurement Service.
- (6) The notification of the award decision to unsuccessful bidders, based on the most economically advantageous tender, must be issued in line with the timescales of the standstill period and should contain:-
  - the award criteria
  - the reasons for the decision, including the characteristics and relative advantages of the successful tender and the score (if any) obtained by the recipient and the successful tender;
  - the name of the winning tenderer
  - confirmation of the dates and duration of the standstill period.

For all sub-Threshold contracts, the following details of contracts that have been awarded should be advertised on the Contracts Finder website:-

- name of contractor;
  - date contract entered into;
  - contract value;
  - whether contractor was SME or VCSE.
- (7) All contracts must be notified to the Procurement Service, including performance monitoring information, with a copy to the Director of Finance.
  - (8) All contracts with a value above the Key Decision threshold must be approved by the Executive. All other contracts may be authorised by a Senior Officer.
  - (9) Where a contract is awarded via a delegated decision following a procurement exercise, the procurement process carried out and the results of the procurement will be published to Members along with the delegated decision notice.

#### 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) The Council 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 Commissioning 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. Advice should be sought from the Procurement Service.
- (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.
- (4) Procurement plans and/or tenders prepared by external consultants on behalf of the Council **must** be referred to the Legal Services and Service Director Finance and Section 151 Officer for approval and advice and the relevant Portfolio Holder be informed.
- (5) The Commissioning Officer is required to submit a Request for Service form (found on the intranet) to the Procurement Service in respect of all consultancy and advisor contracts where the value of the contract is above £5,000. In estimating relevant contract values, officers shall have regard to the rules regarding aggregation-see rule 4.8.2.
- (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 Commissioning Officer at the end of the contract.
- (7) The Commissioning Officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.



#### 4.8.13 Contract Conditions

- (1) Subject to compliance with the financial thresholds for contract formalities set out in 4.8.17 all commissions for goods, works or services must be evidenced by means of either an official order, an award letter or a formal contract and shall specify:
  - (1) the work, materials, matters or things to be furnished had or done;
  - (2) the terms and conditions that apply;
  - (3) the price to be paid, with a statement of discounts or other deductions;
  - (4) the time, or times within which the contract is to be performed;
  - (5) every contract over £75,000 shall be in the form approved by Legal Services.

#### 4.8.14 Extending Existing Contracts

- (1) Rule 4.8.4 (1)(c) enables contracts to be extended. The Commissioning Officer must ensure that there is sufficient budget available for the extension.
- (2) If the original contract was subject to the EU or FTS procurement regulations, the contract can only be extended if it meets one or more of the six statutory grounds as set out in Regulation 72 of the Regulations.

#### 4.8.15 Performance Bonds and Guarantees

Where appropriate the Commissioning Officer shall based on advice from the Director of Finance and Section 151 Officer, include provision in the Contract to protect the Council from a contractor default. This may be a parent company guarantee or performance bond or some other form of financial or performance guarantee. Such performance bonds should provide for a sum of not less than 10% of the total value of the contract or such other sum as the Director of Finance and Section 151 officer considers appropriate.

- (1) 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 will apply.
- (2) 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 where appropriate 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.

#### 4.8.17 Further Information

(1) <b>Total Value</b>	<b>Method of Contract Formation</b>
Up to 75,000	<p>The Corporate Director concerned must issue an official order, award letter or enter into a simple contract made on such terms that have the prior approval of the Director of Governance &amp; Monitoring Officer and be signed by at least one authorised officer.</p> <p>The Director of Governance &amp; Monitoring Officer (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the scheme is less than £75,000.00. In this case, the Corporate Director shall ensure that a formal contract under seal relating to the scheme is made in such terms that have the prior approval of the Director of Governance &amp; Monitoring Officer.</p> <p>Corporate Directors may authorise, in writing, other officers to sign official orders or simple contracts on their behalf at a value agreed with the Chief Executive Officer.</p> <p>Corporate Directors shall supply the names and signatures of signing officers together with the corresponding signing/authorising limits to the Chief Finance Officer and Director of Governance &amp; Monitoring Officer. Corporate Directors shall prepare and keep up-to-date a register of names and signatures of signing officers together with the corresponding signing limits, which</p>

	<p>shall be made available to the Director of Finance &amp; Section 151 Officer and the Director of Governance &amp; Monitoring Officer.</p> <p>Corporate Directors shall ensure that:</p> <p>(1) no official order or award letter be issued or formal contract made for a scheme which will commit Council to expenditure unless provision exists to finance that expenditure.</p> <p>(2) each official order or award letter must set out:</p> <p>(i) the nature and quantity of the work, goods, materials or services.</p> <p>(ii) the agreed value or price and provisions for payment, and trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed.</p> <p>(iii) the quotation, or tender, including the official reference number under which the goods, works or services were sought.</p> <p>(Reference to these documents on a purchase order ensures those specific terms apply to the purchase, rather than the Council's standard purchase order terms of agreement)</p> <p>(3) As soon as possible after any official order, or award letter has been made, the matter must be notified to the Procurement Unit for noting on the Contracts Register.</p> <p>(4) A scanned copy of every executed formal contract must be provided to the Senior Procurement Manager for sorting on the Council's e-tendering system.</p>
<p>£75,001.00 and above</p>	<p>A formal contract under seal executed by both parties must be completed under the direction of the Director of Governance &amp; Monitoring Officer.</p> <p>Provided that these provisions shall not apply when the selected procurement route is by use of a framework agreement</p>

	AND the framework terms and conditions provide that documents are to be executed as a simple contract and not as a deed.
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(2) **Signature**

The Commissioning Officer responsible for securing signature of the contract must ensure (1) that the person signing for the other contracting party has authority to bind it, and (2) they hold authorisation from the Council i.e. an Executive minute or a formal Delegated Decision or if below the DD limit (£50,000) a written authorisation from the Senior Officer to commit the Council to the contract such authorisation must be provided prior to the document being submitted for signature by an approved signatory.

(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 Director of Governance & Monitoring Officer or anyone authorised by the Director of Governance & Monitoring Officer together with a 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 £75,000

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

The original signed/sealed contract must be recorded on the Contracts Register and stored securely within Legal Services.

**Appendix A - Financial Thresholds and Aggregation Rule**

Contract Value		Process	Award Procedure based on	Contract Opportunity Publication/Route	Documentation
From	To				
£0	£1,000	Oral quotation	Preferably at least 3 oral quotations	No mandatory procurement involvement.	Employee identifying need to record details on quotation database.
£1,001	£5,000	Written quotation	Minimum of three written quotations	No mandatory procurement involvement.	Employee identifying need to record details on quotation database.
£5,001	£25,000	RFQ (Request for quotation)	Quotations based on a RFQ document with simplified Ts&Cs	Advise to be obtained from Procurement Services before commencing procurement.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.
£25,001	£75,000	RFQ (Request for quotation)  Procurement may advise to undertake a formal tender in which case the procedure below should be followed.	Quotations based on a RFQ document with simplified Ts&Cs	Mandatory procurement involvement. Advertised on Councils website and the electronic RFQ system (INTEND). Contracts over £25,000 also published on the Contracts Finder website.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.

Contract Value		Process	Award Procedure based on	Contract Opportunity Publication/Route	Documentation
£ 75,001	Up to relevant Threshold as amended each year	Formal tender (report to Executive if over the Key Decision Threshold)	Full tender process	Mandatory procurement involvement. Advertised on Councils website and on the Contracts Finder website, if appropriate INTEND, Specialist publication if appropriate.	ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.
Above Threshold	above	Formal tender	Full tender process	Mandatory procurement involvement. Advertised on the Find a Tender website, the Councils website, if appropriate INTEND, Specialist publication if appropriate.	PQQ and ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.

**NB The Contract Value shall be calculated as follows:** The estimated or proposed contract value is the value or consideration for the contract as a whole (not an annual value) and any contract with an option to extend the contract period will be valued to include also any provision for such extended period (e.g. a three year contract with an option to extend for a further two years will be valued as the consideration for a five year contract).

The calculation will be inclusive of VAT.

## **4.9 EMPLOYMENT 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 Head of Paid Service or an officer nominated by the Head of Paid Service.

#### **(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

- (a) The Council meeting will appoint the Head of Paid Service.
- (b) Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Executive.

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

- (a) The Council meeting will appoint Chief Officers and Deputy Chief Officers.
- (b) An offer of employment as a Chief Officer or Deputy Chief Officer shall only be made where no well-founded objection from any Member of the Executive has been received.
- (c) 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) A decision on whether to dismiss the Council's Head of Paid Service, Monitoring Officer or Chief Financial Officer must be taken by the Council meeting who must consider any advice, views or recommendations made by a panel comprising at least two or more Independent Persons appointed under Section 28(7) of the Localism Act as well as the conclusions of any investigation into the matter and the representations of the relevant officer.



- (2) Priority on the panel will be given to an Independent Person who has been appointed by the Authority and is a local government elector for Bolsover. Thereafter, priority will be given to any other Independent Persons appointed to the Authority and then an Independent Person who has been appointed by another authority or authorities.
- (3) The Panel may only meet to consider the relevant case 20 working days after it has been selected.
- (4) **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.

## 5.1 MEMBER CODE OF CONDUCT

### **Code of Conduct for Councillors**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Each councillor's individual conduct affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

#### **Introduction**

The Local Government Association (LGA) has developed a Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance.

All councils are required to have a local Councillor Code of Conduct. This is Bolsover's Code of Conduct for Councillors which is based on the LGA Model Councillor Code of Conduct. Bolsover District Council will be referred to as "the District Council" throughout.

#### **Definitions**

For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of Bolsover District Council. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the Authority but who:

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Bolsover District Council officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The use of support, training and mediation from the Monitoring Officer, the LGA and elsewhere is encouraged prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles. These are in Appendix A to this Code. This Code should be read in conjunction with these principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- You misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of Councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made to the Monitoring Officer against you. This may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a Councillor:**

##### **1.1 I treat other Councillors and members of the public with respect.**

##### **1.2 I treat District Council employees, employees and representatives of partner organisations and those volunteering for the District Council with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them

to the District Council, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and District Council employees, where concerns should be raised with the District Council's Head of Paid Service in line with the District Council's Protocol for Councillor – officer relations, which is in the District Council's Constitution and other employee policies.

## **2. Bullying, harassment and discrimination**

**As a Councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the District Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the District Council**

**As a Councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the District Council.**

Officers work for the District Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try

and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to information**

**As a Councillor:**

##### **4.1 I do not disclose information:**

<b>a</b>	<b>given to me in confidence by anyone</b>
<b>b</b>	<b>acquired by me which I believe, or ought reasonably to be aware,</b>
	<b>is of a confidential nature, unless</b>
<b>i</b>	<b>I have received the consent of a person authorised to give it;</b>
<b>ii</b>	<b>I am required by law to do so;</b>
	<b>the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or</b>
<b>iv</b>	<b>the disclosure is:</b>
<b>1</b>	<b>reasonable and in the public interest; and</b>
<b>2</b>	<b>made in good faith and in compliance with the reasonable requirements of the District Council; and</b>
<b>3</b>	<b>I have consulted the Monitoring Officer prior to its release.</b>

**4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities including the District Council must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. Councillors should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the District Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a Councillor:**

#### **5.1 I do not bring my role or the District Council into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or the District Council and may lower the public's confidence in you or the District Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the District Council into disrepute.

You are able to hold the District Council and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the District Council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a Councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the District Council provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of District Council's resources and facilities**

### **As a Councillor:**

#### **7.1 I do not misuse District Council resources.**

#### **7.2 I will, when using the resources of the District Council or authorising their use by others:**

- a. act in accordance with the District Council's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the District Council or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the District Council to assist you in carrying out your duties as a Councillor.

Examples include:

- Office support
- Laptop and/or Ipad or other technology

- Stationery
- Transport
- Access to and use of District Council buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the District Council's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I will undertake Code of Conduct training provided by the District Council.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the District Council or its governance. If you do not understand or are concerned about the District Council's processes in handling a complaint you should raise this with the Monitoring Officer.

## **Protecting your reputation and the reputation of the District Council**

### **9. Interests**

**As a Councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the District Council.

You need to register your interests so that the public, District Council employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open



and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest (dpi) as set out in **Table 1**, is a criminal offence under the Localism Act 2011. **Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a Councillor:**

**10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the District Council or from persons who may apply to the District Council for any permission, licence or other significant advantage.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 and where appropriate any with a value less than £25 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the District Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, contact your Monitoring Officer for guidance.

## **11 Training**

You must attend the Mandatory training set out in **Appendix C** and any other training the Council may deem is required from time to time.

You must attend the training detailed above as soon as reasonably practicable:

- (a) after your election; and
- (b) after your re-election;
- (c) after your appointment to a relevant Committee or Sub-Committee; and
- (d) as required after changes in legislation, policy or procedure affecting the relevant Committee or Sub-Committee outlined above; and/or
- e) as frequently as set out in Appendix C

You must attend training if you are instructed to do so by a Standards Hearing

Sub-Committee. If you fail to do so after 3 months or having been offered training on two occasions the fact of your failure will be reported to the Committee.

## 12 Dispensations

The District Council may grant you a dispensation to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest. Requests for dispensation must be made, in writing to the Monitoring Officer, on one of the following grounds:

- That so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business.
- That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter.
- That the District Council considers that the dispensation is in the interests of persons living in the Authority's area;
- That, without a dispensation, no member of the Cabinet would be able to participate in the matter; or
- That the District Council considers that it is otherwise appropriate to grant dispensation.

## 13 Pre determination or bias

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as Member. However **do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, **do** consider the matter with an open mind and on the contents before the meeting at which the decision is to be taken. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) the Head of Paid Service
- (b) the Chief Finance Officer; or
- (c) the Monitoring Officer,

where that officer is acting pursuant to his or her statutory duties.

## The Seven Principles of Public Life

The principles are:

### **Selflessness**

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

### **Integrity**

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

### **Objectivity**

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

### **Accountability**

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

### **Openness**

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

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

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

## Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office as a District Councillor you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest" (DPI)** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees, they will withhold the interest from the public register.

### **Non participation in case of Disclosable Pecuniary Interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the Chamber or room where the meeting is being held unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registerable Interests**

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge) (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Of which you are a member of in a position of general control of management

## Mandatory Training

Training	Scope	Frequency
Planning Committee	Planning legislation and case law. Local Plan policies. Procedures. Role on Planning Committee. Role of a Member of Local Planning Authority Planning Code of Good Practice Relationship to Members' Code of Conduct Development proposals and Interests under Members' Code of Conduct Fettering Discretion in the Planning Process Lobbying of and by Councillors Contact with applicants, developers and objectors Role of Officers Decision Making Public Speaking at Meetings Site Visits How to determine Planning Applications	Prior to sitting on Planning Committee minimum of every two years. Refresher training may be given more frequently.





Code of Conduct / Ethical Governance	<p>Understanding of the Members' Code of Conduct and the governance of the Council.</p> <p>Responsibilities and role as a Councillor.</p> <p>Outline of Constitution</p> <p>Promoting and maintaining high standards of conduct by Members</p> <p>Code of Conduct (including Gifts and Hospitality)</p> <p>The Register of Interests</p> <p>Protocols</p> <p>Guidance</p> <p>Dispensations</p> <p>Political Publicity – rules</p> <p>Data Protection</p> <p>Freedom of Information</p>	At the point of election and on subsequent re-election(s), or at the mid term point.
Equalities and Diversity	To tackle discrimination and social exclusion, promote equality of opportunity and foster good relations between all.	After each election
Safeguarding	<p>To provide guidance and advice to elected Members on;</p> <p>Roles and responsibilities in relation to safeguarding children and vulnerable adults and</p> <p>How Members should raise any concerns and receive assurance about children and adults who may be at risk</p>	Every 2 years.

Lone Worker	Ensuring Members keep themselves safe	After election or re-election. Refresher (online) annually.
Fraud Awareness	To raise awareness of where fraud may occur in District Councils and what actions should be taken.	After each election and bi-annually thereafter
Chairperson (if appointed as a Chair)	To ensure that Members appointed to Chairmanships have the required knowledge, skills and attributes needed to become an effective Chair.	Following initial appointment to position and subject to previous training or experience.
Audit & Corporate Overview Scrutiny Committee	Understanding of Local Government Finances Legislation, case law, policies and procedures relevant to the remit of the Committee and its Sub-Committees	Prior to sitting on the Committee or its Sub-Committees minimum of every four years.

## **5.2 SOCIAL MEDIA GUIDANCE FOR COUNCILLORS**

### **5.2.1 Introduction**

Social media is the term used for online tools, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests. This guidance cover social media issues over the internet and by email, smart phones, social networking sites, blogging, and tweeting.

Social media increases our access to audiences and improves the accessibility of our communication. It enables us to be more active in our relationships with citizens, partners and stakeholders and encourages people to be involved in local decision making, enabling better engagement and feedback, ultimately helping to improve the services we provide.

For the purposes of this guidance, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, MySpace, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this guidance where Bolsover District Council could be represented via online participation.

Bolsover District Council acknowledges social media as a useful tool, however, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the Council to security risks, reputational damage or breach the Data Protection Act.

### **5.2.2 Policy Statement**

This guidance provides a structured approach to using social media and will ensure that it is effective, lawful and does not compromise Council information or computer systems/networks.

Users must ensure that they use social media sensibly and responsibly, in line with corporate policy. They must ensure that their use will not adversely affect the Council or its business, nor be damaging to the Council's reputation and credibility or otherwise violate any Council policies.

### **5.2.3 Purpose**

This guidance applies to councillors and co-opted members. It gives guidelines on how to use social media, sets out how we can effectively manage social media usage and indicates how any risks or pitfalls can be minimised or mitigated.

The following risks have been identified with social media use (this is not an exhaustive list):

- Virus or other malware (malicious software) infection from infected sites.

- Disclosure of confidential information.
- Damage to the Council's reputation.
- Social engineering attacks (also known as 'phishing')
- Bullying or "trolling". An internet "troll" is a person who starts arguments or upsets people, by posting inflammatory or off-topic messages online with the deliberate intent of provoking readers into an emotional response or of otherwise disrupting normal discussion, often for their own amusement.
- Civil or criminal action relating to breaches of legislation.
- Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.
- Breach of the Code of Conduct for Members through inappropriate use.

In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the Council, its employees, councillors, partners and the people it serves. As such this guidance aims to ensure:

- A consistent and corporate approach is adopted and maintained in the use of social media.
- Council information remains secure and is not compromised through the use of social media.
- Users operate within existing policies, guidelines and relevant legislation.
- The Council's reputation is not damaged or adversely affected.

#### 5.2.4 Responsibilities of Councillors

You are personally responsible for the content you publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action for which you will be personally liable.

Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.

Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the Council's Data Protection Policy.

Safeguarding issues are paramount because social media sites are often misused by offenders. Safeguarding is everyone's business – if you have any concerns about other site users, you have a responsibility to report these.

Do not publish or report on meetings which are private or internal (where no members of the public are present or it is of a confidential nature) or exempt reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985). Use of social media in meetings must comply with the protocol for the use of recording devices during any meeting held under the auspices of Bolsover District Council.

Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.

Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.

In any biography, the account should state the views are those of the councillor in question and may not represent the views of the Council.

Do not use the Council's logo, or any other Council related material on a personal account or website.

Social media must not be used for actions that would put councillors in breach of the Council's Code of Conduct for Members. For example, don't publish on social media something you wouldn't say face to face, or at a public meeting.

Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.

Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, the Monitoring Officer and/or the police.

It is recommended that you have separate social media profiles for your role as a Councillor or Co-opted Member and your private life.

### 5.2.5 Conduct

Councillors are reminded that in respect of social media, they are governed by the Code of conduct for members and relevant law. You are acting in your "official capacity" and any conduct may fall within the Code whenever you:

- Conduct the business of the Authority; or
- Act, claim to act or give the impression you are acting as a representative of the Authority; or
- Act as a representative of the Authority.

Breaches of this guidance may amount to a breach of the Council's Code of Conduct for Members.

Other violations of this guidance such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the Council or the individual(s) involved.

The Council reserves the right to request the removal of any content that is deemed to be in breach of the code of conduct for members.

### 5.2.6 Principles for Using Social Media

You should follow these five guiding principles for any social media activities:

1. **Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.
2. **Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
3. **Be honest about who you are** – it's important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.
4. **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can't. Respond to questions and comments in a timely manner.
5. **Be confident** – don't be scared of participating. Follow these rules and seek further guidance if you need it. If you're about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

### 5.2.7 Guidance on Capturing Social Media Posts

Posts made using third party sites such as Facebook or Twitter are not held or within the control of the Council - posts can be deleted by site administrators without knowledge or consent of the Council. In exceptional circumstances, copies of posts may be made and retained by the Council, in line with relevant Council procedures. These copies will be held for a period dependent on the type of investigation they are subject to.

Where inappropriate use is suspected, it is suggested that you should proactively attempt to capture any inappropriate posts before they might be deleted. Copies should be made and reported to the Monitoring Officer within the Council, as well as following the social media sites own reporting procedures where appropriate.

### 5.2.8 Relationship to the Member Code of Conduct

This guidance should be read in conjunction with the Member Code of Conduct which regulates the standards of conduct of elected members of Bolsover District Council, as well as the Councillor Complaints Procedure which outlines the arrangements for investigating and deciding upon complaints against members.

### 5.2.9 Examples of the Use of Social Media

- **Can I comment/respond to questions posted on my social media page regarding general local issues?**

Yes. The Social Media guidance is not intended to restrict the use of social media, it is a guidance tool to make Councillors aware of the risks and pitfalls. Social media is an excellent method for Councillors to interact with members of the public and should be encouraged.

- **Can I comment/respond to questions posted on my social media page regarding upcoming Council matters such as licensing or planning applications?**

Councillors can take a view and express opinions or concerns, however, they must not show bias or pre-determination. Councillors are reminded to remain impartial and open minded and listen to all the facts before coming to a decision. Evidence of any kind of bias or pre-determination could leave the decision open to challenge.

- **I find comments on my social media page posted by a third party insulting and/or confrontational. How should I respond?**

If at all possible, don't respond at all. Internet "trolls" are people who often try to "wind-up" public figures on purpose to get a reaction. It is best to not "feed the trolls" by ignoring the post.

If it is clear that the person is a serious, concerned member of the public then a suitably non-confrontational reply may be appropriate. Remember that you remain a representative of the Council online and should not do or say anything that you wouldn't do face-to-face or in a letter.

If the post is potentially defamatory or illegal then it should be reported to the site administrators and/or the police.



- **I discover information that is incidental to my role as a Councillor (for example, information relating to a planning application). Can I disclose this information via social media?**

Yes, however, you should take great care in doing so. Posting information obtained as Councillor will be seen as you acting in your official capacity of a Councillor even if this is on your personal account. You should also remember that publishing anything regarding forthcoming or on-going decisions could be seen as pre-determination or bias. If the information is confidential then releasing the information may be a breach of the Code of Conduct.

- **Someone has posted a racially aggravated comment on my personal blog, what can I do? Can I be held liable?**

As soon as you become aware of the comment you should inform the site administrator. If you are exclusively in charge of the site you should consider reporting the comment to the Police. You should keep evidence of the post and then ensure it is taken down. Providing a Councillor takes reasonable care and reports the potential offence quickly they are unlikely to be held liable for someone else's breaches.

- **I publish a post on my personal page regarding a matter that I will be making a decision on (such as a planning or licensing application). As this is my personal blog do the rules for pre-determination and bias still apply?**

Yes, they do. The Social Media guidance also extends to personal blog where the content/comment relates to Council matters. Councillors should take care when publishing information regarding a Council matter as this may leave the decision open to challenge.

- **Do any special rules apply to social media posts and blogs during a local election period?**

During an election period Councillors should take particular care as legislation relating to electoral matters will apply to the online publication of electoral material or statements relating to the election. For example, if you publish a statement on your personal blog regarding another candidate the Representation of the People Act 1983 may apply. Under this legislation it is a criminal offence to make or publish a false statement of fact about the personal character or conduct of an election candidate.

- **What happens if I breach the Social Media Guidance?**

It depends upon the nature of the breach. However, punishment for a serious breach of the guidance may lead to a code of conduct complaint or even personal liability or criminal charges.

## **5.3 EMPLOYEE CODE OF CONDUCT**

### **5.3.1 Standards**

- (1) 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) Employees are expected to undertake their duties on the basis of mutual trust, respect and courtesy. Conduct which undermines the satisfactory working of the establishment and is not in accordance with these principles will give rise to disciplinary action which could include dismissal.

### **5.3.2 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. Employees must make themselves aware of their responsibilities under the Data Protection Act. 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 a Director or Head of Service.
- (4) Employees should not communicate information acquired at work to the press, TV or radio without specific authority from a Head of Service or Director. Where an employee communicates with the media in a capacity other than as an employee, the employee should make it clear that he/she is speaking for him/herself and should not name the authority.

### 5.3.3 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). Council would need to agree the appointment and would be for Councillors (as the political group seeking a political assistant) to manage. The post would be appointable until the next election.

### 5.3.4 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 in writing that relationship to the appropriate manager.

### 5.3.5 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, 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 (or ex-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 (whether positive or negative) 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.

### 5.3.6 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 (whether paid or unpaid) 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 Head of Service as appropriate. All such requests require the further approval of the Head of Paid Service.

- (3) Where undertaking authorised additional work outside the Authority, employees must not use Council vehicles, tools, equipment or clothing.
- (4) Guidance for Directors and Managers on employees' outside interests and the need for Council approval is attached at Appendix 2.

### 5.3.7 Intellectual Property

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

### 5.3.8 Personal Interests

- (1) Employees must declare, and submit in writing to the Monitoring Officer, details of 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 Monitoring Officer details of any financial interests that could conflict with the Council's interests.
- (3) Employees should declare to the Monitoring Officer, membership of any organisation which is not open to the public and has no formal membership but to which the individual owes a commitment of allegiance and which has secrecy about rules, membership or conduct.
- (4) Employees must not, in respect of data held by the Council, access or deal with their own personal records/information/data or that of their family or close friends

### 5.3.9 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 whether they have a 'protected characteristic'. 'Protected characteristics' covered by the Equalities Act 2010 are because of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation or any personal characteristic of the individual, whether the person possesses a particular characteristic or it is perceived they do.
- (2) All members of the community, customers, councillors and other employees have a right to be treated with fairness and equity.
- (3) Employees are expected to carry out their duties and responsibilities in accordance with the Council's Equalities Policy. Employees must not discriminate against or harass any member of the public or colleague on grounds of age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.

### 5.3.10 Contracts, Procurement and 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 friends, partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- (6) Employees must ensure that any action taken in respect of the tendering process, dealing with contractors or in the procurement of goods or services is compliant with the Council's Contract Procedure Orders and Financial Regulations.
- (7) Employees dealing with contractors should ensure that they do not use their professional relationship to obtain advantageous prices for themselves, which would not be available to all employees, or where the obtaining of this advantageous price would be to the detriment of the Council.

### 5.3.11 Corruption

It is a serious criminal offence for an employee to corruptly 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.

Employees must act in accordance with the Council's Guidance on Acceptance of Gifts and Hospitality in Appendix 1 of this Code.

### 5.3.12 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 Head of Service as appropriate, or Monitoring Officer and Chief Finance Officer. For full details of how to raise concerns please refer to the Council's Whistleblowing Policy.
- (3) The Council's time, property and facilities, including the use of plant machinery, stationery, vehicles, offices and other assets may be used only for Council business.

### 5.3.13 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.
- (2) Where the Council wishes to sponsor an event or service neither an employee nor any relative, partner or friend 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.

### 5.3.14 Safety

All employees have a duty to take care of their own health and safety and that of others who may be affected by their activities, acts or omissions. Failure to comply with Health and Safety Policies and Procedures, or to recklessly or negligently endanger themselves or others may be regarded as gross misconduct and will be grounds for disciplinary action.

### 5.3.15 Criminal activity

A criminal offence or incident committed in the course of employment or connected to it will be grounds for disciplinary action. A criminal offence or incident outside the course of employment may be grounds for disciplinary action if it renders the employee unsuitable for the requirements of his/her post. **For the purpose of this Code, a definition of 'Criminal Offence' is: an act harmful**

**not only to some individual but also to a community, society or the state ("a public wrong"). Such acts are forbidden and punishable by law.**

#### 5.3.16 Falsification of Records

Any act involving the deliberate falsification of records, qualifications, entries on flexi-time sheets, abuse of the flexi-time system, time sheets, bonus sheets, expense claims or similar document, will be grounds for disciplinary action.

#### 5.3.17 Damage to Property

Employees must take good and reasonable care of the Council's property, equipment and other physical assets and of the property, equipment and other physical assets of fellow employees and of any other person where the Council is in a position of trust or has a duty of care.

#### 5.3.18 Abuse of authority

- (1) Employees have a position of trust and responsibility in respect of the effective and efficient operation of the organisation. Employees must not use an official position improperly or for a private advantage for themselves or another.
- (2) An Employee must not in his/her official capacity, or any other circumstance, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or the Council into disrepute.

#### 5.3.19 Co-operation

- (1) Employees must comply with the reasonable and lawful instructions of their supervisors. Any act of insubordination could constitute grounds for disciplinary action
- (2) Employees have a duty to obey lawful and reasonable instructions, to serve the Council, as their employer, personally and faithfully, to exercise reasonable care and skill in carrying out their work, to abide by the law and not to disclose confidential information after the employment ends.

#### 5.3.20 Time Keeping/Attendance

- (1) Employees must attend work regularly and punctually during their normal working hours.
- (2) Employees unable to attend through illness or for any other reason must report this on the first and fourth days of absence by 9.00 am, or earlier where this is necessary for the efficient scheduling of cover.
- (3) Employees absent through illness must not prolong their absence by neglecting to act on medical advice.



- (4) Employees may not absent themselves without giving reason.
- (5) Employees must complete a self-certificate for any absences of less than eight calendar days and produce documentary medical evidence to cover absences in excess of 7 calendar days.
- (6) Employees should ensure that they are familiar with the Council's Absence Management Procedure.

#### 5.3.21 Alcohol and drugs

- (1) Employees must not use, sell, buy or possess illegal drugs (of any classification) or other such substances during working hours, or on Council property, or in a Council vehicle.
- (2) Employees must not consume alcohol during working hours, or on Council property, or in a Council vehicle unless expressly authorised to do so by a Head of Service, or Director. An example where this may be authorised is at a celebratory Council event.
- (3) Employees must ensure that their use of alcohol or drugs or other substances does not adversely affect work performance or the safety of any person, including themselves, who may be affected by their work activities and that it does not bring the Council into disrepute.
- (4) Employees taking prescribed or over-the-counter drugs must ensure that their use does not knowingly adversely affect work performance or the safety of any person, including themselves, who may be affected by their work activities.

#### 5.3.22 Rules

- (1) This Code of Conduct outlines some general standards and employees must ensure that they are aware of any other rules that apply to their profession, position and workplace.
- (2) Employees must familiarise themselves with and observe the requirements of the Council's Standing Orders, Financial Regulations, Computer Security Policy, Internet & Email Policy, Harassment and Bullying at Work Policy and other policies, procedures, protocols, rules and guidance documents applicable to them and to their post.
- (3) Any breach of this Code of Conduct may be regarded as a disciplinary offence.

#### 5.3.23 Interpretation

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

**APPENDIX 1**

**GIFTS AND HOSPITALITY GUIDANCE**

- (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 Head of Service, 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 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 Head of Service as appropriate before acceptance. Directors/Head of Service must consult with Monitoring Officer or Chief Financial Officer.
- (9) Acceptance of offers of hospitality must be recorded in the book kept for the purpose.
- (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 Head of Service, as appropriate.
- (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 get the Authorising Officer to sign the document (if the gift or hospitality is being accepted).

### **REMEMBER**

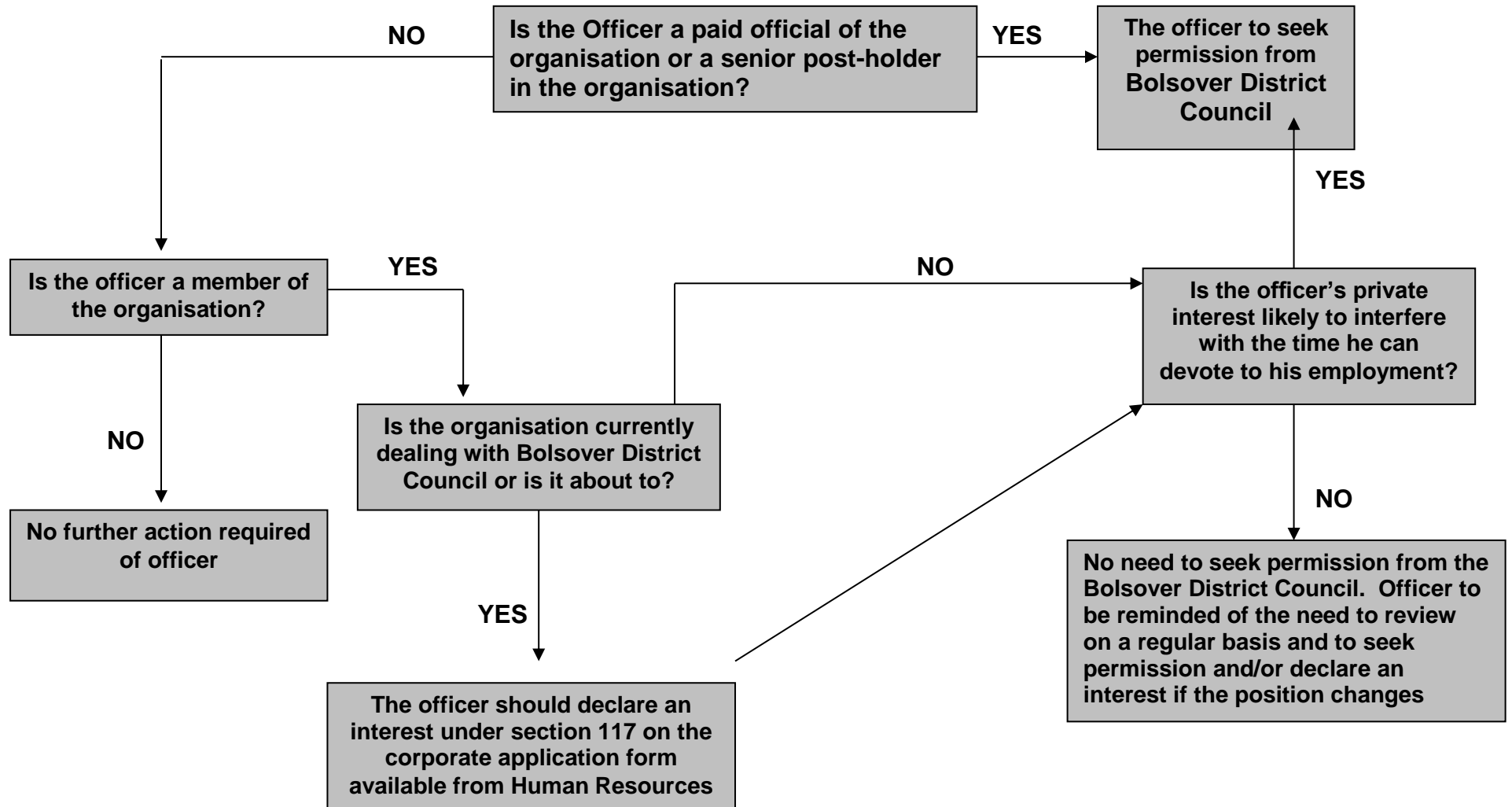
- The entry needs to be made within a reasonable period of time from the offer of the gift or hospitality. **Members have 28 days to do this.**
- Members are required to declare any gift or hospitality that is above the value of £25. However, there is nothing to stop you from declaring any gift or hospitality 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. A Director or Head of Service should be asked to authorise.
- Scan the signed and completed document and email the form to the Monitoring Officer.
- The register 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 calendar year.

APPENDIX 2

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

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

### **5.4.1 Introduction**

The purpose of this protocol is to guide Members and employees of the Council in their relations with one another.

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.

This protocol also seeks to reflect the principles set out in the respective codes of conduct which apply to Members and employees. The shared objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and it, therefore, demands very high standards of personal conduct.

The protocol reflects good practice. It aims to provide an open and honest working relationship between Members and employees which ensures the delivery of the Council's statutory and other proper functions in a transparent and accountable way.

### **5.4.2 Principles**

The provisions of the Code of Conduct apply to all Members. Breach of those provisions can be the basis for a complaint to the Monitoring Officer. The employees Code of Conduct is part of the terms of conditions of their employment. Employees are accountable to their Senior Manager and while employees will seek to assist any Member they must not be asked by Members to go beyond the bounds of whatever authority they have been given by their Senior Manager.

Any dispute over any provision of this protocol in relation to employees should be referred in the first instance to the responsible service manager or the Chief Executive. If agreement cannot be reached the Chief Executive will seek to resolve the issue in conjunction with the Leader of the Council and/or the Leader of the appropriate party group. Issues relating to employee conduct will be dealt with under disciplinary procedures. Any unresolved dispute relating to Member conduct under this protocol will be determined by the Standards Committee in accordance the Council's Constitution.

This protocol is also read in conjunction with the Planning Code/Protocol and the Protocol on Hospitality and any other policies of the Council, for example the Whistle-Blowing Policy (Public Interest Disclosure) and the Harassment and Bullying Policy.

### 5.4.3 Members Code of Conduct

Members of Bolsover District Council are committed to:-

- Dealing with people fairly, appropriately and impartially.
- 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.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between everyone that is essential to good local government.
- Always treating people with respect, including the organisations and public they engage with and those the member works alongside.

### 5.4.4 Employee Code of Conduct

The Employee Code of Conduct was drawn up broadly in line with the Local Government Management's Board Code of Conduct for local government employees with variations to reflect Bolsover's conditions and circumstances.

#### (1) Standards

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 other employees and Members with impartiality and courtesy.

#### (2) Disclosure of Information

- (i) The law requires that certain types of information must be made available to Members, Auditors, Government Departments, Service Users and the public.
- (ii) Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to committee reports and background documents.
- (iii) Employees must not use any confidential information obtained in the course of their employment for personal gain or benefit nor shall they use it to pass onto others who might use it in such a way.
- (iv) Only employees authorised by a Senior Officer or Senior Manager to do so may talk to the press or otherwise make public statements on behalf of their Service or Directorate. Generally an employee contacted by the press should refer the matter to the Communications Team who will deal with it as appropriate."

- (v) The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 provide additional rights of access to documents for Members of Scrutiny Committees.

(3) Political Neutrality/Activities

- (i) Employees serve the Council as a whole. It follows, therefore, that they must serve all Members, not just the Members of any controlling group and must ensure that the individual rights of all Members are respected.
- (ii) Some senior employees will be expected within the Council's guidelines to advise political groups. These employees have a duty to advise minority groups as well as the majority group.
- (iii) Some employees who are normally those in more senior positions are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules about claiming exemption but any employee who is in doubt about their position should contact a Senior Officer.

(4) Relationships

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.

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.

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.

Mutual respect between employees and Members is essential to good local government but close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and should, therefore, be avoided.



It is important that in any dealings between Members and officers that neither party should act discriminatively against the other in regard to all elements covered by the Equalities Act 2010 including: Race, Religion, Gender, Sexual Orientation and Disability.

In their dealings with Chief Officers and officers (especially junior officers) Members need to be aware that it is easy for the officers to be overawed and feel at a disadvantage. Such feelings can be intensified when Members hold additional official and/or political office. A Member should not apply undue pressure on an officer either to do anything that he/she is not empowered to do or to undertake work outside normal duties or normal hours or to allow or aid the Member to do something which the Member is not authorised to do. Particular care needs to be taken in connection with the ease of use of Authority property and services.

Similarly, an officer must neither seek to use undue influence on an individual Member to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other staff. The Authority has formal procedures for consultation, whistleblowing, grievance and discipline. As an exception to this provision an officer may raise issues (other than those relating to the officer's employment or engagement with the Council) relating to Authority business where the Member is the local ward Councillor of the officer concerned.

Whilst the Chair of a committee or sub-committee or Leader of the Executive will routinely be consulted as part of the process for drawing up the agenda for a forthcoming meeting it must be recognised that in many situations an officer will be under a duty to submit a report on a particular matter. Similarly, an officer will always be fully responsible for the contents of any reports submitted in his or her name. Any issues which cannot be resolved as the result of a decision/negotiation between the relevant Chair and an officer in this area should be referred to the Head of Paid Service for resolution. Where individual Members wish to place an item on an agenda they should notify the appropriate meeting chairman or Head of Paid Service and comply with the Council's Constitution.

#### 5.4.5 Advice and Support to Party Political Groups

There is now statutory recognition for political 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 political groups.

Political group meetings form part of the preliminaries to Council decision making and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions. Members must not ask employees to implement a political group decision unless and until that decision has been properly taken in accordance with the Council's Constitution.

Similarly, where officers provide information and advice to a political 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.

Special care needs to be exercised whenever officers are involved in providing information and advice to a political 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.

Officers must respect the confidentiality of any political group discussions at which they are present and should not relay the content of any such discussion to another political group.

The support provided by officers can take many forms, ranging from a briefing meeting with a Chair or spokesperson prior to a Committee meeting to a presentation to a full political group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.

The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role of 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 activities or for private purposes.

Any particular cases of difficulty or uncertainty in this area of employee advice or support to political groups should be raised with the Chief Executive who will discuss them with the relevant group Leaders.

#### 5.4.6 Members' Access to Information, Council Documents and Employee Advice

Members will need in the discharge of their duties to access information from employees, this will usually be most efficiently achieved through the Senior Managers who are able to provide an overview or direct the Member to the most appropriate employee. For individual cases Members may approach

case officers, but junior staff are entitled to refer the Member to the responsible Senior Manager.

Members who wish to obtain information from employees should request it as early as possible recognising that employees may require reasonable time to collate or research the information. Members will state any deadline for the provision of this information. This also applies where a Member wishes to obtain information to supplement a report after the agenda for a meeting has been issued.

Employees will make every reasonable effort to provide Members with accurate factual information and professional advice in a timely manner, unless this would exceed the officer's authority or there are lawful reasons to prevent disclosure of the information.

Members have the same statutory right as any member of the public to inspect any Council document which contains material relating to any business which is to be transacted at a Council or Committee meeting or a meeting of Executive and any relevant background papers. This right applies irrespective of whether or not the Member is a Member of the Executive, Committee or Sub-Committee concerned or acting as a substitute. This right does not, however, apply to documents relating to items containing information which is exempt from publication. 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.

Correspondence held by the Monitoring Officer in relation to his/her duties is similarly exempt unless released by him/her in the interest of furthering any enquiry.

The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member to perform properly his/her duties as Member of the Council. This principle is commonly referred to as the 'need to know' principle.

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 will 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. Written reasons will be provided on request. 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

A Member who requests to inspect documents which contain personal information about third parties will normally be expected to justify their request in specific terms.

A Member of one party group will not have a 'need to know' and, therefore, does not have a right to inspect any document which forms part of the internal workings of another party group and is in the possession of the Council or of an individual employee.

More detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

Any Council information is provided to a Member on the basis that it must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. This forms part of the Council's data protection requirements. This obligation for confidentiality is part of the Code of Conduct.

#### 5.4.7 Relationships Between Officers and Executive Members / Chairs of Committees / Leader

It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the Executive, Senior Officers and Senior Managers and between the Chair of a committee and the lead officer and other senior officers who deal with matters within the terms of reference of that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.

Senior Officers and Senior Managers frequently write reports having undertaken background research and professional and technical appraisals of proposals.

These reports are then presented by the Executive Member with Portfolio.

Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of the report submitted in the Member's name.

Where an officer wishes to consult an Executive Member or Chair as part of the preparation of a report to a decision making body within the Council's Constitution, the following principles will apply. The Executive Member or Chair may ask the report author:

- (1) To include particular options;
- (2) To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;

- (3) To check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;
- (4) To check or correct any typing errors, omissions or duplications;
- (5) To check any estimate of costs or savings.

The Executive Member or Chair may not ask officers:

- (1) To exclude any option contained in the draft report;
- (2) To exclude or alter the substance of any statement in the draft report of any officers' professional opinion.
- (3) To alter the substance of any recommendations that compromises the officer's integrity or would result in illegality;
- (4) To exclude any statement that a course of action would be a "key decision" or would be contrary to a policy or budget or to exclude any statement regarding legality, fairness or financial prudence, made by officers exercising their designated functions under Article 10 of the Council's Constitution;
- (5) To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.

Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.

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.

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 and as set out the Functions Scheme. 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.

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.

Finally, it must be remembered that officers within any department are directly accountable to the Chief Executive. Whilst officers should always seek to assist a Chair (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.

#### 5.4.8 SCRUTINY ARRANGEMENTS

The principles of the Employee's Code of Conduct remain in place under the Executive arrangements. However, these arrangements raise particular issues for local authority employees because:-

- (a) The advice which officers have given to the Executive, its Members or to any group may now be subject to scrutiny and examined by a Scrutiny Committee.
- (b) Officers may have written reports for presentation by an Executive Member with Portfolio or provided advice to the Executive. Where such a decision is subject to Scrutiny by a Scrutiny Committee in their scrutiny roles, or when a decision is called-in, an officer may provide information or advice to a Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.
- (c) Scrutiny Committees or their members will need active assistance from officers if they are to perform their role of scrutinising the Executive effectively.

These factors will require understanding by Members of the role that officers have to perform.

#### 5.4.9 Publicity and Correspondence

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.

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]”

The Council abides by the provisions of the DETR Local Authority Publicity Code (April 2001).

Information on Council services will be produced in collaboration with the Communications Unit and will be impartial reflecting Council approved policy.

All news releases will be written and issued by the Communications Team following consultation with the Senior Officers and Portfolio Member concerned.

Publicity will not be party political and will report on and reflect Council policy.

Media requesting political comments will be referred to the political group Leaders.

It is the intention of the Council to make public information available on the website accessible to Members and residents as resources allow.

## 10 **THE ROLE OF THE HEAD OF PAID SERVICE**

The Chief Executive has a specific statutory function in relation to employees, appointment, discipline, terms and conditions of employment and collective bargaining. Members will recognise and respect those responsibilities and duties.

<b>What officers can expect from Members</b>	
<b>Members Do</b>	<b>Members Don't</b>
Comply with the Members' Code of Conduct – ensuring the highest standards of behaviour	
Promote equality and treat all officers with dignity and respect.	Subject individuals to unreasonable or excessive personal attack.
Members are to comply with the equality laws prohibiting discrimination, harassment and victimisation.	Undermine respect for officers in public meetings, the media or at any other time when dealing with Council business.
Chairs of meetings are expected to apply the rules of debate/procedures to prevent abusive or disorderly conduct	

Part 5 Codes and Protocols - Protocol on Member/Officer Relations  
Last Updated May 2021

<p>Only ask officers to provide professional advice on matters that clearly arise from being an elected Councillor.</p> <p>Respect impartiality and integrity of officers and do not compromise it.</p> <p>Respect officers' free (i.e. non-Council) time.</p>	<p>Ask Council officers to improperly spend Council time or resources for political purposes.</p> <p>Insist an officer changes his/her professional advice.</p>
<p>Provide political leadership and direction, making timely decisions.</p>	<p>Get involved in day to day management.</p> <p>Ask officers to breach Council procedures or policy when acting on behalf of constituents.</p> <p>Put pressure on an officer on matters which have been delegated for officer decision.</p> <p>A Member who behaves in this way may lead officers to make decisions that are not objective and that cannot be accounted for.</p>
	<p>Not to seek special or adverse treatment for themselves or any individual by use his/her position as a Member nor improperly to gain an advantage or disadvantage for his/herself or any other person when dealing with Council officers.</p>
<p>Apply appropriate confidentiality to Information</p>	
<p>Report the least suspicion of fraud, corruption or impropriety</p>	<p>Instruct officers to take actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code Of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Financial Officer.</p>



<p>Where relevant to casework or a decision, declare any special relationships/personal interests with constituents to relevant officers and/or constituents. Where the relationship causes a conflict of interests, Members will ask another Ward Member to assist.</p>	
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**When Acting in this Capacity Members**

<b>Do</b>	<b>Don't</b>
<p>Observe the law, standing orders, policies and procedures in relation to all appointments, discipline and dismissal of officers.</p>	
<p>Declare any interest they have and ensure that they act to protect the public interest</p>	<p>Take part in any process where friends, relatives or Members of their household are somehow involved</p>
<p>Maintain appropriate confidentiality</p>	
<p>Attend relevant learning and development</p>	
<p>Make decisions based on merit and with access to all the facts</p>	<p>Seek improperly to influence decisions</p>
<p>Promote equality</p>	<p>Canvass support for any candidate for a job</p>
<p>Take continuing responsibility for their appointment decisions once the post holder is in place.</p>	

## 5.5 PLANNING PROTOCOL

### 5.5.1 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.

### 5.5.2 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 place shaping 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.

### 5.5.3 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)).

#### 5.5.4 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 Ministry of Housing, Communities and Local Government 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.

#### 5.5.5 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.

#### 5.5.6 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.
- (1) 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.

- (2) Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

### 5.5.7 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.

#### 5.5.8 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 non-confidential 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 pre-application 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.

#### 5.5.9 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.

#### 5.5.10 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.

#### 5.5.11 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.

### 5.5.12 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.

### 5.5.13 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.

### 5.5.14 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.
- (1) 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.

### 5.5.15 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.

## **5.6 MEMBERS' ROLES AND RESPONSIBILITIES**

### **DISTRICT COUNCILLOR**

#### **Role Purpose;**

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

#### **Duties and Responsibilities;**

- 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).
- 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.
- 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.
- 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.



- To maintain satisfactory attendance at meetings in accordance with local requirements.
- To participate, as appointed, in consultative processes with the community and with other organisations.
- To provide a link between the Authority and the community, through the various forums available.
- 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.
- To develop and maintain a working knowledge of the other organisations and services which serve the District.
- To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process.
- To conduct the business of the Council within the Council and not to make inappropriate use of the written or broadcast media.
- To maintain confidentiality in all relevant Council business.
- 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.
- 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.
- 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.

**Skills Required;**

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

## **EXECUTIVE MEMBERS**

### **Role Purpose;**

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

### **Duties and Responsibilities;**

- 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.
- 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.
- 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.
- 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.
- Recognise the differing roles of members and officers in the Council's Constitution.

### **In connection with the portfolio;**

- 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.
- Keep abreast of related developments and policies at national, regional and local level.
- Enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks.

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

**Skills Required;**

- Good communication and interpersonal skills.
- Ability to analyse and grasp complex issues.
- An understanding of national and local government statutory and financial frameworks.
- An understanding of the Council, including the economic and social situation within Bolsover District.
- The ability to understand the Council's budget especially in respect of the relevant portfolio.

- Leadership skills.
- Political knowledge and awareness.
- Ability to work effectively with Council officers, the public, the media and outside organisations.
- 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.

## **JUNIOR EXECUTIVE MEMBERS**

### **Role Purpose;**

- Junior Executive Members are Members appointed by the Leader to work with an Executive Member to build up resilience in decision making process by sharing experience and knowledge
- Junior Executive Members will take forward particular projects and programmes at the request of their Executive Member
- Most Junior posts will range across the functions of the Executive Member but it is a matter for each individual Executive Member, after discussion with the Leader of the council, to establish any limits or conditions on the ways in which the Junior will operate.

### **Duties and Responsibilities;**

- To undertake specific tasks, research and investigations and attend conferences, seminars and meetings, as requested by the Executive Member, so as to keep abreast of current policy and development initiatives;
- To attend Cabinet briefings on behalf of the Executive Member
- Attend (but not vote) at Executive meetings on behalf of the Executive Member
- Undertake such responsibilities as may arise or be required from time to time other than decision making
- Assist the Executive Member to manage their workload and deal with such issues or projects (whether long term or time limited) as shall be agreed with them
- May be invited to attend formal and informal functions on behalf of an Executive Member, except for official openings or ceremonies or events where a formal speech is required, in which case, in the event of the absence of the Executive Member, the Chair or another Executive Member will normally represent the Council
- Where the rules of an outside body permit, Junior Executive Members may accompany (but not deputise for) Executive Members serving on outside bodies
- Liaise with non-executive members in order to ensure that the Executive Member is fully aware of issue which are of concern to Members

- Appear before a Scrutiny Committee where the Executive Member cannot attend or where the Assistant has focused on the particular project or programme. (However, the Scrutiny Committee may also request the Executive Member to attend on a further occasions)
- Be a member of a Scrutiny Committee which does not relate to his or her Cabinet Member's portfolio;

However, a Junior Executive Member cannot:

- Take decisions
- Deputise for an Executive Member at Council Meetings
- Be a member of the Scrutiny Committee which scrutinises his or her Executive Member's portfolio.

**In connection with the portfolio;**

- 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.
- Keep abreast of related developments and policies at national, regional and local level.
- Assist the Executive Member in enhancing the Council's reputation through taking the national stage where possible and participating in regional and national networks.
- 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.
- Be aware of issues of importance to the community and other stakeholders concerning portfolio services.
- Be aware of key budgetary issues by regular monitoring of all income and expenditure affecting the portfolio of the Executive Member.
- Represent the Council on external bodies, as appointed, and feedback to the Executive any issues of relevance/importance.
- Facilitate a corporate leadership role where appropriate to do so, and foster links through partnerships.

- Be responsible for continuous personal development. Take advantage of learning opportunities to build on understanding and knowledge, and to develop relevant skills.
- Along with colleagues, Executive Members and the Senior Leadership Team, be available as appropriate for other Members to discuss any queries or matters of concern.
- To develop and maintain a positive and constructive relationship with the Senior Leadership Team.
- To positively promote the portfolio and where appropriate to act as the spokesperson with the media for that portfolio area only.

**Skills Required;**

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

## **SCRUTINY MEMBERS**

### **Role Purpose;**

- To act as a critical friend, challenging policymakers and decision makers.
- To operate independently, free from political bias.
- To hold the Executive to account.
- To enable the voice and concerns of the public to be heard.

### **Duties and Responsibilities;**

Members of Scrutiny Committees have the following powers:

- Review or scrutinise decisions or actions taken by the Executive.
- Make reports to the Council or the Executive in respect of the discharge of Executive functions.
- Review or scrutinise decisions made or actions taken which are not the responsibility of the Executive.
- Make reports or recommendations to the authority or the Executive in respect of decisions or actions which are not the responsibility of the Executive.
- Make reports or recommendations to the authority or the Executive on matters which affect the authority's area or inhabitants of that area.
- Assist the Executive in policy and strategy formulation and develop recommendations on the budget and policy framework when examining the Executive's proposals, prior to approval.
- Review performance management information, finance information, risk reports and complaints data.
- Review delivery by partner organisations.
- Carry out pre-decision scrutiny – where Members consider a planned decision before it is made by the Executive.

### **Skills required;**

- Good communication and interpersonal skills.



- Ability to analyse and grasp complex issues.
- An understanding of national and local government statutory and financial frameworks.
- An understanding of the Council, including the economic and social situation within Bolsover District.
- The ability to understand the Council's budget especially in respect of the relevant portfolio.
- Ability to influence and work constructively with Members, officers, the public and outside organisations.
- 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**

### **Role Purpose;**

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

### **Duties and Responsibilities;**

- 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.
- To ensure effective Corporate Governance including working with opposition groups to seek to achieve where possible cross party co-operation.
- To lead the Executive and be responsible for the Council's corporate and resource strategy.
- To ensure that the Executive achieves its terms of reference both collectively and as individual portfolio holders.
- To ensure the effective integration of roles, responsibilities and functions within the Executive membership.
- 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.
- 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.
- To act as the political spokesperson for the Council.
- To promote the long term financial, business and economic stability of the Council.
- To encourage the highest standards of probity and corporate governance for the well-being of the District.

- To communicate the Administration's policies and priorities to the Senior Leadership Team and to receive their advice.
- To exercise delegated powers in accordance with the Council's Constitution.

**Skills required;**

- Good communication and interpersonal skills.
- To have the ability to analyse and grasp complex issues.
- A good understanding of how local, national and European government operates, including the statutory and financial frameworks.
- A clear understanding of the operation of the Council, including the economic and social situation within Bolsover.
- Business and financial acumen, including the ability to understand and manage the Council's budget.
- Leadership skills.
- Excellent political knowledge and awareness.
- The ability to chair meetings and facilitate open discussion.
- 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**

### **Role Purpose;**

- To assist and work with the Leader of the Council to provide effective political leadership and strategic direction for the Council.
- 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.
- Where appropriate and where permissible under the Council's Constitution to act in the absence of the Leader of the Council.

### **Duties and Responsibilities;**

- To assist and work with the Leader of the Council in delivering their responsibilities to the Council within their job profile.
- To deputise for the Leader of the Council in their absence from Council meetings and, if a member of Executive, to deputise in the Leader's absence at Executive meetings.
- In the Leader of the Council's absence to carry out the requirements of their job profile so far as legally possible and permissible.
- To carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council.

### **Skills required;**

- Good communication and interpersonal skills.
- To have the ability to analyse and grasp complex issues.
- A good understanding of how local, national and European government operates, including the statutory and financial frameworks.
- A clear understanding of the operation of the Council, including the economic and social situation within Bolsover District.
- Business and financial acumen, including the ability to understand and manage the Council's budget.
- Leadership skills.
- Excellent political knowledge and awareness.
- The ability to chair meetings and facilitate open discussion.

- 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**

### **Role Purpose;**

- To provide effective leadership and strategic direction for an opposition group.

### **Duties and Responsibilities;**

- To provide the leadership of an opposition party including scrutiny of the majority group's administration of the Council.
- To act as spokesperson for the Opposition Group of which he/she is leader.
- To promote the long term financial, business and economic stability of the Council.
- To encourage the highest standards of probity and corporate governance.
- To represent the Council's best interests on all organisations to which he/she is nominated by the Council.
- 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.
- 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.
- 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.
- To participate in the appointment and/or performance appraisal procedures for the posts of Heads of Service.

### **Skills required;**

- Good communication and interpersonal skills.
- To have the ability to analyse and grasp complex issues.
- A good understanding of how local, national and European government operates, including the statutory and financial frameworks.

- A clear understanding of the operation of the Council, including the economic and social situation within Bolsover District.
- Business and financial acumen, including the ability to understand the Council's budget.
- Leadership skills.
- Excellent political knowledge and awareness.
- The ability to chair meetings and facilitate open discussion.
- 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.

## **CHAIRS OF SCRUTINY COMMITTEES**

### **Role Purpose;**

- To provide leadership of and direction to their particular Committee.
- To ensure that adequate resources (financial & officer support) are identified and sought from the Council.
- To chair Committee meetings, facilitate open discussion, and ensure the Committee achieves its terms of reference.

### **Duties and responsibilities;**

- To ensure that Committee members lead on developing an effective work programme.
- To encourage Committee members to obtain necessary skills to carry out the scrutiny role and to work with officers to provide training if necessary.
- To endeavour to engage all members of the Committee within the scrutiny process.
- To lead the Committee in prioritising its work so as to ensure effective scrutiny.
- To co-ordinate work with other scrutiny Committees & the relevant Chairs and to share learning.
- To develop a constructive relationship with the Executive, especially with relevant portfolio holders.
- To develop a constructive relationship with the Senior Leadership Team in the areas that the Committee scrutinises.
- 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.

### **Skills Required;**

- Good communication and interpersonal skills.
- The ability to chair meetings and facilitate open discussion.
- Leadership skills.
- Project and time management skills.



- Ability to influence and work constructively with Members, officers, the public and outside organisations.
- 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**

### **Role Purpose;**

- To chair and manage Committee meetings and ensure the Committee achieves its terms of reference.
- To provide leadership of and direction to the Committee.
- To demonstrate to the public, applicants, objectors etc., fair and open decision making by or on behalf of the Committee.
- To ensure that adequate resources (financial and officer support) are identified and sought from the Council.

### **Duties and responsibilities;**

- 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.
- To endeavour to engage all Members of the Committee in its activities.
- To lead the Committee, in consultation with officers, in prioritising its work.
- To develop a constructive relationship with the relevant Director and their staff and where appropriate, with relevant portfolio holders.
- To be willing to learn about the professional disciplines and services relevant to the work of the Committee.
- 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.
- To Chair the Committee in a fair and open manner in accordance with the procedures of the Committee, and to allow applicants and objectors to put their arguments to the Committee in accordance with procedures.
- 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.
- To guide, with the assistance of officers, the Committee to reach decisions based on the information presented to it.
- Where necessary, to act as witness for the Council at any court hearing, tribunal or other appeal against a decision made by that Committee.

### **Skills Required;**

- Good communication and interpersonal skills.
- The ability to chair meetings and facilitate open discussion.
- Leadership skills.
- Project and time management skills.
- 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 STANDARDS COMMITTEE**

### **Role Purpose;**

- To chair the Standards Committee in accordance with its terms of reference.

### **Duties and responsibilities;**

- 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.
- To advise officers on the content of the agenda for Committee meetings.
- To represent the Council in all dealings with the public, media and other bodies in respect of the work of the Committee.
- To ensure that all matters referred to it are dealt with promptly and in accordance with local and national guidance.
- To act as a spokesperson for the Standards Committee.
- To establish and maintain the necessary knowledge and understanding of the Council's structures and processes to facilitate this role.
- 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.

### **Skills Required;**

- Good communication and interpersonal skills.
- Leadership skills.
- The ability to chair meetings and facilitate open discussion.
- Project and time management skills.

Assimilating and analysing complex and contradictory information.

- Ability to influence and work constructively with Members, officers, the public, external advisors and outside organisations.
- Ability to work as part of a team.

## **VICE CHAIRS OF ALL COMMITTEES**

### **Role Purpose;**

- To deputise for the Chair of the relevant Committee in his/her absence.
- To provide support to the Chair of the relevant Committee.

### **Duties and Responsibilities;**

- To provide leadership of and direction to the Committee in the absence of the Chair.
- 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.
- 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.

### **Skills Required;**

- Good communication and interpersonal skills.
- Leadership skills.
- The ability to chair meetings and facilitate open discussion.
- Project and time management skills.
- Ability to influence and work constructively with members, officers, the public, external advisors and outside organisations.
- 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 THE COUNCIL**

### **Role Purpose;**

- To chair meetings of the Council.
- To act as the civic representative of the Council.
- To provide civic leadership to the Council and local communities.
- To fulfil all other requirements of the Constitution relative to the role of Chair.

### **Duties and Responsibilities;**

- 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 a position as Committee Chair, are able to hold the Executive and Committee Chairs to account.
- 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.
- 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.
- To lead the work of the Council and encourage Members to work together as a team for the benefit of the Council, its communities and stakeholders.
- To liaise with the Senior Leadership Team and other officers on a regular basis, and the Governance & Civic Team in its acceptance or otherwise of invitations, transport and other arrangements.
- 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.

### **Skills Required;**

- Good communication and interpersonal skills.
- The ability to chair meetings and facilitate open discussion.
- Leadership skills.
- Project and time management skills.

- Ability to influence and work constructively with Members, officers, the public, external advisors and outside organisations.

## **VICE-CHAIR OF THE COUNCIL**

### **Role Purpose;**

- In the absence of the Chair of the Council, to chair meetings of the Council.
- In conjunction with the Chair of the Council, and in his/her absence, to act as the civic representative of the Council.
- In conjunction with the Chair of the Council, and in his/her absence, to provide civic leadership to the Council and local communities.
- To fulfil all other requirements of the Constitution relative to the role of Chair.

### **Duties and Responsibilities;**

All of the following is carried out in conjunction with the Chair of the Council, and where required in his/her absence:

- 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 a position as Committee Chair, are able to hold the Executive and Committee Chairs to account.
- 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.
- 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.
- To lead the work of the Council and encourage Members to work together as a team for the benefit of the Council, its communities and stakeholders.
- To liaise with the Senior Leadership Team and other officers on a regular basis, and the Governance & Civic Team in its acceptance or otherwise of invitations, transport and other arrangements.
- 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.

### **Skills Required;**

- Good communication and interpersonal skills.
- The ability to chair meetings and facilitate open discussion.



- Leadership skills.
- Project and time management skills.
- Ability to influence and work constructively with Members, officers, the public, external advisors and outside organisations.

## 6 MEMBERS ALLOWANCE SCHEME

### 6.1 Scheme

- (1) 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:
- (2) This Scheme may be cited as the Bolsover District Authority Members' Allowances Scheme, and shall have effect from 22<sup>nd</sup> May 2024.

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.

### 6.2 Basic Allowance

Subject to paragraph 9 of this Scheme, a Basic Allowance of **£9902.44** will be paid to each Member.

### 6.3 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:-

Part 6 Members Allowance Scheme  
Last Updated May 2024

Member with Special Responsibility	Annual Allowance £	Effective Date
Leader of the Authority	14, 672.16	22/05/2024
Deputy Leader of the Authority	9,781.44	22/05/2024
Members of the Executive	4,890.72	22/05/2024
Chair of Scrutiny Committee	3,260.48	22/05/2024
Vice Chair of Scrutiny Committee	1,630.24	22/05/2024
Largest Opposition Political Group Leader	4,890.72	22/05/2024
Chair of Planning Committee	4,890.72	22/05/2024
Vice Chair of Planning Committee	2,445.36	22/05/2024
Chair of Licensing Committee	3,260.48	22/05/2024
Vice Chair of Licensing Committee	1,630.24	22/05/2024
Chair of Standards Committee (co-optee)	1,222.00	22/05/2024
Chair of Audit Committee	1,467.00	22/05/2024
Junior Executive Member	2,445.36	22/05/2024

(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.

#### 6.4. 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.

#### 6.5 Co-optees' Allowance

- (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 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 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.

## 6.6 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 Monitoring Officer

## 6.7 Adjustment of Allowances

- (1) 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.

## 6.8 Election to For-go allowance

A Member may, by notice in writing given to the Monitoring 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.

## 6.9 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 6.9(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 6.9(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 6.9(2).

#### 6.10 Claims and Payments

- (1) Subject to paragraph 6.9 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 6.9 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 Governance and Legal Services & Monitoring Officer.

#### 6.11 Level of Allowances

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.

#### 6.12 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.

#### 6.13 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.

### **Members' Allowances – Guidance**

#### 6.14 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 Monitoring Officer or Governance Manager.
- (3) The official duties carried out by the Chair and Vice-Chair 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 Chair'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.

#### 6.15 Allowances/Reimbursements

The Authority's Members' Allowance Scheme ("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
- Co-optees Allowance
- Dependent/Carers Allowance

#### 6.16 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.

#### 6.17 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.

#### 6.18 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.

#### 6.19 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.

#### 6.20 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 Governance Manager will carry out spot checks of insurance certificates to ensure full compliance.

## 6.21 Members Car Insurance / Business Mileage

- (1) 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.
- (2) 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.

- (3) 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.

## 6.22 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.

## 6.23 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.

#### 6.24 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.

#### 6.25 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.

#### 6.26 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.

## 6.27 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 6.22 (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 Head of Paid Service 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 Governance Manager.

(5) Cases of Doubt;

Where doubt arises, which cannot be settled between the Member and the Head of Paid Service, the matter can be referred to the appropriate body.

(6) Checks Applied to a Members' Claim;

(i) In Members own interest, the Governance Manager 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.

#### 6.28 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 HR & Payroll Team, 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.

### 6.29 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.

### 6.30 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.

### 6.31 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 Chair of a Committee within the Authority's area.

- (f) Any duty of a Vice-Chair 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 Head of Paid Service) 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 Chair or Vice Chair of a Committee of the Authority.
  - (h) Visits by Members (other than Leaders, Deputy Leaders and Chair of Committees) to the Authority's Offices to discuss Authority business or to attend, by prior agreement of the appropriate Chair, 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 Head of Paid Service 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 Head of Paid Service at any meeting or visit not otherwise provided for in the scheme where the Head of Paid Service 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, Clowne

- (1) Authority and Committee Meetings where expenditure is necessarily incurred in connection with the performance of an approved duty – includes for example:

Joint ICT 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, Ashfield & Mansfield

- (7) Members should seek advice from 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 offices to collect correspondence, etc.

External 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) The HMRC mileage rate will be paid unless an alternative rate has been approved by the Council.

#### (5) Medical Expenses

- (i) Medical expenses incurred with their approved duties will be made in accordance with the relevant Authority Policy, for example, eye tests.

## **APPENDIX D**

### **Mileage Rates**

Allowance for the performance of approved duties;

(1) **Travelling Allowances**

The HMRC mileage rate will be paid unless an alternative rate has been approved by the Council.

(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

### 7.1 Petitions

- (1) The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.
- (2) Paper petitions can be sent to:-

The Monitoring Officer  
Bolsover District Council  
The Arc  
High Street  
Clowne  
Derbyshire S43 4JY

- (3) Petitions can also be presented to a meeting of the Council. Meeting 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 Jim Fieldsend, Monitoring Officer on 01246 242424 or email [jim.fieldsend@bolsover.gov.uk](mailto:jim.fieldsend@bolsover.gov.uk), 10 days before the meeting and he will talk you through the process. If your petition has received 1,000 signatures or more from residents in the District, it will also be scheduled for a Council debate and if this is the case he will let you know when this will happen.

### 7.2 Who Can Submit a petition?

Any person regardless of age who lives, studies or works in the District is able to submit a petition.

### 7.3 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.

### 7.4 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 contact details of the petition organiser **will not** be placed on the website).

- the name, address, postcode and signature of any person supporting the petition.
- Date the petition is submitted.

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 the petition organiser to explain the reasons.

## 7.5 Issues specifically excluded from the Petition Scheme

The following matters are specifically excluded under the Petitions Scheme and will not be considered under the scheme:-

- Any matter relating to a planning application or decision.
- Any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005.
- Where any matter is currently or imminently subject to a consultation exercise, a decision as to whether the Petition can be dealt with under the Council's Petitions Scheme will be made by the Head of Paid Service having received the advice of the Monitoring Officer on the matter.
- Any matters relating to complaints against Councillors under the Code of Conduct.
- Any matter where there is an existing right of appeal.
- Statutory petitions such as requesting a referendum on having an elected mayor.
- 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.

We will notify you of the reasons for your petition not being dealt with if it is excluded under one or more of the above grounds.

## 7.6 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.

The petition will also 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).

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.

## 7.7 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 will usually include one or more of the following:-

- writing to the petition organiser setting out our views about the request in the petition.
- considering the petition at a Council meeting (where there are 1,000 signatures or more from residents of the District);

The Council may take other actions, such as holding public meetings or consultations, explore options to tackle the matter in conjunction with our local partners, or we may refer the petition for consideration by one of the Council's Scrutiny Committees\*.

*\*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.

## 7.8 Full Council Debates

If a petition contains more than 1,000 signatures from residents of the District, 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 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.

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.

## 7.9 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 from residents of the District, the relevant senior officer will give evidence at a public meeting of one of the Council's Scrutiny Committees. The senior staff that can be called to give evidence include:-

- Directors
- Monitoring Officer
- Chief Financial Officer
- Heads of Service

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 Portfolio Member, Ward Member or other appropriate Member 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 the Scrutiny Officer on 01246 242424 up to three working days before the meeting.

#### 7.10 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 one of the Council's Scrutiny Committees review the steps that the Council has taken in response to your petition. This will be the relevant Scrutiny Committee when your matter has been considered by Council, or an alternate Scrutiny Committee when your matter has been dealt with by the relevant Scrutiny Committee. It is helpful for 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. To request a review, please contact the Monitoring Officer on 01246 242424 or email him on [jim.fieldsend@bolsover.gov.uk](mailto:jim.fieldsend@bolsover.gov.uk) within 28 days of the response you have received to the petition.

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, referring the matter to the corporate complaints procedure, making recommendations to the Council's Executive 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 Team  
Bolsover District Council  
The Arc  
High Street  
Clowne  
Derbyshire. S43 4JY

