

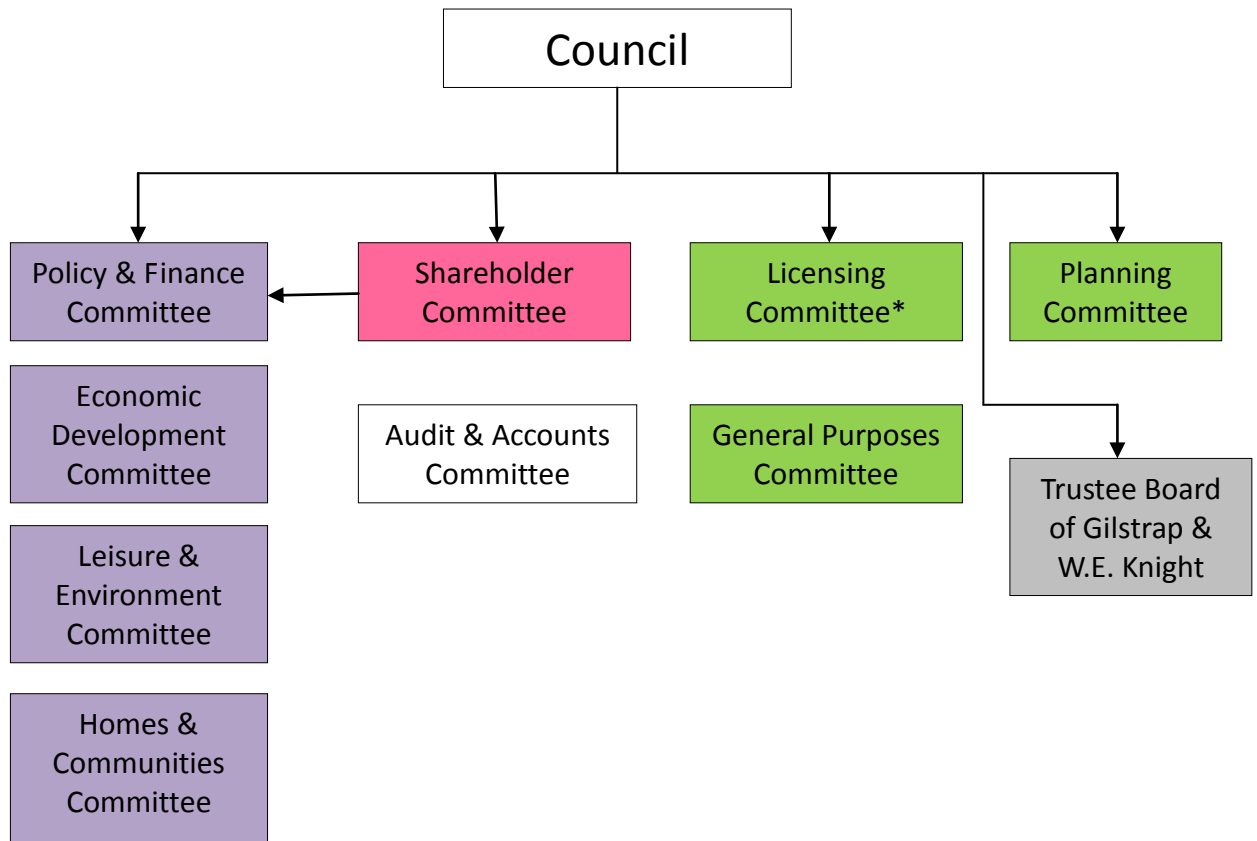
## **PART 2**

# **RESPONSIBILITY FOR FUNCTIONS**

Introduction

This diagram shows the current approved Council Structure

## Committee Structure



\*Statutory Committee established under the Licensing Act 2003

### **RESPONSIBILITY FOR COUNCIL FUNCTIONS**

Some functions can only be carried out by the Council. Other functions can be carried out by the Council or may be discharged through Committees. In addition the Council may delegate decision making to Officers except where a function is expressly reserved to the Council for decision.

This part of the Constitution contains the remits of the Council, Committees, Sub-Committees and Panels and also contains the Scheme of Delegation to Officers.

Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the Council.

The Leader of the Council is a Member, ex-officio of the Economic Development Committee, the Leisure and Environment Committee and the Homes and Communities Committee and may attend to speak but will not carry voting rights unless expressly appointed to that Committee.

### **COUNCIL**

1. All non delegable functions as defined by the Local Authorities (Committee System)(England) Regulations 2012 including: -
  - Making of a Members Allowance Scheme and amending the same.
  - Determination of Chairman and Vice Chairman's allowances.
  - Making a request for single member electoral wards to the Local Government Boundary Commission.
  - Resolution to change a scheme for elections.
  - Making an order giving effect to the recommendations made in a Community Governance Review.
  - Conferring voting rights on co-opted members of Overview and Scrutiny Committees (if any).
  - Making or revoking or amending the following policies, plans and strategies :-
    - Crime and Disorder Reduction Strategy.
    - Licensing Authority Policy Statement.
    - Local Development Framework - Development Plan Documents, Plans and alterations which together comprise the Development Plan.
    - Sustainable Community Strategy.
    - Policies made under the Gambling Act (including any resolution relating to casinos).
  - The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision including:-
    - Capital programme.
    - Capital investment strategy.
    - Medium term financial plan.
    - Treasury management strategy.

- 2 Approval of the Council's corporate plan.
- 3 Setting the Council's Budget and Council Tax
- 4 Appointing the Chairman and Vice Chairman of the Council.
- 5 Appointing the Leader of the Council.
- 6 Agreeing or amending the committee structure, the remit/terms of reference of committees, their size and membership.
- 7 Confirming the appointment of the Head of Paid Service and confirming the dismissal of the Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer).
- 8 Confirming the appointment of the Independent Persons.
- 9 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation including bylaws or personal bills.
- 10 Appointment of the Returning Officer and Electoral Registration Officer.
- 11 Adopting and amending standing orders, Rules of Procedure, Contract Procedure Rules and Financial Regulations.
- 12 All matters which by law are reserved to the Council including: -
  - o Ombudsman reports where there has been a finding of maladministration with injustice and the report has been rejected
  - o Statutory officer reports of the Monitoring Officer, Chief Financial Officer and Head of Paid Service and External Auditor's public interest reports.
- 13 Conferring the title of Honorary Freeman and Honorary Alderman.
- 14 Approving the Annual Senior Officer Pay Policy Statement.
- 15 Changing the name of the District.
- 16 Significant changes to the Council's Constitution (other than variations to the scheme of Delegation which may be approved by committees within their remits and minor and consequential changes to the constitution which are delegated to the Monitoring Officer (see Scheme of Officer Delegation Post).
- 17 Appointment of representatives to outside bodies.
- 18 Consideration of reports from committees, sub-committees, or any other body constituted by the Council.
- 19 To receive the minutes of committees and sub-committees acting under delegated powers for question and comment.
- 20 Making compulsory purchase orders (other than under planning grounds).
- 21 Making recommendations to the Secretary of State on district boundaries, ward boundaries, electoral divisions, ward or polling districts.
- 22 Receiving the annual report of Newark and Sherwood Homes
- 23 Receiving the annual report of Active4Today Limited
- 24 To approve the following with respect to the Council's Development Company (Arkwood Developments Ltd):
  - the Company's Articles of Association;
  - the Governance Agreement between the Council and the Company;
  - the funding for the Company as part of the annual budget setting process; and
  - any additional in-year funding exceeding the approved budget.
- 25 Any other function which must, by law, be reserved to the full Council.

Note

For the avoidance of doubt, the Full Council retains ultimate responsibility for the actions and decisions of all its Committees and also retains the ability to exercise all its powers whether or not they have also been delegated to a Committee or Officer.

However the Council shall not exercise a power that has been delegated without first ensuring that such a step is in the best interests of the Council. The Council's ability to exercise its powers will not override or supersede any decision or action already taken by a Committee or Officer acting under delegated authority.

**POLICY & FINANCE COMMITTEE**

- Key strategic decisions (other than those which must be determined by the Council) including all decisions which have a major impact on a number of Council services or on the Council as a whole and decisions which are deemed significant in terms of impact on the Council's revenue or capital (to be determined by The Head of Paid Service and/or Section 151 Officer in consultation with the Leader).
- All key strategic policies to be adopted by the Council (except those which are reserved to Council for approval) including:-
  - Commissioning Framework
  - Annual Budget Strategy
  - Budget and Council Tax Policy
  - Staffing Budget
  - General Fund Balances and Reserves Policy
  - Corporate Capital Strategy and Asset Management Plan.
  - Risk Management Strategy, Policy and Guidance.
  - Corporate Asset Utilisation and Disposal Strategy.
  - Anti-Fraud Strategy.
  - Financial Strategy.
  - Consultation and Communication Strategy.
  - Leisure and Culture Strategy.
  - Emergency Plan.
  - Equalities and Diversity Policy.
  - Business Continuity Plan.
  - Health and Wellbeing Strategy.
  - Cleaner, Safer, Greener Strategy.
  - Strategy relating to HRA.
- Strategic Housing, including determining and managing the Council's relationship with Newark and Sherwood Homes.
- Formulating the Council's budget proposals and recommending the same to Council for approval (but excluding any matters relating to the Council's leisure company which shall be formulated by the Leisure & Environment Committee).
- Formulating the Council's capital programme and recommending the same to Council for approval (but excluding any matters relating to the Council's leisure company which shall be formulated by the Leisure & Environment Committee).

- Formulating the Council's housing capital programme and recommending the same to Council for approval.
- Formulating, monitoring and reviewing the Council's Housing Revenue Account Self Financing Business Plan and recommending the same to Council for approval.
- Formulating the Council's borrowing and investment strategy and recommending the same to Council for approval.
- Managing and monitoring the Council's Capital Programme.
- To determine how S106 monies should be applied or obligation fulfilled where the relevant agreement allows scope for discretion.  
(NOTE: the Scheme of Delegation provides that this may be determined by Officers where the terms of the S106 Agreement are sufficiently precise or where the amount of the proposed expenditure does not exceed £50,000).
- Appointment and dismissal of employees (subject to legislative requirements) (\*1).
- Terms and conditions of employment.
- Procedures for dismissal of employees (subject to legislative requirements).
- Agreeing secondments pursuant to Section 113 of the Local Government Act 1972.
- Agreeing voluntary severance terms for the Chief Executive and Chief Officers (\*2).
- Hearing appeals relating to the discretionary elements of pension enhancements for the Chief Executive and Chief Officers where the scheme provides for such a right of appeal.
- Approving resources for the appointment of a designated independent person.
- Approving human resources procedures and policies (\*3).
- Pensions and superannuation
- To receive and review reports from the Shareholder Committee.
- To review the outcomes of the Council's Development Company (Arkwood Developments Ltd) in the context of the Council's Strategy and to consider and approve requests for funding within the approved budget.

**NOTES:**

- 1\* The appointment of staff below Deputy Chief Officer level is the responsibility of the Head of Paid Service or their nominee. Statutory Officer appointments (Head of Paid Service, Monitoring Officer and Section 151 Officer) are expressly reserved to the Council for approval. Certain appointments are the responsibility of the Chief Officer Appointment Panel. Mandatory standing orders relate to the dismissal of certain categories of employees.
- 2\* The function of determining pension and redundancy entitlements is delegated to the Discretionary Payments Panel. Normally an appeal would go to the Head of Paid Service or a Chief Officer. An alternative mechanism for appeals is accordingly required in respect of Chief Officers.
- 3\* This function has been delegated to the Head of Paid Service after prior consultation at the Joint Consultative Committee.

**Determination of:**

- HRA Business Plan (including the Asset Management Strategy and Delivery Plan);
- The key strategic outcomes for delivery by NSH over the term of the HRA Business Plan;

- Areas of maximisation of the HRA (ie areas where the HRA could legitimately fund services of benefit to tenants AND the wider community);
- The level and use of surpluses and reserves within the HRA and NSH – ie use to pay down debt or fund other initiatives/development;
- The key performance indicators of NSH;
- ‘Health Check’ of NSH by the Council as the sole shareholder.
- operational decision making in respect of the following: -
  - Procurement.
  - Transformation Programmes.
  - Organisational Development.
  - Member Development.
  - Member Services and Civics.
  - Strategic Risk Management.
  - Audit Issues (other than matters falling within the remit of the Audit and Accounts Committee).
  - Major Projects.
  - Strategic Commissioning including Decommissioning.
  - Asset Management.
  - Staffing and resourcing issues for the following service areas:
    - Legal.
    - Policy and Commissioning.
    - Human Resources (staffing and resources).
    - Democratic Services.
    - Financial Services
    - Revenues and Benefits.
    - Performance Management.
    - Administrative Services.
    - Audit.
    - Castle House
    - Acquisition and Disposal of Industrial Units.
- Approval of payments or other benefits for maladministration under s92 of the Local Government Act 2000, except where it relates to a matter falling within the remit of the Planning Committee or is dealt with by Officers acting under delegated powers.
- To approve the write-off of any outstanding debt owed to the Council or Newark and Sherwood Homes, above the delegated limit of £10,000.
- Making recommendations to the Council on standing orders relating to contracts and financial regulations.
- All cross cutting matters across the Council and any matter/issue not expressly delegated to another Committee.
- Receiving reports from the following outside bodies:-
  - Local Government East Midlands
  - LGA
  - LGA – Rural Commission
  - LGA – Urban Commission
  - Nottinghamshire and Derbyshire Joint Leaders Board

- Nottinghamshire Local Authorities Association
- Rural Community Action Nottinghamshire
- Determining the Council's strategic approach to the Local Strategic Partnership.

#### Performance Management

- Overall responsibility for managing and monitoring council performance against approved estimates of revenue expenditure and income
- Overall responsibility for monitoring council performance against locally set performance indicators
- Monitoring the overall management and performance of Newark and Sherwood Homes
- To undertake annual monitoring of S106 expenditure.

#### Standards

- Promote and maintain high standards of conduct by Members and co-opted Members of the authority.
- Assist Members and co-opted Members of the authority to observe the authority's code of conduct.
- To make recommendations to the Council on the adoption or revision of the Members' Code of Conduct and on arrangements for dealing with standards complaints.
- To monitor and review arrangements for dealing with standards complaints.
- To establish an Assessment Sub-Committee to consider written allegations that an elected or co-opted Member of Newark & Sherwood District Council or of any Town or Parish Council within the District of Newark & Sherwood has failed to comply with the relevant Code of Conduct, in the event of the Monitoring Officer referring the matter to an Assessment Sub-Committee rather than dealing with the matter under delegated powers in consultation with the Independent Person and to determine what further action, if any, should be taken in respect of the complaint.
- To consider dispensation requests from Members and co-opted Members of Newark & Sherwood District Council, unless determined by the Monitoring Officer acting under delegated powers to appoint a sub-committee to undertake this function on its behalf.
- To consider appeals against the refusal of dispensation requests by the Monitoring Officer acting under delegated authority (and to appoint a sub-committee to undertake this function on its behalf).
- To make recommendations to Council on the adoption of codes and protocols relating to ethical behaviours.
- To adopt codes, protocols and guidance to underpin the arrangements for dealing with standards complaints and related issues.
- To make recommendations to Policy & Finance Committee and Council on the budget so far as it impacts on the role and remit of the Committee.
- To receive and consider Ombudsman reports relating to standards issues.
- To agree local settlements following a complaint to the Ombudsman in relation to standards issues.



Membership

7 members. (A link to the current membership of the committee can be found on the Constitution home page.)

Hearing Panel (Remit)

To conduct a hearing following the completion of a formal investigation into a code of conduct complaint and to take such of the following actions as it considers appropriate:

- (i) Resolve that no further action be taken on the matter.
- (ii) Report its findings to Council (or the Parish Council) for information.
- (iii) Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committees) that the Member subject to the complaint be removed from any or all Committees or Sub-Committees of the Council.
- (iv) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member.
- (v) Remove (or recommend to the Parish Council that the Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council).
- (vi) Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council such as a computer, website and/or email and internet access.
- (vii) Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises with the exception of attendance at meetings.
- (viii) Recommend other action.

Membership

3 elected Members

NOTE: The Monitoring Officer has delegated authority to constitute the Hearing Panel. The Panel may be drawn from the whole of the membership of the Council but will normally comprise at least one Member of the Policy & Finance Committee. The Panel will reflect political balance so far as practicable and normally comprise Members drawn from at least 2 political groups.

**ECONOMIC DEVELOPMENT COMMITTEE**

- Developing and adopting policies and procedures in accordance with the Council's cleaner, safer, greener strategy including:-
  - Markets Strategy
- Policy development, implementation and review in respect of all areas falling within the remit of the committee including:-
  - Economic Regeneration and Transport
  - Fuel Poverty Strategy
  - Home Energy Conservation and Energy Conservation Plan
  - Energy Management

- Climate Change including Mitigation (CO2 reduction)
- Land Use Planning
- and including making recommendations to Policy & Finance Committee or Council as appropriate in respect of key strategic policies impacting on the role and function of the Committee.
- Developing and reviewing the Local Development Framework including Development Plan Documents and Supplementary Planning Documents.
- Developing and adopting policies and procedures to underpin the Local Development Framework Core Strategy including:-
  - Local Development Scheme
  - Statement of Community Involvement
  - Supplementary Planning Guidance
  - Development Briefs
  - Infrastructure Provision
  - Community Infrastructure Levy
  - Conservation Area Character Appraisals
  - Town Centre Management Strategies
  - Wind Energy
- Developing and adopting policies and procedure in accordance with the Council's Leisure & Cultural Strategy including:
  - Museums & Heritage Strategy
- decision making in respect of the following: -
  - Economic Development
  - Inward Investment
  - Growth Point Issues
  - Land Charges
  - Building Control
  - Business Growth
  - Town Centre Regeneration
  - Planning (budget, staffing and administration)
  - Tourism
  - Transport
  - Markets and Street Trading
  - Car Parks
  - Operation and Management of Industrial Units
  - Civil Parking Enforcement
  - Cultural Services
  - Palace Theatre
  - Museums & Collections (including Civil War Centre)
  - Parks & Open Spaces (including Newark Castle & Grounds and Queens Scone)
- Designation of conservation areas and areas of archaeological interest
- Removal of permitted development rights through Article 4 Direction
- Making compulsory purchase orders under planning grounds and/or recommending to Council the making of compulsory purchase orders
- Appropriation of land for planning purposes

- Receiving reports from the following outside bodies:-
  - Campaign to Protect Rural England
  - National Joint Committee (Traffic Penalty Tribunal)

#### Policy Review and Development

- The committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- The committee may scrutinise and review decisions made or actions taken by the Policy & Finance Committee in so far as they have a direct impact on the role or functions of the committee.
- To review and scrutinise the operation of the Joint Economic Prosperity Committee.

#### External Review

- The committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role or functions of the committee and in particular the following:-
  - Business Sector
  - Regional and Sub Regional Bodies
  - Government and Government Agencies
  - Environment Agency (planning related issues)

#### Performance Management

- Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.
- Monitoring Service Performance against agreed targets.

#### Membership

12 Members. (A link to the current membership of the committee can be found on the Constitution home page.)

#### **LEISURE & ENVIRONMENT COMMITTEE**

- Policy development, implementation and review in respect of all areas falling within the remit of the committee including making recommendations to Policy & Finance Committee or Council as appropriate in respect of key strategic policies impacting on the role and function of the Committee.
- Developing and adopting policies and procedures in accordance with the Council's cleaner, safer, greener strategy including:-
  - Contaminated Land Strategy
  - Waste Strategy

- Developing and adopting policies and procedures in accordance with the Council's leisure and culture strategy including: -
  - Arts Strategy
  - Concessionary Pricing Strategy
  - Sports/Physical Activity Development Plans
- decision making in respect of the following: -
  - Leisure Centres (including managing the Council's leisure company)
  - Depot and Vehicle Pool
  - Refuse Collection
  - Cleansing
  - Recycling
  - Litter Collection
  - Street Cleaning
  - Grounds Maintenance
  - Sports Development
  - Catering Services
  - Public Toilets and Amenities
  - Trade Waste
  - Health and Wellbeing
- Environmental Health including:-
  - Food Hygiene
  - Environmental Protection and Improvement
  - Dog and Pest Control
  - Security and Caretaking
  - Cemeteries
  - Mansfield and District Crematorium Joint Committee
  - Functions of the Council relating to complaints regarding high hedges contained in part 8 of the Anti-Social Behaviour Act 2003.
- designation of nature reserves
- Developing and adopting policies and procedures in accordance with the Council's Health and Well Being strategies including: -
  - Obesity and Health Strategy
  - Older Peoples Strategy
  - Children and Young People's Strategy
- Receiving reports from the following outside bodies:-
  - Trent Valley Drainage Board
  - Southwell Leisure Centre Trustees
  - Upper Witham Internal Drainage Board
  - Sherwood Forest Hospitals Foundation Trust
  - Newark and Sherwood Community & Voluntary Service
  - Nottinghamshire Health & Wellbeing Board
  - Newark & Sherwood Health Forum
  - Newark & Sherwood CCG Stakeholder Reference Group Sub-Committee

Policy Review and Development

- The committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.
- The committee may scrutinise and review decisions made or actions taken by the Policy & Finance Committee in so far as they have a direct impact on the role or functions of the committee.

External Review

- The committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role of functions of the committee and in particular the following:-
  - Clinical Commissioning Groups
  - Hospital Services
  - Ambulance Services

Performance Management

- Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.
- Monitoring service performance against agreed targets.
- Monitoring the overall management and performance of the Council's leisure company.

Membership

12 Members (A link to the current membership of the committee can be found on the Constitution home page.)

**HOMES & COMMUNITIES COMMITTEE**

- Policy development, implementation and review in respect of all areas falling within the remit of the committee including making recommendations to Policy & Finance Committee or Council as appropriate in respect of key strategic policies impacting on the role and function of the committee.
- Developing and adopting policies and procedures in accordance with the councils community safety strategy including: -
  - Anti-Social Behaviour Strategy
  - Domestic Violence Strategy
  - CCTV Strategy
- Developing policies, procedures and protocols in relation to the Council's emergency plan and responses to flooding (other than planning issues).
- Developing and adopting policies and procedures in relation to housing including:
  - Local Housing Strategies and Action Plans
  - Local Lettings Policies
  - Tenancy Strategies

- Homelessness Strategy
- Affordable Warmth Strategy
- HECA Statement Strategy
- Allocation Scheme
- Housing Options and First Contact
- Affordable Housing
- Gypsy and Travellers
- Tenancy Agreement
- Anti Social Behaviour Policy (housing)
- Housing Needs Assessment
- Scrutiny of the operational performance of the Council's wholly owned housing management company
- decision making in respect of the following: -
  - Licensing (administrative and staffing)
  - Communications including use of social media and relationships with the media
  - Customer Services and ICT including developing new customer access channels
  - Data Protection
  - Freedom of Information
  - Electronic Records Management
  - Health and Safety Scrutiny
  - E-Government
  - Citizens Advice
  - CCTV
  - Community Safety
  - Emergency Planning
  - Community Resilience
  - Troubled Families
  - Voluntary Sector
  - External Relationships
  - Public Relations
  - Social inclusion (young people, older people, debt and rural issues)
  - Community Cohesion
  - Safeguarding Children and Young Persons
- Receiving reports from the following outside bodies:-
  - Bassetlaw, Newark and Sherwood Community Safety Partnership
  - Sherwood & Newark Citizens' Advice Bureau
  - Nottinghamshire Police and Crime Panel
  - Municipal General Charity

#### Overview & Scrutiny

- To meet at least annually with the appropriate overview and scrutiny committee of Bassetlaw District Council to undertake joint scrutiny of the Bassetlaw/Newark & Sherwood Community Safety Partnership. For this purpose the membership of the Homes & Communities Committee will constitute the designated Crime and Disorder Committee for the purposes of the Police and Justice Act 2006.

Policy Review and Development

- The committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors 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 the reasonably consider necessary to inform their deliberations.
- The committee may scrutinise and review decisions made or actions taken by the Policy & Finance Committee in so far as they have a direct impact on the role or functions of the Committee.

External Review

- The committee may invite stakeholders to address the committee on issues of local concern and/or answer questions in so far as it impacts directly or indirectly on the role or functions of the committee:-
  - Police and Crime Commissioner
  - Police
  - Voluntary Sector
  - Other tiers of local government including county council and parish councils
  - Community Safety and Crime Reduction Partnership
  - Environment Agency and other statutory bodies (in relation to flooding and other emergencies)

Performance Management

- Monitoring performance against approved estimates of revenue expenditure and income for services falling within its remit.
- Monitoring service performance against agreed targets

Membership

12 Members. (A link to the current membership of the committee can be found on the Constitution home page.)

**GENERAL PURPOSES COMMITTEE**

- All local authority licensing functions and ancillary matters other than those falling within the remit of the Licensing Committee including caravan sites, hackney carriage and private hire vehicle licences, drivers and operators, entertainments, betting, gaming and lotteries, theatres and cinemas
- Commons regulation and town and village greens
- Health and safety regulations (otherwise than as employer)
- Contaminated land and statutory nuisances (excluding policy issues)
- The passing of a resolution that schedule 2 to The Noise and Statutory Nuisance Act 1993 should apply in the authority's area
- The power to apply for an enforcement order against unlawful works on registered common land under Section 41 of the Commons Act 2006.

- The power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference under Section 45(2)(a) of the 2006 Act (Section 45 re-enacted, with amendments, the more familiar Section 9 of the Commons Registration Act 1965 with effect from 1<sup>st</sup> October 2006).
- The power to institute proceedings for offences in respect of unclaimed land under Section 45(2)(b) of the 2006 Act.
- All matters relating to the consideration and granting of Sexual Entertainment Venues licences.
- The power to make a closing order on a takeaway food shop (this function is delegated to Officers).
- Making recommendations to the Council on the adoption of bylaws
- Functions relating to parishes, elections and electoral registration
- Functions relating to Polling Station reviews
- Functions relating to Community Governance Reviews
- Making recommendations to Council relating to the name and status of areas and individuals
- Making recommendations to Council on the promotion or approval of local bill.
- Making recommendations to the Council as to recommendations to the Secretary of State on district boundaries, ward boundaries, electoral divisions, wards or polling districts
- To make recommendations to Policy & Finance Committee and to Council on the budget insofar as it impacts on the role and remit of the Committee.

NOTES: Where an Officer has delegated authority to deal with any matter falling within the remit of this Committee, the matter will normally be dealt with by that Officer, exercising delegated powers, unless, in the opinion of that Officer, the matter is likely to give rise to significant controversy or the nature of the decision is such that, in his or her opinion, it should be referred to Committee for determination.

### Membership

15 Members.

### **HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE SUB-COMMITTEE**

#### Remit

To deal with all matters relating to Hackney Carriage/Private Hire Vehicle Licence applications and ancillary matters under the Local Government (Miscellaneous Provisions) Act 1976. The Sub-Committee shall have full delegated authority to carry out the same functions and have the same powers as the full committee in respect of those matters.

#### Membership

Five members (with a quorum of three) to be drawn from the membership of the General Purposes Committee.



**APPEAL PANEL**

Remit

To deal with all appeals relating to staffing matters to which there is a right of appeal to elected members (where there is no express right of appeal to members, there will be a presumption that any appeal will be to the appropriate officer).

Membership

A panel of three members. Those members may be drawn from across the whole of the membership of the Council.

**LICENSING COMMITTEE**

Remit

- To discharge those functions set out in the Licensing Act 2003
- To make recommendations to the Policy & Finance Committee and Council insofar as it impacts on the role and remit of the Committee.

NOTE: There is no statutory requirement for the Licensing Committee to be politically balanced but the Council has resolved to apply political balance roles of the membership of the Committee. The Licensing Committee has approved a scheme of delegation as follows/overleaf:

<b>Matter to be Dealt with</b>	<b><u>Full Committee</u></b>	<b><u>Sub Committee</u></b>	<b><u>Officers</u></b>
Application for Personal licence		If a police objection	If no objection is made
Application for personal licence with unspent convictions			
Application for premises licence/club premises certificate	If a relevant representation is made that means the creation of a new Saturation Zone	If a relevant representation is made	If no relevant representation is made
Application for provisional statement	If a relevant representation is made that means the creation of a new Saturation Zone	If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate	If a relevant representation is made that means the creation of a new Saturation Zone	If a relevant representation is made	If no relevant representation is made
Application to vary designated personal licence holder		If a police objection	All other cases

Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc			All cases
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

The scheme of delegation will normally be adhered to but may be varied in exceptional circumstances and having regard to any relevant statutory requirements.

### Membership

15 Members. (A link to the current membership of the committee can be found on the Constitution home page.)

### PLANNING COMMITTEE

#### Remit

- 1.0 To discharge functions relating to town and country planning and development control, including:
  - 1.1 Power to determine applications for planning permission.
  - 1.2 Power to determine applications to develop land without compliance with conditions previously attached.
  - 1.3 Power to grant planning permission for development already carried out.
  - 1.4 Power to decline to determine any application for planning permission.
  - 1.5 Duties relating to the making of determinations of planning applications.
  - 1.6 Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
  - 1.7 Power to respond to consultation by neighbouring local planning authorities or the Secretary of State.

- 1.8 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
- 1.9 Power to determine applications for Non Material Amendments to a planning permission.
- 1.10 Power to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.
- 1.11 Power to enter into agreements regulating development or use of land.
- 1.12 Power to issue a certificate of existing or proposed lawful use or development.
- 1.13 Power to serve a completion notice.
- 1.14 Power to grant consent for the display of advertisements.
- 1.15 Power to authorise entry onto land.
- 1.16 Power to require the discontinuance of a use of land.
- 1.17 Power to determine whether it is expedient to take enforcement action in instances where there has been a breach of planning control.
- 1.18 Power to serve a planning contravention notice, breach of condition notice temporary stop notice or a requisition for information or stop notice.
- 1.19 Power to issue an enforcement notice.
- 1.20 Power to apply for an injunction restraining a breach of planning control.
- 1.21 Power to determine applications for hazardous substances consent and related powers.
- 1.22 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.
- 1.23 Power to require proper maintenance of land.
- 1.24 Power to determine applications for listed building consent and related powers.
- 1.25 Power to determine applications for conservation area consent.
- 1.26 Duties relating to applications for listed building consent and conservation area consent.
- 1.27 Power to serve a building preservation notice and related powers.
- 1.28 Power to issue enforcement notices and related powers.
- 1.29 Power to take action under Sections 224 and 225 of the Town and Country Planning Act 1990 - enforcement of control over advertisements, and regulations made under section 220 thereof.
- 1.30 Powers to acquire a listed building in need of repair and to serve a repair notice.
- 1.31 Power to apply for an injunction in relation to a listed building.
- 1.32 Power to execute urgent works.
- 1.33 Rights of way functions for which the Council is responsible.
- 1.34 Protection and preservation of trees and hedgerows, including as necessary the making, confirmation, modification and revocation of Tree Preservation Orders.
- 1.35 Power to determine applications for works and felling of trees covered by a Tree Preservation Order.
- 1.36 Power to determine notifications for works to Trees in Conservation Areas.
- 1.37 To exercise the Council's powers with regard to the Hedgerows Regulations 1997.
- 2.0 To consider and make recommendations to the Policy & Finance Committee and/or Council on the formulation of the Local Development Framework and other plans, policies, protocols or guidance impacting on functions within the remit of the committee.
- 3.0 Power to make payments or provide other benefits in cases of maladministration etc. pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of this committee.

4.0 To make recommendations to the Policy & Finance Committee and Council on the formulation of the budget insofar as it impacts on the remit of this Committee.

NOTE: Some of the functions set out above are delegated to officers (see Section 6 post). However, for the avoidance of doubt, the following functions are expressly reserved to committee for determination and cannot be discharged by an officer:

1. Planning applications which involve a significant departure from the statutory development plan.
2. Applications submitted on behalf of the Council or where the Council has an interest in the development save for any applications submitted on behalf of the Council or where the Council has an interest in the development as part of its HRA housing development programme which shall be determined in accordance with the Planning Committee Scheme of Delegation.
3. Matters of significance to the district or which may potentially give rise to significant financial consequences except in cases of extreme urgency.

The Planning Committee has approved the following Scheme of Delegation. It outlines which applications are normally determined at Planning Committee and which are determined by an Authorised Officer of the Council.

Below are the details of the Scheme of Delegation operated by the Council. The Authorised Officer(s) of the Council may determine the following planning and related applications without reference to Planning Committee:

1. **Applications for smaller developments (DCLG Codes 14-27 excluding 17 Gypsy & Traveller Pitches)[*previously codes 10-19*], and applications for prior notification in relation to agricultural works, telecommunications, tree and hedgerow removal works** can be dealt with under delegated powers by the Authorised Officer of the Council having considered comments received in relation to the application.
2. **Minor or major applications for residential (including Gypsy and Traveller Pitches), office, industrial, storage, distribution or retail developments (DCLG Codes 1-13 and 17)[*previously codes 1-9*]** can be dealt with as follows:

**An application will be reported to Planning Committee when:**

- The recommendation is contrary to the response received from the Town or Parish Council, **provided such a response is based on material planning considerations\***; or
- The recommendation is contrary to the response received from a statutory consultee; or
- The relevant planning application has been submitted by a community or voluntary organisation, a town or parish council or a social enterprise and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended by officers for refusal.

- The relevant planning application involves a commercial proposal which could potentially deliver significant employment opportunities (the determination of “significant” to be decided by the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee (significant to be determined according to local circumstances) and the application would otherwise be recommended by officers for refusal.

**An application may be determined under delegated powers by an Authorised Officer of the Council when:**

- The decision is in accordance with the representations received from all consultees;
  - The decision accords with representations from statutory consultees and the Town/Parish Council (**provided such a response is based on material planning considerations\*<sup>1</sup>**) but is contrary to representations from non-statutory consultees, such as neighbours;
  - The decision is for refusal based on The Environment Agency’s representation whether or not other consultees are supporting the application;
  - The Highways Agency direct refusal of an application;
  - Representations raise only non-planning matters.
3. **Applications which have been submitted by District Councillors, Senior Officers\* or Officers who may otherwise have a direct involvement in the determination of the application** or where Councillors or Officers have a direct interest in the application, will be determined by Planning Committee.  
*(\*Senior Officers shall be defined as Chief Officers and Deputy Chief Officers as defined by the Local Government and Housing Act 1989 (currently members of the Corporate Management Team and Business Managers)*
4. **Enforcement Notices (including requisitions for information, stop and temporary stop notices), and Notices under Section 215 of the Town and Country Planning Act 1990 (as amended) relating to untidy land may be served by an Authorised Officer and the matter pursued through to prosecution at magistrates court when:**
- consultation has first taken place with the Ward Member(s)
  - Officer/Member can refer the case to Planning Committee to determine enforcement action where significant or controversial\*.
- \*to be agreed by the Authorised Officer in consultation with the Chairman of Planning Committee.

**Where an Authorised Officer has delegated powers he or she may refer the matter to Planning Committee for determination rather than exercise that delegated authority themselves particularly where, in their judgement, the specifics of an application warrant determination by the Planning Committee.**

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\* The determination of what constitutes a material planning consideration should be determined by the Business Manager, Growth and Regeneration in consultation with the Chairman of Planning Committee.

**Local Members can request that planning applications in their Ward be determined by Planning Committee rather than the Officers acting under delegated powers.**

- A) Local Members may request that a planning application in their ward be referred to committee rather than being determined by officers acting under delegated powers provided that:-
- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.
  - The request sets out clear planning reasons behind the referral request.
  - The recommendation of officers is different to the opinion of the local member having regard to the interests of their ward area.
- B) A Member in a ward immediately adjoining the ward in which the application is situated may request that an application be referred to committee rather than being determined by officers acting under delegated powers provided that:-
- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.
  - The request sets out clear planning reasons behind the referral request.
  - The recommendation of officers is different to the opinion of the member having regard to the impact of the proposed development on their ward.
  - The relevant ward member(s) has/have been notified prior to the referral request being made.
- C) A Member may request that any application be referred to committee rather than being determined by officers acting under delegated powers where, in their opinion, the application will have a material impact on the whole or part of their ward provided that:-
- A written request is made to the Authorised Officer prior to the date on which the application would otherwise be determined by officers acting under delegated powers.
  - The request sets out clear planning reasons behind the referral request including a requirement to demonstrate how it is likely to materially impact on the whole or part of the ward area of the member making the referral request.
- The recommendation of officers is different to the opinion of the Member having regard to the impact of the proposed development on their ward and/or the District as a whole or part, having regard to the nature of the development or for the reason that the application will set a precedent for the whole or part of the District.
- The relevant ward member(s) has/have been notified prior to the referral request.
  - The Group Leader of the relevant group of the Member making the referral request has agreed to the referral.

All requests for matters to be referred to committee as set out in A, B and C above shall be determined at the discretion of the Authorised Officer in consultation with the Business Manager – Development Control and the Chairman and Vice-Chairman of the Planning Committee.

5. The “Authorised Officer(s)” for the purposes of this part of the Constitution shall be the Chief Officer whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development control function or an Officer authorised in writing by them to act on their behalf.

#### Membership

15 Members. (A link to the current membership of the committee can be found on the Constitution home page.)

#### **SHAREHOLDER COMMITTEE**

##### Remit

Strategic oversight of the Council’s Development Company (Arkwood Developments Ltd), including: its performance; management of the relationship between the Council and its Company; compliance with the Governance Agreement; and “health check” of the Company by the Council as sole shareholder; and specifically to:-

1. Recommend to Council the Company’s Articles of Association for consideration and approval;
2. Recommend to Council the Governance Agreement between the Council and the Company for consideration and approval;
3. Agree the constitution of the Board of Directors and to approve the appointment of directors to the Board and to have the power to remove directors of the Board and approve best practice policies in relation to such appointments;
4. Receive, review and approve the Company’s annual report and the annual business plan;
5. Review the performance of the Company; and
6. Determine, on behalf of the Council, how it should exercise the functions flowing from its ownership of shares, including decisions on payment of dividends from the company’s profit after taxation.

#### Membership

5 Members

(A link to the current membership of the committee can be found on the Constitution home page.)

#### **AUDIT & ACCOUNTS COMMITTEE**

##### Remit

1. To approve the Authority’s statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be) – Accounts and Audit (England) Regulations 2011

2. To review the Council's corporate governance arrangements to ensure that efficient and effective assurance arrangements are in place.
3. To undertake the following functions and, where necessary, submit reports and/or make recommendations to the Policy & Finance Committee and/or to Council.
  - (i) Receive reports/presentations from the Council's internal audit manager, consider the main issues identified and monitor management action in response to any recommendations arising therefrom.
  - (ii) Receive and consider the external auditor's opinion and reports, and those of external inspection agencies, and monitor management action in response to the issues raised.
  - (iii) Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
  - (iv) Consider the effectiveness and adequacy of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements. To consider the adequacy of the action being taken on risk related issues identified by auditors and inspectors.
  - (v) Be satisfied that the authority's assurance statements properly reflect the risk environment and any controls in place to manage it.
  - (vi) Ensure effective scrutiny of the Council's Treasury Management Strategy and Policies.
4. To recommend to the Council's S151 Officer the approval of (but not the direction of) internal audit's strategy plan and performance.

NOTE: The Section 151 Officer or an officer nominated to act on his behalf will normally attend meetings of the Committee in an advisory capacity. Other members and/or officers of the Council may be invited to attend as appropriate.

#### Membership

6 Members. (A link to the current membership of the committee can be found on the Constitution home page.)

#### CHIEF OFFICERS APPOINTMENTS PANEL

NOTE: The Officer Employment Procedure Rules in Part 3 of this Constitution and the Standing Orders relating to the appointment and dismissal of staff adopted pursuant to the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2015 deal inter alia with the appointment of staff. The Policy & Finance Committee has responsibility for a range of staffing matters as set out in its remit. However, the appointment of staff below Deputy Chief Officer must be the responsibility of the Head of Paid Service or his nominee, in other words such appointments cannot be made by members.



In addition, the appointment of the Head of Paid Service must be approved by the Council. The role and function of the Chief Officers Appointment Panel is to make Chief Officer appointments with the exception of the Head of Paid Service where their remit is to interview candidates for the Head of Paid Service and to recommend an appointment to the Council.

Remit

To interview candidates for the Head of Paid Service and to recommend an appointment to the Council. To interview and appoint Chief Officers.

Membership

A panel the size and composition of which will be determined by either the Policy & Finance Committee or by Council from time to time to be drawn from the whole of the membership of the Council and to broadly reflect political balance”.

**INVESTIGATING AND DISCIPLINARY COMMITTEE**

To deal with disciplinary matters in relation to Chief Officers and Statutory Officers where they are not chief officers as defined in the Constitution.

Remit

- (i) To determine whether, on receipt of the conclusion of any preliminary investigation, a detailed investigation should be carried out;
- (ii) To delegate to an investigating officer to be appointed by them responsibility for the conduct of that investigation;
- (iii) In respect of any matter relating to the Chief Executive and Head of Paid Service, where necessary and appropriate, to suspend the Chief Executive after it has conducted its initial assessment. In the event that it is necessary to suspend the Chief Executive prior to a meeting of the Investigating and Disciplinary Sub-Committee delegated authority to effect such suspension shall be exercisable by the Deputy Chief Executive or, in his or her absence, by any Chief Officer in consultation with the Leader and Deputy Leader;
- (iv) In the case of the suspension of any officer other than the Head of Paid Service, delegated authority shall be given to the Chief Executive/Head of Paid Service or their designated deputy to effect such suspension;
- (v) To review the continued suspension of the Head of Paid Service at not more than two monthly intervals;
- (vi) To conduct a disciplinary hearing;
- (vii) At the conclusion of the disciplinary hearing to determine whether to:-
  - (a) Take no further action
  - (b) Exonerate the Chief Officer, or
  - (c) State their opinion as to whether (and if so the extent to which) the evidence they have obtained supports any allegation of misconduct against the Chief Officer

- (d) To determine appropriate disciplinary action which may include:-
1. Recorded oral warning
  2. Written warning
  3. Suspension on half pay or no pay for a specified period
  4. Relegation (ie a reduction in salary) for a specified period
  5. An invitation to resign or accept retirement
  6. Dismissal with notice\* (Note: In the case of disciplinary action which may result in the dismissal of the Head of Paid Service, s151 Officer or Monitoring Officer, the Investigating and Disciplinary Sub-Committee has no delegated power to dismiss the relevant Officer but may only make a recommendation to Council regarding dismissal of the Officer subject to disciplinary proceedings). Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal meeting the Council must take into account any advice, views or recommendations of an Independent Panel, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer.
  7. Dismissal without notice\* (See note above in relation to the proposed dismissal of the Head of Paid Service, S151 Officer or Monitoring Officer).
- (e) To determine alternatives including:
1. Informal resolution or other appropriate procedures
  2. Early retirement
  3. Secondment
  4. Redeployment to a more junior post where there are issues relating to capability
- (f) To refer back to the Investigating Officer for further investigation and report;

NOTE:-

1. The quorum for the Investigating and Disciplinary Sub-Committee is three members;
2. The Sub-Committee will, so far as practicable, reflect political balance;
3. Delegated authority has been given to the Chief Executive (or his or her designated deputy) to appoint an Investigating and Disciplinary Sub-Committee from a panel comprising the whole of the membership of the Council as necessary and appropriate in consultation with the Leaders of all political groups entitled to make appointments to the Sub-Committee and to appoint an Advisor to the Sub-Committee;
4. In the event that it is necessary to convene an Investigating and Disciplinary Sub-Committee to consider any matter relating to the Head of Paid Service, the delegated authority shall not be exercisable by the Chief Executive but by their designated deputy or in his/her absence by any Chief Officer. In such a case, the Investigating and Disciplinary Sub-Committee shall have delegated authority to appoint an advisor who may be an officer of the authority or an external advisor.

Membership

Five members to be drawn from the whole of the membership of the Council.  
(The quorum for the Investigating and Disciplinary Sub-Committee is three members).

**CHIEF OFFICERS APPEAL SUB-COMMITTEE**

**Remit**

To determine appeals against the decisions of the Investigating and Disciplinary Sub-Committee relating to disciplinary action against Chief Officers and appeals against sanctions imposed by the Investigating and Disciplinary Sub-Committee relating to Statutory Officers falling short of dismissal. In the case of the Investigating and Disciplinary Sub-Committee making a recommendation to dismiss a Statutory Officer, such recommendation will be made directly to Council whose decision shall be final.

**NOTE:-**

1. The quorum for the Chief Officers Appeal Sub-Committee is three members.
2. The Chief Officers Appeal Sub-Committee will, so far as practicable, reflect political balance.

Delegated authority has been given to the Chief Executive (or his or her designated deputy) to appoint a Chief Officers Appeal Sub-Committee from a panel comprising the whole of the membership of the Council as necessary and appropriate after consultation with the Leaders of the political groups entitled to appoint to the Sub-Committee and to appoint an Advisor to the Sub-Committee.

In the event that the appeal is lodged by the Head of Paid Service, such delegated authority is exercisable by their designated deputy or in his/her absence by any Chief Officer. In such appeals, the Chief Officers Appeal Sub-Committee shall have delegated authority to appoint an advisor who may be an officer of the authority or an external advisor.

The decision of the Chief Officers Appeal Sub-Committee will be final.

The Chief Officers Appeal Sub-Committee shall have the same powers, at the conclusion of the appeal hearing, as the Investigating and Disciplinary Sub-Committee as set out in paragraph (vi) of their remit and their decision shall replace that of the Investigating and Disciplinary Sub-Committee, save that any appeal against a recommendation of the Investigating and Disciplinary Sub-Committee to dismiss a statutory officer shall not fall within the remit of the Chief Officers Appeal Sub-Committee but shall rest with the Council with the decision of Council being final.

**Membership**

Five members to be drawn from the whole of the membership of the Council provided that the same members shall not sit on both the Investigating and Disciplinary Sub-Committee and the Chief Officers Appeal Sub-Committee. (The Chief Executive or his designated deputy has same delegated authority to constitute the Sub-Committee as they have in respect of the Investigating and Disciplinary Sub-Committee – see notes 3 and 4 under the heading “Investigating and Disciplinary Sub-Committee”).

**INDEPENDENT PANEL**

**Remit**

To offer the Council advice, views or recommendations on any proposal for the dismissal of a Statutory Officer.

The Panel, in so doing, will consider:

- The recommendation of the Investigating and Disciplinary Sub-Committee and the reasons in support of that recommendation.
- The report of the Independent Investigator.
- Any oral and/or written representations from the Statutory Officer.

**Membership**

At least 2 Independent Persons appointed under the Localism Act 2011.

**NOTE:**

1. The Council must invite Independent Persons to be appointed to the panel in the following priority order:
  - (a) A relevant Independent Person who has been appointed by the authority and who is a local government elector;
  - (b) Any other relevant Independent Person who has been appointed by the authority;
  - (c) A relevant Independent Person who has been appointed by another authority or authorities
2. The Council must appoint the Panel at least 20 working days before the Council meeting at which any vote is taken on whether or not to approve the dismissal of a Statutory Officer.

**BOARD OF TRUSTEES OF THE GILSTRAP CHARITY AND W.E. KNIGHT**

**Remit**

1. To act as trustee on behalf of the Council of the Gilstrap Charity and W E Knight Trust.
2. To receive the annual accounts of the above charities.
3. To make operational and strategic decisions relating to the above charities.

**Membership**

Five members to be appointed annually by the Council including a least one local member for the area of benefit of the said charities. (A link to the current membership of the Board can be found on the Constitution home page.)

**NOTE:** The board has power to co-opt an independent member to the Board in an advisory capacity only

**JOINT ARRANGEMENTS**

The Council, jointly with other authorities, operates the joint arrangements set out below:

**MANSFIELD AND DISTRICT CREMATORIUM JOINT COMMITTEE**

**AGREEMENT RELATING TO JOINT  
MANAGEMENT ARRANGEMENTS FOR  
MANSFIELD & DISTRICT CREMATORIUM**

**BETWEEN**

**MANSFIELD DISTRICT COUNCIL  
-and-  
ASHFIELD DISTRICT COUNCIL  
-and-  
NEWARK & SHERWOOD  
DISTRICT COUNCIL**

This **DEED OF AGREEMENT** is made the **11<sup>th</sup>** day of **November 2013**

**BETWEEN**

- (i) **Mansfield District Council of Civic Centre, Chesterfield Road South, Mansfield, Nottinghamshire NG19 7BH (“Mansfield”) and**
- (ii) **Ashfield District Council of Council Offices, Urban Road, Kirkby in Ashfield, Nottinghamshire NG17 8DA (“Ashfield”) and**
- (iii) **Newark and Sherwood District Council of Kelham Hall, Newark, Nottinghamshire NG23 5QX (“Newark and Sherwood”)**

**WHEREAS:**

1. The authorities to this Deed have by their Executives or by virtue of Section 102 (1) of the Local Government Act 1972 the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 and all and every power enabling them agreed and resolved to constitute a Joint Committee to exercise the powers which each of the Authorities hereto might respectively have exercised by virtue of the Cremation Acts 1902 and 1952 for the provision, running, maintenance and management of the existing Crematorium (“the Crematorium”) at Derby Road, Mansfield, Nottinghamshire NG18 5BJ which is more particularly described in paragraph 1 below and on 3<sup>rd</sup> July 2002 entered into a Joint Management Agreement (“the 2002 Agreement”).
2. The 2002 Agreement and a subsequent Agreement on 27<sup>th</sup> July 2012 (“the 2012 Agreement”) superseded an agreement entered into by the said Authorities or their predecessor authorities dated 4<sup>th</sup> April 1955 (the Prior Agreement).

3. The parties now wish to revise the terms of the 2012 Agreement to reflect Newark and Sherwood District Council's change in governance arrangements to a committee style of governance with effect from 14<sup>th</sup> May 2013 and have entered into a Revised Agreement accordingly.

**NOW in pursuance of the said Agreement and in consideration of these presents THIS DEED WITNESSES as follows:**

1.0 **Definitions and Interpretation**

- 1.1 In this Agreement, the following expressions shall have the meaning set out below unless the context otherwise requires:

"Authority"	means either Mansfield, Ashfield or Newark and Sherwood and "Authorities" shall be construed accordingly;
"Annual Meeting"	means the annual meeting of the Joint Committee held each year in accordance with Paragraph 7.2 of this Agreement;
"Chief Executive"	means the Head of an Authority's Paid Service being the person designated as such under Section 4 of the Local Government and Housing Act 1989;
"Clerk"	means the person appointed by virtue of Paragraph 17.1 to carry out certain duties allocated by this Agreement;
"Commencement Date"	the 14 <sup>th</sup> day of May 2013
"Council"	the Council of elected members of the Authorities to this Agreement;
"Crematorium"	the crematorium known as the Mansfield and District Crematorium, which includes all buildings, grounds, equipment and all other property appurtenant thereto;
"Crematorium Site"	means the land shown edged red on the plan annexed situate at Derby Road, Mansfield, Nottinghamshire;
"Executive"	in relation to Mansfield District Council and Ashfield District Council, the form of Executive created and operated by that Authority in accordance with Sections 10 and 11 of the Local Government Act 2000;
"Financial Year"	the period running from 1 <sup>st</sup> April in one calendar year until 31 <sup>st</sup> March in the next calendar year (inclusive);
"Joint Committee"	the Mansfield and District Crematorium Joint Committee constituted by this Agreement;
"Member"	unless the context otherwise so requires a member of the Joint Committee;
"Ordinary Meeting"	any meeting of the Joint Committee that is not an annual meeting or a special meeting;

“Special Meeting” a meeting of the Joint Committee convened in accordance with Paragraph 7.6 of this Agreement.

- 1.2 Words importing one gender include all other genders and words importing the singular include the plural and vice versa.
- 1.3 The clause, paragraph and schedule headings do not form part of this Agreement and should not be taken into account in its construction or interpretation.
- 1.4 References to Statutes, sections of Statutes or Statutory Instruments shall include any statutory modifications or re-enactment thereof from time to time and for the time being enforced.

## 2.0 **Duration of Joint Committee**

The Authorities shall constitute the Joint Committee from the Commencement Date and the Joint Committee shall continue thereafter unless and until determined under the provisions contained in this Agreement. If one of the constituent authorities gives notice of their intention to withdraw from the arrangements, the Joint Committee may continue to operate with the two remaining constituent authorities and this Agreement shall be amended accordingly.

## 3.0 **Name of Joint Committee**

The Joint Committee shall be known as the Mansfield and District Crematorium Joint Committee.

## 4.0 **Provision and Location of Crematorium**

The Crematorium is located on the Crematorium Site which site was acquired by Mansfield District Council on behalf of the predecessor Authorities to those which are party to this Agreement.

- 4.1 The Crematorium Site is now vested in Mansfield by virtue of S120(4) of the Local Government Act 1972.
- 4.2 Mansfield acknowledges that it holds the Crematorium Site on behalf of the constituent authorities. It further acknowledges that in the event of the Crematorium Site being sold to a third party, the assets shall be apportioned between the Authorities in accordance with a formula to be agreed between them. In the absence of agreement being reached between the parties as to the formula to be applied, regard shall be given to the original capital contributions of the predecessor Authorities and to contributions to revenue deficits and contributions to capital made by the three Authorities and by their predecessor Authorities. In the event of the three Authorities failing to reach agreement, having had regard to such historic data, an arbitrator shall be appointed to determine the due apportionment, the arbitrator to be nominated by the external auditors for the time being of the Joint Committee.

5.0 **Membership**

- 5.1 The Joint Committee shall consist of members appointed by the Authorities as follows:
- 5.1.1 Mansfield District Council and Ashfield District Council shall each appoint three executive members and Newark and Sherwood District Council shall appoint three members to the Joint Committee
- 5.1.2 Subject to the provisions of this Agreement each Member shall continue in office for a period of one year or in the case of Mansfield and Ashfield Councils, until such time as he shall cease to be an executive member of the Council by whom he is appointed whichever is the sooner and any provision in the Standing Orders of any of the Authorities to the contrary is hereby waived.
- 5.1.3 If any Authority does not appoint the number of members which it is entitled to appoint, the other members of the Joint Committee shall be competent to carry out the business thereof pursuant to this Agreement.
- 5.1.4 Any person who is a member of the Councils of more than one Authority shall only represent the first Authority to appoint him as a member and any subsequent appointment by another Authority shall be void.
- 5.2 The Chief Executive of each Authority shall notify the Clerk within 14 days of any appointment of a member of his Council to the Joint Committee.
- 5.3 Any member may at any time resign his office as such member by notice addressed to the Clerk who should forthwith notify the respective Chief Executives of each of the Authorities.
- 5.4 Any member may be removed at any time by resolution by the Executive of the Authority by whom he was appointed or by the Council as the case may be, but such removal should only become effective upon receipt by the Clerk of notification thereof.

6.0 **Chair and Vice-Chair**

- 6.1 At the first meeting of the Joint Committee and subsequently at its Annual Meeting in each successive year, the Joint Committee shall select one of its members as Chair and another as Vice-Chair for the forthcoming year provided that at no time should the Chair and Vice-Chair be members of the same Authority.
- 6.2 The offices of Chair and Vice-Chair shall, in successive years, rotate between the three constituent authorities.
- 6.3 The elected Chair and Vice-Chair shall remain in office until the next Annual Meeting unless by reason of death, resignation, disqualification or any other cause before that time and, upon a vacancy occurring within the term of office, another member from the same Authority shall be appointed by the Joint Committee to fill the vacancy until the next Annual Meeting. Disqualification shall, in the case of Mansfield and Ashfield District Councils, include ceasing to hold office as an executive member of the appointing Authority.
- 6.4 If there is equality of votes for the appointment of Chair or Vice-Chair, then the Chair for the time being of that meeting shall have a casting vote.



7.0 **Meetings of the Joint Committee**

- 7.1 The Joint Committee shall hold an Annual Meeting which will normally be before the end of June in each year.
- 7.2 Other than the Annual Meeting, meetings shall be held at such places and on such dates and at such times as the Joint Committee may decide from time to time save that meetings shall be held not less than quarterly.
- 7.3 Ordinary meetings and Annual Meetings of the Joint Committee shall be convened by the Clerk who shall deliver notice thereof to each member and observer at least five clear days before the date of the meeting (provided that failure to serve such notice on any member shall not affect the validity of the meeting).
- 7.4 With the notice referred to in Paragraph 7.3 the Clerk shall send a copy of the agenda for the meeting which shall include:
- 7.4.1 Provision for the declaration of disclosable pecuniary interests by members and observers;
- 7.4.2 All items of business which have been, or are deemed to have been, referred to the Joint Committee by a Scrutiny Committee, the Cabinet an ordinary committee (in the case of Newark and Sherwood District Council) or a Council Resolution of any Authority;
- 7.4.3 All reports submitted by any officer of any of the Authorities; and
- 7.4.5 Any item of business directed to be included by the person appointed to preside at the meeting.
- 7.5 A quorum of three members must be present to constitute a meeting provided that there is at least one member present from each Authority.
- 7.6 The Chair and two or more members of the Joint Committee may at any time by notice specifying the business to be transacted and sent to the Clerk require a Special Meeting of the Joint Committee to be convened and the Clerk shall accordingly convene a Special Meeting which will be held within 21 clear days of receipt by the Clerk of the said notice.
- 7.7 The Clerk shall give members of the Joint Committee at least five clear days notice of the Special Meeting and such notice shall specify the business that is proposed to be transacted.
- 7.8 No business shall be transacted at a Special Meeting other than that specified in the notice sent to the Clerk and referred to in Paragraph 7.6 above.

8.0 **Persons Presiding at Meetings**

- 8.1 The Chair, or in his absence, the Vice-Chair shall preside at every meeting provided that if both the Chair and Vice-Chair are absent, the members present shall elect another member of the Joint Committee who shall preside at that meeting.

9.0 **Voting**

- 9.1 Every question at a meeting of the Joint Committee shall be decided by a majority vote of those members present and voting and in the case of an equality vote the person presiding at the meeting shall have a second and casting vote.

- 9.2 Except where a requisition is made under paragraph 9.3, the method of voting at meetings of the Joint Committee shall be by show of hands.
- 9.3 If requisition for a recorded vote is made by not less than three members present before a vote is taken on any question or motion, the voting shall be recorded so as to show whether each member present voted for or against that question or motion or abstained from voting.
- 9.4 Where, immediately after a vote is taken, any member present so requires, there shall be recorded in the minutes whether the person cast his vote for the question or against the question or whether he abstained from voting

10.0 **Veto**

- 10.1 Any member of the Joint Committee shall have a right of veto in respect of any decision of the Joint Committee
- 10.2 Such veto must be exercised prior to close of the meeting at which the matter is considered and shall provide that a decision is deferred on that matter until the next available meeting of the Joint Committee.
- 10.3 The right of veto shall not be exercisable where the majority of members of the Joint Committee present and voting resolve that the matter in question requires an urgent decision.
- 10.4 The right of veto may only be exercised once in respect of any matter.

11.0 **Minutes**

- 11.1 The Clerk shall be responsible for keeping a record of attendance and a record of business transacted at every meeting of the Joint Committee and the Minute Book shall be submitted to and signed at the next following meeting.
- 11.2 The person presiding at the next following meeting and referred to in Paragraph 11.1 shall put the question that the minutes be approved as a correct record of the previous meeting.
- 11.3 No discussion shall take place upon the minutes, except upon their accuracy. If no question is raised as to accuracy or, if it is raised then as soon as it is disposed of, the person presiding shall sign the minutes.
- 11.4 Copies of the minutes of every meeting of the Joint Committee and any Sub-Committee thereof shall as soon as possible after each meeting and in any event within five working days be sent by the Clerk to the Chief Executive of each Authority and , in the case of Ashfield and Mansfield District Councils, a copy of the minutes will be submitted to the appropriate Scrutiny Committee of the Council for consideration at the next meeting thereof, subject to proper notice in accordance with that Council's Standing Orders.
- 11.5 If any matter or decision arising from the minutes of the Joint Committee is referred by a Scrutiny Committee of Mansfield or Ashfield District Councils to the Joint Committee, it shall be reconsidered in the light of the Scrutiny Committee's reference and reasons by the Joint Committee at the next Joint Committee meeting of which proper notice of the matter can be given and the Joint Committee's decision after such reconsideration shall be final.

12.0 **Sub-Committees**

- 12.1 The Joint Committee may from time to time appoint Sub-Committees for any general or special purpose in connection with their powers and functions. Any Sub-Committees so appointed shall consist only of members but should include at least one member from each Authority.
- 12.2 The Joint Committee shall at the time of appointing any Sub-Committee determine the terms of reference of that Sub-Committee.

13.0 **Vacancies**

- 13.1 No act or proceeding of the Committee shall be questioned on account of any vacancy or on account of any defect in the appointment of any member.

14.0 **Capital Expenditure**

- 14.1 If the Joint Committee shall at any time require to incur capital expenditure for:
- 14.1.1 the acquisition of property;
- 14.1.2 the construction of works;
- 14.1.3 any other capital purposes in connection with its powers

**then (unless the Joint Committee shall in their discretion decide to defray such expenditure out of revenue surpluses) the express approval of each of the Authorities to such capital expenditure shall be required. In the event of the request for additional capital funding being approved by each of the Authorities, the Authorities shall contribute to that capital expenditure in accordance with a formula to be calculated according to the throughput of cremations emanating from each of the Authorities for the relevant financial year, ("the Formula") unless the Authorities shall jointly determine that a different formula be applied. For the purposes of the calculations, any cremations emanating from outside the areas of the three constituent authorities shall be disregarded.**

- 14.2 The Joint Committee shall, from time to time, pay the amounts of all interest and all instalments of principal and other payments that become due under any loan raised pursuant to Paragraph 14.1 above.
- 14.3 The Authorities expressly give delegated authority to the Joint Committee to determine the capital programme provided that the cost of funding the same can be met from revenue surpluses and any accrued repairs and renewals fund.

15.0 **Revenue Expenditure**

- 15.1 All expenses of a revenue nature incurred by the Joint Committee in any financial year shall be borne in accordance with the same Formula to be applied to capital expenditure, namely according to the throughput of cremations emanating from each of the respective Authorities for the relevant financial year as set out in paragraph 14.1.3.

15.2 The Joint Committee may use or carry forward part or all of any profit or surplus made in any financial year for the purposes of:

15.2.1 Paying debts

15.2.2 Meeting contingencies

15.2.3 Meeting future expenses

15.2.4 Funding any capital works in accordance with clause 14.3, but any amount of such profit or surplus not so applied shall be returned to the Authorities according to the formula set out in paragraph 14.1.3 namely the throughput of cremations emanating from each of the constituent Authorities for the relevant financial year. In calculating the respective share to be distributed to each of the Authorities any cremations from outside the areas of the three constituent Authorities shall be disregarded.

15.3 Revenue surpluses shall be applied in the first instance towards funding the capital programme from time to time agreed by the Joint Committee in accordance with clause 14.3. However, the Authorities shall be entitled to elect to take their share of the revenue surplus provided that they provide the equivalent amount by way of capital contribution towards the agreed capital programme.

15.4 In the event of a revenue deficit, this shall be met by the constituent Authorities in accordance with the Formula set out in paragraph 14.1.3 for the relevant financial year.

#### 16.0 **Interest on Sums Due**

16.1 Any sum properly payable by any of the Authorities to the Joint Committee whether of a capital or revenue nature, which is not paid by the due date shall be liable to interest at the base lending rate of Mansfield's bankers until such time as the sum due is paid in full.

#### 17.0 **Apportionment of Assets and Liabilities**

17.1 If one or more of the constituent authorities give notice under clause 21 that they wish to withdraw from the joint management arrangements, they shall be entitled, on such withdrawal, to receive an appropriate apportionment of assets or shall be required to pay an appropriate apportionment of the liabilities of the Crematorium on the basis of a formula calculated with reference to the number of cremations as a percentage of total within area cremations (i.e. excluding out of area cremations entirely from the calculation) over the 15 year period immediately preceding the effective date of such withdrawal as follows:

X = Number of cremations taking place within each district area for the preceding 15 years

Y = Total number of cremations taking place within the total of the constituent district areas (excluding out of area cremations)

$\frac{X}{Y} \times 100 = \% \text{ for each authority } \times \text{ value of assets or liabilities.}$

Y

17.2 In such event, the authority or authorities giving notice of their intention to withdraw shall be required to meet any costs directly arising as a result of such withdrawal including any professional fees incurred.

17.3 In the event of a sale or disposal of the Crematorium to a third party or in the event of it ceasing to operate for any other reason, the formula to be applied for the distribution of assets and liabilities shall be calculated according to the number of cremations emanating from each district as a percentage of the total within area cremations (i.e. excluding out of area cremations from the calculations) over the 25 year period immediately preceding the disposal or closure as the case may be as follows:

X = Number of cremations taking place with each district area for the preceding 25 years

Y = Total number of cremations taking place within the total of the constituent district areas (excluding out of area cremations)

$\frac{X}{Y} \times 100 = \% \text{ for each authority x value of assets or liabilities.}$

17.4 The Joint Committee shall make appropriate arrangements for a valuation of the Joint Committee's assets and liabilities to be carried out on a 5 yearly basis.

#### 18.0 **Appointment of Officers**

18.1 Those persons currently holding office as Clerk and Treasurer pursuant to the Prior Agreement shall continue to hold office by virtue of this Agreement. Should those officers resign or otherwise cease to hold office the Joint Committee shall appoint to those offices, provided that any person so appointed shall be an employee of one of the Authorities and shall cease to hold office on terminating such employment.

18.2 The Joint Committee shall appoint and pay such employees as it deems necessary to provide, equip, maintain and manage the Crematorium and also duties ancillary thereto required to be provided by virtue of this Agreement or by Statute. Such employees shall be employed by Mansfield District Council on the Joint Committee's behalf on the terms and conditions of employment which apply to employees of Mansfield District Council and shall be enabled to join any pension scheme which employees of Mansfield are entitled to join by virtue of their individual Contracts of Employment.

#### 19.0 **Accounts**

19.1 The Treasurer shall keep accounts of all monies received by and all expenditure of the Joint Committee as may be required for the purposes of Part 8 of the Local Government Act 1972.

19.2 As soon as practicable after the end of the financial year the Joint Committee shall send to each Authority a full report of the operations of the Joint Committee during the last financial year and a copy of the accounts thereof.

19.3 Mansfield will arrange for an annual audit of the accounts to be carried out and the Joint Committee shall provide a copy of the report thereof to each of the Authorities as soon as practically possible after receipt of the same.

20.0 **Performance of Agreement**

20.1 The Authorities shall at all times take all or any action as may be necessary for giving full effect to this Agreement and every provision and obligation contained herein and any decision made by the Joint Committee pursuant hereto.

20.2 Each Authority shall bear its own costs for the negotiation, preparation, completion and stamping of this Agreement and any amended agreement be approved by the three constituent authorities.

20.3 If any Authority shall fail to carry out any necessary act required to be taken pursuant to Paragraph 20.1 and 20.2 above, the others may implement any reasonable measures necessary to effect this Agreement or any proper decision of the Joint Committee and the reasonable costs thereof shall be recoverable as a debt from the Authority which so failed to act.

21.0 **Withdrawal from the Agreement or Termination of the Agreement**

21.1 If any of the Authorities wish to withdraw from this Agreement they shall be required to give not less than twenty-four months notice to expire on 31<sup>st</sup> March in any year.

21.2 Termination of the Agreement in its entirety shall only be effected by agreement of all the parties at the relevant time. If one party gives notice of their intention to withdraw from the Agreement, the remaining parties shall continue to operate under the terms of this Agreement (subject to any consequential amendments) unless they shall otherwise determine.

21.3 In the event of one of the authorities giving notice of their intention to withdraw from the Agreement, the provisions as to apportionment of assets and liabilities and payment of costs as set out in clauses 17.1 and 17.2 ante shall apply.

21.4 If any of the authorities wishes to make any major alterations to the terms of this Agreement, then in default of agreement between the authorities, this shall be referred to arbitration in accordance with paragraph 22 below.

21.5 In the event of the parties jointly agreeing to terminate this Agreement, the apportionment of assets and liabilities shall be in accordance with clause 17.3 ante.

22.0 **Arbitration**

22.1 Any dispute between the Authorities and or arising out of this Agreement shall be referred to a single arbitrator to be agreed upon by the Authorities or in default of the Agreement to be nominated by the Secretary of State for the Environment, Transport and the Regions or such other Government Minister who shall be appropriate in accordance with and subject to the provisions of the Arbitrations Acts 1950 and 1979 or any statutory modification or re-enactment of them for the time being in force.

23.0 **Complaints**

23.1 Any complaints received by the Joint Committee or any of the Authorities relating to the Crematorium or any officer employed thereat or as to the performance of functions under this Agreement whether made through an Authority's complaints procedure or received via the Local Government Parliamentary Ombudsman shall be dealt with by the Clerk.

24.0 **Notices**

24.1 Notices under this Agreement shall be in writing and except where otherwise specified herein shall be delivered or despatched by first class post to the principal office of the Authority by whom the Clerk is employed as the case may be. Notice given by first class post is deemed to be given and received three days after it is despatched.

25.0 **General**

25.1 The Contracts Act (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

**EXECUTED** by the Authorities as a Deed the day and year first before written

**SEALED AS A DEED** by  
**MANSFIELD DISTRICT COUNCIL**  
in the presence of:

**SEALED AS A DEED** by  
**ASHFIELD DISTRICT COUNCIL**  
in the presence of:

**SEALED AS A DEED** by  
**NEWARK AND SHERWOOD DISTRICT COUNCIL**  
in the presence of:

**OVERVIEW & SCRUTINY ARRANGEMENTS**

The Council does not have dedicated Overview and Scrutiny Committees but applies overview and scrutiny principles in the work of the Economic Development, Leisure & Environment and Homes & Communities Committees.

The one exception is Community Safety where there are joint scrutiny arrangements with Bassetlaw District Council of the Bassetlaw/Newark and Sherwood Community Safety Partnership.

The membership of the Homes and Communities Committee will form an Overview and Scrutiny Committee to meet, at least annually, with the relevant Overview and Scrutiny Committee of Bassetlaw District Council to undertake this function. For this purpose the membership of the Homes and Communities Committee will constitute the Councils designated Crime and Disorder Committee in accordance with section 19 of the Police and Justice Act 2006.

## **7.0 SCHEME OF DELEGATION TO OFFICERS**

NOTE: This Scheme of Delegation does not include any functions or powers which have been delegated by the Council or Committees to officers for a specified period not exceeding six months.

### **7.1 Exercise of Delegated Powers**

7.1.1 Chief Officers (as defined by the Local Government and Housing Act 1989 and as described in part 6 of this Constitution) can take decisions:

- to discharge the functions allocated to them or dealt with by them or their staff, as set out in this Scheme of Delegation except for matters expressly reserved to any Committee or to the Council other than in the circumstances set out in 7.1.2
- in all matters where they have managerial or professional authority, without exception, in cases of emergency

7.1.2 They will not take decisions that are expressly reserved to another decision-making body under this Constitution and, in particular:

- they will only take key strategic decisions which would normally be taken by the Policy & Finance Committee or by Council if it is impractical for the Policy & Finance Committee or Council, as the case may be, to do so because of the urgent nature of the decision to be made.
- they will only take decisions that are reserved to Council under this Constitution in an emergency and if it is lawful for them to do so.

7.1.3 They may use whatever means they consider appropriate within budget and in accordance with financial regulations to exercise their delegated powers including:

- incurring expenditure and collecting income
- engaging and deploying staff
- deploying other resources within their control
- placing contracts and procuring other resources within or outside the Council.

7.1.4 In doing so, they must act within the law and the Council's Constitution and follow Council policy and any lawful instructions of the Council or of the Committee which granted the delegated powers. If, exceptionally, they need to depart from Council policy or those instructions, they must report to the relevant body as soon as possible.



- 7.1.5 Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.
- 7.1.6 Significant decisions taken by Officers (but not including operational decisions) should be recorded and made available to Members of the Council where appropriate. There is no requirement to keep a written record of operational decisions taken within the approval budget and policy framework.
- 7.1.7 Chief Officers shall be entitled to exercise the powers and functions set out in this scheme of delegation. Business Managers may act in the place of a designated Officer in the exercise of any power or function with the express approval of that designated officer. Or where a policy or procedure specifically confers that power or function to Business Managers. Chief Officers may also authorise any other officer to exercise delegated powers on their behalf. This should normally be in writing. Where a decision relates to the functions of Section 151 Officer or Monitoring Officer, their designated deputy shall be entitled to act in their absence.

7.1.8 Decisions Delegated to Chief Officers After Appropriate Consultation.

The Chief Executive and Chief Officers, in respect of matters falling within their express remit, may take any action on behalf of the Council, where the proposed action conforms with the policy and budget framework but where the matter is politically sensitive or raises issues of public or local concern, they should first consult with the Leader, and the Chairman (or in their absence the Vice Chairman and the Opposition Spokesperson of the appropriate committee. They may issue a formal response to consultation documents after undertaking consultation as set out above.

7.1.9 Decisions Delegated to Chief Officers Without Prior Consultation.

Chief Officers, in respect of matters falling within their express remit, may take any action on behalf of the Council without prior consultation where the proposed action conforms with the policy and budget framework and where in their opinion it is not of such political sensitivity or public concern that consideration by members is necessary and where the function or matter is expressly included within the Scheme of Delegation set out below.

**7.2 General Delegation to Chief Officers**

In addition to those matters expressly delegated to individual Chief Officers, all Chief Officers shall have the following general delegated powers:

7.2.1 Power to Take Urgent Decisions

Chief Officers may take urgent decisions if they are of the opinion that circumstances exist which make it necessary for action to be taken by the Council prior to the time when such action could be approved through normal Council procedures. They shall, where practicable, first consult with the Leader and Chairman (or in their absence the Vice Chairman) and the Opposition Spokesperson of the appropriate committee.

**7.2.2 Staffing Issues**

Chief Officers may deal with any matter relating to staffing including appointment, disciplinary action including dismissal and organisational restructuring other than any matter which is expressly reserved to Council, provided that they are in accordance with approved personnel policies, procedures and within the approved budget framework.

**7.2.3 Orders/Agreements for Work, Goods and Services**

In accordance with Contract Procedure Rules, Financial Regulations relating to contracts:

- to issue orders for work, goods and services;
- to accept tenders;
- to sign agreements;
- within the framework of an approved business plan to submit tenders and make contractual arrangements for carrying out work and/or services for other parties;
- to appoint specialist advisors or consultants.

**7.2.4 Land and Buildings**

In respect of any development of land and buildings which is proposed to be carried out for the purposes of statutory functions within the sphere of his/her responsibility to authorise an application for planning permission to the Planning Committee, and once such permission has been received, to authorise the carrying out of such development in accordance with the terms and conditions of such permission.

**7.2.5 Legal Proceedings**

- (i) in consultation with the Chief Executive and/or Monitoring Officer to institute or defend legal proceedings on the Council's behalf
- (ii) authorise any suitable Officer of the Council to appear on the Council's behalf in proceedings before any Magistrates Court and/or County Court.
- (ii) enter into alternative dispute resolutions, to include mediation and arbitration proceedings, where appropriate and to have delegated authority to settle those proceedings on behalf of the Council. It would generally be within parameters which had first been agreed informally by relevant Members.

**7.2.6 Operational Decisions**

To take decisions relating to all operational and professional matters within their remit.

**7.2.7 Ombudsman Matters**

To agree local settlements in consultation with the Members specified in the Protocol on dealing with Ombudsman matters where they consider it in the interests of the Council to do so.

7.3 In addition to the General Scheme of Delegation to Chief Officers set out above, individual Chief Officers shall be entitled to exercise the powers and functions expressly delegated to them in the following section of this scheme of delegation, subject to the conditions and restrictions set out above.

**7.3.1 POWERS AND FUNCTIONS DELEGATED TO THE CHIEF EXECUTIVE AND HEAD OF PAID SERVICE**

In addition to the general powers set out in paragraph 7.2 ante, the Chief Executive and Head of Paid Service shall have the specific delegated powers set out herein. In the absence of the Chief Executive and Head of Paid Service these powers may be exercised by his designated deputy or in their absence by any Chief Officer.

1. To exercise the powers and responsibilities of the Head of the Paid Service for the purpose of Section 4 of the Local Government & Housing Act 1989.
2. To give such directions as he/she may consider necessary:
  - (a) to secure the efficient management and execution of the Council's functions;
  - (b) to secure co-ordination of advice and forward planning of objectives and services;
  - (c) to secure a corporate approach to the affairs of the Council generally;
  - (d) to achieve the efficient and effective implementation of the Council's strategies and policies and the effective deployment of the Council's resources towards those ends;
  - (e) to maintain good internal and external relations;
  - (f) to determine the allocation of office accommodation.
3. To take all such action as he considers appropriate in any emergency (as defined by the Chief Executive) including power to make or approve any necessary and urgent arrangements within the powers of the Council for the protection of persons or property in any civil or other emergency.
4. To sign on behalf of the Council any document necessary to give effect to any resolution of the Council, Committees or sub-committees and/or Officers acting under delegated powers.
5. In consultation with the Section 151 Officer and/or Monitoring Officer to discharge or postpone any legal charge in the council's favour on property.
6. To determine the content of any certificate required under Section 3(3) of the Local Government & Housing Act 1989.
7. To act as Proper Officer of the Council, except where legislation or this Constitution names another officer or the Council has specifically determined otherwise.

8. In consultation with other appropriate Chief Officers, settle employee and industrial relations matters, including issues involving the application or rates of pay, conditions of service or other staffing benefits etc.
9. To consider and approve, through the Discretionary Payments Panel, applications and proposals for early retirement of staff who are subject to the Local Government Superannuation Regulations.
10. To determine and issue to Officers policies, procedures and general guidelines for the management of human resources in the areas of recruitment and planning; training and development; employee relations; health, safety and welfare (including occupational health); pay and performance, equality of opportunity and other staff related matters.
11. To add posts to the list of politically restricted posts under the Local Government and Housing Act 1989.
12. To determine fees and charges to members of the public and outside organisations for copies of agendas and other documentation requested from the Council.
13. To affix the Council's seal to any document (this power is also exercisable by the Monitoring Officer, Deputy Monitoring Officer and Section 151 Officer).
14. To make any order requested by the Chief Constable and authorised by the Home Office prohibiting the holding of public processions or trespassory assemblies.
15. To discharge all functions relating to Parliamentary (including European) Elections, Police and Crime Commissioner Elections, Local Elections and National/Local Referendums.
16. To undertake appropriate Community Governance Reviews in accordance with the Local Government and Public Involvement In Health Act 2007.
17. To undertake a review of all polling stations within the District in accordance with the Electoral Registration Act 2006.
18. To appoint an Investigating and Disciplinary Sub-Committee from a panel drawn from the whole of the membership of the Council as necessary and appropriate in consultation with the Leaders of all political groups entitled to make appointments to the sub-committee and to appoint an Advisor to the Sub-Committee.

NOTE:

In the event that it is necessary to convene an Investigating and Disciplinary Sub-Committee to consider any matter relating to the Head of Paid Service, the delegated authority shall not be exercisable by the Chief Executive but by their designated deputy or in his or her absence by any Chief Officer. In such a case, the Investigating and Disciplinary Sub-Committee shall have delegated authority to appoint an advisor who may be an officer of the authority or an external advisor.

19. To appoint a Chief Officer Appeal Sub-Committee from a panel comprising from the whole of the membership of the Council as necessary and appropriate after consultation with the Leaders of the political groups entitled to appoint to the Sub-Committee and to appoint an Advisor to the Sub-Committee. In the event that the appeal is lodged by the Head of Paid Service, such delegated authority shall be exercised by their designated deputy or in his or her absence, by any Chief Officer. In such appeals, the Chief Officer Appeal Committee shall have delegated authority to appoint an advisor who may be an officer of the authority or an external advisor.
20. Implementation of circulars on national wage and salary awards and other alterations in conditions of service.
21. Approval of unpaid leave in excess of 13 weeks.
22. Authority to make agreements with other local authorities for the placing of staff at the disposal of these other authorities.
23. Authority to give approval to the payment of first class rail fare to members and officers in appropriate circumstances.
24. To approve cases of retirement on the ground of ill health including authority to release statutory ill health pension benefits subject to necessary medical approval having been obtained.
25. Implementation of requirements arising from Pension Act reviews where no discretion is afforded to the authority.
26. Authority to approve all cases of dismissal, including by reason of early retirement and compulsory or voluntary redundancy in accordance with any statutory or discretionary arrangements other than decisions relating to pension release and discretionary payments.

Powers and Functions in relation to Elections

27. To make an order under Section 39(a) of the Representation of the People Act 1983 in relation to a Parish Council.
28. Pay expenses properly incurred by electoral registration officer.
29. Fill vacancies in the event of insufficient nominations in relation to a Parish Council.
30. Declare a vacancy in office, when a member ceases to be qualified, is disqualified or ceases to be a member of the authority.
31. Give public notice of a casual vacancy.

32. Make temporary appointments to Parish Councils.
33. Deal with publicity requirements where the Council has decided on a change of scheme for elections.
34. Deal with notice to the Electoral Commission where the Council has decided on a change of scheme for elections.
35. Designate an alternative polling place should one become unavailable at short notice.
36. Authority to designate an alternative polling place should one become unavailable at short notice before an election.

The Chief Executive in his/her role as Head of Paid Service derives the following powers from statute

37. The manner in which the discharge by the Council of its different functions is co-ordinated.
38. The number of grades of staff required by the authority for the discharge of its functions.
39. The organisation of the authority's staff.
40. The appointment, dismissal and proper management of the authority's staff, other than in relation to Chief Officers.

### **7.3.2 POWERS AND FUNCTIONS DELEGATED TO THE CHIEF EXECUTIVE AND CHIEF OFFICERS**

NOTE: Normally, the delegated powers shall be exercised by the Chief Executive, Deputy Chief Executive or Chief Officer with responsibility for the relevant power or function. However, in their absence, the delegated power shall be exercisable by the Chief Executive, Deputy Chief Executive or any other Chief Officer, or by a deputy authorised to act on their behalf (clause 7.1.7 refers).

1. To take all necessary action to administer the following functions and powers on behalf of the Council including service of notices and enforcement proceedings and the right to apply for a warrant of entry and including the power to authorise other officers to act on their behalf:-

- the administration of the Council's Corporate Procurement Function
- operation, support and development of information technology, including all systems, hardware, software and telephone systems throughout the Council
- preparation and review of Development Plan Documents and Supplementary Planning Documents
- building regulations and other enactments relating to building control including individual determination of consents and enforcement action (for the avoidance of doubt such functions may be exercised by the East Midlands Building Consultancy on behalf of Newark & Sherwood District Council and the power of the Chief Executive and Chief Officers to authorise other officers to act on their behalf shall include such officers)
- examination of strategic policies (including transportation and other plans affecting the district) and neighbouring local planning authorities Development Plans and advising the Council, and the appropriate committee of their implications
- work with neighbouring local planning authorities, the County Council and relevant public bodies to fulfil the Duty to co-operate and advising the Council, and the appropriate committee of ongoing progress.
- Administration and review of the Community Infrastructure Levy
- naming and numbering of streets
- promotion of conservation of historic buildings and areas and making recommendations as to the designation of Conservation Areas
- administering the Conservation Area Partnership Grants Scheme, the Rural Grants Scheme and grants for archaeological work and other historic buildings grants
- environmental improvement works
- land drainage
- determination of planning applications which fall within the detailed Scheme of Delegation approved from time to time by the Planning Committee and/or Council
- determination of applications for Listed Building and Conservation Area Consent, which fall within the Scheme of Delegation, approved from time to time by the Planning Committee/Council
- determination of applications for Lawful Use Certificates, applications for consent to display advertisements, applications for telecommunications notifications, agricultural notification monument consents, historic gardens consents

- promotion of nature conservation, including designation of local nature reserves
  - protection of trees and hedgerows, including making of Tree Preservation Orders and orders under the Hedgerow Regulations
  - service of building preservation notices, enforcement, stop and breach of condition notices and prosecution of offenders, including injunctive proceedings
  - entering into Section 106 Agreements
  - making revocation orders where no financial liability will fall on the Council
  - provision and maintenance of street nameplates
  - public footpaths, including extinguishment and diversion orders (after consultation with the appropriate parish council)
  - to determine how S106 monies should be applied or obligations fulfilled where the terms of the agreement are sufficiently precise or where the proposed expenditure does not exceed £50,000.
2. To establish and maintain a corporate database of the Council's land and buildings and to perform any responsibilities placed on the Council under Part X of the Local Government Planning and Land Act 1980.
3. To determine and issue general guidelines to Officers for the management of land resources and the maintenance of buildings etc.
4. To prepare and submit to the Economic Development Committee and/or Council for approval, monitor and update an Economic Development Strategy for the district, including marketing, employment and training initiatives, which will retain and expand employment opportunities.
5. Within the Council's approved budget and economic development strategy:
- to take all necessary steps to promote the role of the District Council within the local economy and, in particular, to develop links between the Council and the local business community
  - to take all necessary steps to develop and implement Economic Development initiatives within the area
  - to take all necessary steps to promote and publicise local business opportunities, both on a national and international basis, with the objective of encouraging inward investment in the district
  - to develop, maintain and administer a business support service for the benefit of existing local companies, new business ventures and potential inward investors and to provide a focus for all enquiries, including sites and property and financial assistance
  - to develop and maintain a business directory to assist the inter-trading of local businesses
  - to take all necessary steps to develop, co-ordinate and implement the District Council's European Strategy, with the aim of gaining maximum benefit for the local community
  - to prepare plans and programmes for submission to the European Commission for assistance from programmes such as the European Regional Development Fund and the European Social Fund
  - to co-ordinate the preparation and submission of applications for funding from other external sources on behalf of the Council



6. To liaise with business support and development agencies.
7. To take all necessary action to administer and manage the functions of tourism and twinning, including to prepare and submit to the Economic Development Committee and/or Council for approval, monitor and implement policies and strategies in respect of the following:-
  - (i) district tourism strategy;
  - (ii) tourism developments;
  - (iii) new tourist attractions;
  - (iv) tourism marketing, promotions and publicity;
  - (v) operation of Tourist Information Centres;
  - (vi) overseeing and monitoring the implementation of relevant tourism strategies affecting the district.
8. To take all necessary action to administer and manage the following functions, powers and activities on behalf of the Council, including determining applications for licences and registration, service of statutory notices and any necessary enforcement procedures and including Power of Entry and power to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake the above duties and responsibilities including Powers of Entry.
  - cemeteries
  - community centres
  - country parks
  - car parking and lorry parking (including charging policies)
  - destitute burials
  - culture and the arts
  - historic sites
  - leisure centres
  - markets and fairs (including Newark Livestock Market) including charging policies)
  - museums and art galleries
  - nature reserves
  - play leadership
  - playing fields
  - picnic sites
  - pre-school play groups
  - public parks and open spaces (including charging policies)
  - public conveniences
  - special promotions/competitions
  - swimming pools
  - theatres
  - tree and plant nurseries
  - water recreation

- housing services, including housing management, lettings, maintenance and repair, determination of rent levels, maintenance of estate amenities
- maintenance, repairs, lettings and management of shops and garages vested in the Council as housing authority
- private sector housing – repair and improvement under the Housing Acts, including grants and loans, securing the effective treatment of unfit houses, including the making of demolition and closing orders, powers and duties as to clearance areas and orders, designation of renewal areas
- houses in multiple occupation
- overcrowding
- homelessness – to include the provision of temporary accommodation for those in urgent need through homelessness or emergency
- housing advice
- housing associations – assistance and nomination arrangements
- right to buy
- council depots
- health issues generally, including Health Authority and hospital consultation documents
- public health nuisances and offensive trades
- health and safety at work
- pollution control
- air quality management
- atmospheric pollution
- contaminated land
- statutory nuisances
- food safety, hygiene and quality
- infectious diseases and food poisoning
- water quality and supplies
- health promotion
- any environmental health functions of the Council not otherwise expressly specified
- home and community safety
- pest control
- refuse storage, cleansing and waste management
- refuse collection and litter control services
- dog control
- processes subject to control under Part 1 of the Environmental Protection Act
- food premises
- private water supplies
- scrap metal dealers
- rag flock
- mobile home sites
- camp sites and moveable dwellings
- pet animals
- animal boarding establishments

- food business premises
  - meat product premises
  - dairy establishments and egg product establishments
  - retail butchers premises carrying out commercial operations in relation to unwrapped raw meat and selling both raw meat and ready to eat foods
  - dog breeding
  - guard dogs
  - riding establishments
  - food regulations
  - establishments for massage and special treatments
  - dangerous wild animals
  - sex establishments
  - acupuncture, tattooing, ear-piercing and electrolysis
  - game dealers
  - game keepers
  - licences to kill game
  - Zoos
  - architectural services, engineering services and quantity surveying
  - Pet shops
9. To consider housing conditions in the district with respect to the provision of housing accommodation and to assess the housing need and to formulate and recommend to the Cabinet such housing and environmental policies and improvements as may be desirable.
10. To consider cases against banding or date of registration in respect of the Choice Based Lettings Scheme through the 'Review and Appeal' scheme.
11. To identify and analyse community needs and to recommend solutions to the Cabinet and Council.
12. To take all such action as he/she considers necessary in the event of any emergency arising from whatever cause which might adversely affect the health of the community.
13. To consider and, if appropriate, recommend to the Policy & Finance Committee and/or the Section 151 Officer writing-off debts within his/her remit.
14. To monitor the introduction, implementation and ongoing effects of legislation concerned with food safety, environmental protection and health and safety at work and to monitor the Council's strategies and policies in relation to these matters.
15. Chief Officers may authorise named persons, whether employed by the Council or not, to act on behalf of the Council to exercise the powers, duties and responsibilities under the statutes and regulations specified in paragraph 16 below, including Powers of Entry and authority to institute legal proceedings. Such authorisation shall be evidenced in writing.

16. The Persons so designated under paragraph 15 above will be authorised to carry out all actions on behalf of Newark and Sherwood District Council as detailed under the following Acts and Regulations including the powers of an inspector according to their individual training and experience, with reference to guidance and industry best practice. Each Person so designated and authorised will receive written authority to act:

- Agriculture (Miscellaneous Provisions) Act 1968
- Animal Boarding Establishments Act 1963
- Animal Health Act 1981
- Animal Welfare Act 2006
- Antisocial Behaviour Act 2003
- Breeding of Dogs Acts 1973 & 1991
- Breeding & Sale of Dogs (Welfare) Act 1999
- Building Act 1984 (including all associated regulations made under the Act)
- Caravan Sites Control of Development Act 1960
- Clean Air Act 1993
- Clean Neighbourhoods & Environment Act 2005
- Control of Pesticides Regulations 1986
- Control of Pollution Act 1974
- Control of Pollution Amendment Act 1999
- Criminal Justice and Police Act 2008
- Criminal Justice and Public Order Act 1994
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Dogs (Fouling on Land Act) 1996
- Environment Act 1995 (including all associated regulations made under the Act)
- Environmental Damage (Prevention and Remediation Regulations 2009)
- Environmental Permitting (England and Wales) Regulations 2010
- Environmental Protection Act 1990 (including all associated regulations made under the Act)
- Environmental Protection (Duty of Care) (England) (Amendments) Regs. 2003
- European Communities Act 1972
- Food and Environmental Protection Act 1985
- Food Hygiene (England) Regulations 2006
- Food Safety Act 1990 (including all associated regulations made under the Act)
- Hackney Carriage Byelaws made under Section 68 of the Town (Police Clauses) Act 1847 and the Public Health Act 1875
- Health Act 2006
- Health and Safety at Work Act 1974 (including all associated regulations made under the Act to include the Health and Safety (Enforcing Authority Regulations 1989))
- Housing Act 1985 (including all associated regulations made under the Act)
- Housing Act 2004
- Land Drainage Act 1991
- Licensing Act 2003

- Local Government Miscellaneous Provisions Acts 1976 & 1982 (as amended by Part 8 of the Local Government Act 2003)
  - National Assistance Act 1948 (as amended)
  - Natural Minerals Water Regulations 1985
  - Noise Act 1996
  - Noise and Statutory Nuisance Act 1993
  - Nottinghamshire County Council Act 1985
  - Performing Animals Act 1925
  - Pet Animals Act 1951
  - Prevention of Damage by Pests Act 1949
  - Pollution, Prevention & Control Act 1999
  - Private Water Supply Regulations 2009
  - Public Health Act 1961
  - Public Health Act 1936 and Public Health Act 1961 (including all associated regulations made under the Act)
  - Public Health (Control of Diseases) Act 1984
  - Public Libraries and Museums Act 1964
  - Refuse Disposal (Amenity) Act 1978
  - Riding Establishments Act 1964 and 1970
  - Scrap Metal Dealers Act 1964
  - Slaughter of Poultry Act 1967
  - Sunbeds (Regulations) Act 2010
  - Sunday Trading Act 1994
  - Town & Country Planning Act 1990
  - Water Act 1989
  - Water Industries Act 1991
  - Zoo Licensing Act 1981
17. To approve compensation payments under the Land Compensation Act 1973, in respect of tenants' improvements.
18. To take action in respect of breaches of covenant or other obligations by lessees of Council premises.
19. To seek planning permission for the development of land where such land is not required for the statutory functions of the Council.
20. To manage land and buildings, including determining rent levels and granting of consent to assignment and subletting.
21. To take appropriate action on behalf of the Council in regard to valuation issues, including the conduct of appeals in consultation, where appropriate, with the Chief Executive.

22. To authorise the acquisition or disposal of land and/or buildings or any interest in land and/or buildings where the estimated value does not exceed £50,000 and, in the case of disposal, where it is surplus to the requirements of the Council.
23. To determine fees in respect of Local Land Charges.
24. To take enforcement action under the provisions of the Town and Country Planning Acts, including the institution of legal proceedings.
25. To obtain Counsels' opinions or instruct Counsel to appear on behalf of the Council wherever he/she considers such action advisable.
26. To take all necessary action to administer the following functions, powers and activities on behalf of the Council, including the registration or determination of applications, suspension or revocation of licences, fee levels, imposition of conditions, and institution of proceedings for non-compliance or breaches of condition:
  - hackney carriage/private hire licences
  - society lotteries
  - street collections
  - house to house collections
  - performances of hypnotism
  - permits for amusements with prizes
  - markets and street trading
  - arenas and theatres
  - public entertainment licences
  - cinemas
  - gambling
27. To take all necessary action and to manage and administer the following functions:
  - communications and customer services
  - community safety, including crime and disorder and CCTV
  - policy and performance
  - legal services
  - estates
  - committee administration
  - governance support
  - civics and member support
  - personnel
  - performance management
  - member and officer training
  - environmental stewardship and energy advice and efficiency
  - licensing
  - risk and resilience including emergency planning and health and safety

28. To determine applications under the Licensing Act 2003 in accordance with the Scheme of Delegation set out in this constitution.
29. To make the initial assessment of applications made under Section 41A and 86A of the Licensing Act 2003 and determine which, if any, responsible authorities were to be consulted. To grant any applications under those sections on which no representations were made.
30. Following consultation with the Chairman and Vice-Chairman of Planning Committee, to issue and serve Temporary Stop Notices on breach of planning control, where it is considered expedient to do so.
31. To develop detailed procedures to underpin the investigation and disciplinary procedures for Chief Officers.
32. To approve honoraria in accordance with the Council's Policy and in consultation with the Business Manager Human Resources and Legal.
33. To approve leave of absence for volunteer members of non regular forces.
34. To approve unpaid leave of up to 13 weeks duration.
35. To create a temporary post provided this can be accommodated within existing budgets in consultation with the Business Manager Human Resources and Legal.
36. To allow carry over leave beyond the permitted 5 days and additional paid or unpaid compassionate leave in consultation with the Business Manager Human Resources and Legal.
37. Approval of post entry training grants and attendance at training courses in accordance with the Council's policies.
38. Authority to allow an appropriate amount of time away from work for family care which can then be worked back over a reasonable length of time.
39. To exercise all powers and functions under the Localism Act 2011 relating to the Community Right to Bid and in particular:-
  - (i) the determination of assets to be listed as assets of community value in consultation with the chairman of the Economic Development Committee and relevant local members;
  - (ii) the determination of appeals against listing;
  - (iii) the determination of compensation payable to an owner of an asset;
  - (iv) responsibility for the determination of reviews against payment of compensation;

- (v) reviewing and revising the criteria for determining the listing of assets of community value in consultation with the Chairman of the Economic Development Committee;
- (vi) the drawing up and review of a detailed policy in relation to claims for compensation.

**NOTE:** The same Director shall not exercise the powers in both (i) and (ii) or the powers in both (iii) and (iv).



### 7.3.3 POWERS AND FUNCTIONS DELEGATED TO THE SECTION 151 OFFICER

**NOTE: where these relate to the statutory responsibilities of the S151 Officer, the powers may be exercisable by the S151 Officer or their designated deputy only**

1. To be the Council's responsible Financial Officer under Section 151 of the Local Government Act 1972 and to act in the Section 151 Officer's role in respect of Newark & Sherwood Homes.
2. If necessary, to make reports to Council under Section 114 of the Local Government Finance Act 1988.
3. To take all necessary action to administer the following functions and powers on behalf of the Council:
  - preparation of the Council's budget and supervision of the budgetary process including preparation of the Council's revenue and capital budgets and Medium Term Financial Plan
  - to agree the dates for payment of precepts to Nottinghamshire County Council, Nottinghamshire Fire and Rescue and the Nottinghamshire Police Authority in future years
  - to agree variation to the Capital Programme up to a limit of £10,000 in respect of any one item
  - monitoring and controlling the finances of the Council
  - selection of schemes to be financed from the Efficiency Schemes Fund
  - making arrangements with the Council's external auditors for the annual audit programme
  - preparation of final accounts prior to External Audit including group accounts
  - acting as Lead Officer in negotiating with the Council's External Auditors, including the audit of and value for money
  - negotiating and entering into loans
  - administering the approved Members' Allowances Scheme
  - management of the Chairman's allowance
  - examination of accounts and matters relating to Internal Audit and maintaining a continuous internal audit programme
  - revenue collection
  - determination of revenue cases involving genuine hardship/special cases
  - grant aid schemes
  - determination of approved duties in respect of Members' Allowances Scheme
  - disposal of surplus or obsolete assets and consequential accounting entries
  - all payroll functions, including payment of salaries and wages to staff, payment of Members' Allowances, making approved deductions and payments to HMRC, County Council and other approved bodies
  - payments to creditors of the Council
  - to award mandatory, discretionary and village shop relief in accordance with legislation

- administration and determination of council tax, housing benefits and housing rent allowances, including discretionary elements
  - execution and administration of treasury management decisions in accordance with the Council's Policy Statement and Treasury Management Policies.
4. To amend the form of accounts as necessary to comply with Codes of Practice and any amendments to the Accounts and Audit Regulations.
  - 5.\* To borrow and invest money on behalf of the Council subject to agreed Treasury Management requirements and within parameters laid down by Council and to select Investment Managers.
  6. To take all necessary court action to enforce debts owed to the Council and in respect of fraud carried out against the Council, including nominating such officers as appear appropriate to him/her to appear in court on behalf of the Council.
  7. To write-off any outstanding amount owed to the Council or Newark & Sherwood Homes up to the limit of £10,000 in respect of each debt, or to an unlimited amount in respect of any debt where the debtor is in liquidation or has been declared bankrupt.
  - 8.\* Making arrangements for financing the Council's capital expenditure in accordance with the current capital control regulations.
  - 9.\* Arranging and administering insurances on behalf of the Council.
  - 10.\* Arranging and administering banking facilities on behalf of the Council.
  - 11.\* Arranging and administering leasing on behalf of the Council.
  12. To be the nominated Officer for the Council under the Money Laundering Regulations 2003.
  13. To determine and approve the Council Tax base and the base for Non-Domestic Rates

\*These functions are also delegated to the Council's Deputy Section 151 Officer and all of the above delegated powers are exercisable by the Deputy Section 151 Officer in the absence of the Section 151 Officer.

#### 7.3.4 POWERS AND FUNCTIONS DELEGATED TO THE MONITORING OFFICER

**NOTE:**

**Where these relate to the statutory responsibilities of the Monitoring Officer, the powers shall be exercisable by the Monitoring Officer or their designated deputy only.**

1. To exercise the powers and responsibilities of the Monitoring Officer for the purpose of Section 5 of the Local Government & Housing Act 1989.
2. To certify resolutions and documents as being true copies.
3. To determine and issue general guidelines to Officers on legal, procedural and probity issues.
4. To fix the Council's seal to any document.
5. To undertake an initial assessment of code of conduct complaints and to determine what further action (if any) is appropriate in consultation with the Independent Person.
6. To determine requests from members and co-opted members for dispensations where they would otherwise have a disclosable pecuniary interest in accordance with such arrangements for dealing with standards matters as are adopted by the Council from time to time.
7. To seek to resolve code of conduct complaints through mediation conciliation or such other action as the Monitoring Officer considers appropriate.
8. To constitute the membership of the Standard Committee's Hearing Panel.
9. To make minor variations to the constitution which are required to remove any inconsistency or ambiguity, reflect legislative changes or required to be made so as to put into effect any decision of the Council or its Committees.

\*All of the above functions are also delegated to the Deputy Monitoring Officer in the absence of the Monitoring Officer.