

PART 1

SUMMARY AND EXPLANATION

The Council's Constitution

Newark & Sherwood District Council has adopted a constitution which sets out how the Council operates, how decisions are made and the procedures which will be followed. Some of these processes are required by the law whilst others are a matter for the Council to choose.

The Council regularly reviews and revises its Constitution to ensure that it is fit for purpose and complies with the legislative requirements.

What's in the Constitution?

The first part of the Constitution sets out a summary and explanation of how the Council operates.

The second part sets out how decisions are made including remits of Committees and a scheme of delegation to officers.

The third part sets out rules and procedures under which the Council will operate.

The fourth part sets out codes and protocols adopted by the Council.

The fifth part sets out the members allowance scheme.

The sixth part sets out the Council's management structure.

How the Council Operates

The Council has 39 members who are elected every 4 years. One or more members will be elected by voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by The Secretary of State. The regular election of Councillors is held on the first Thursday in May every four years (next election May 2019). The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

Where a member of the District Council ceases to hold office within the above period, a vacancy arises. A by-election will be held unless the vacancy arises within 6 months of the regular District Council elections.

Only registered voters of the District or those living or working in the District are eligible to hold the office of Councillor.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's key strategic priorities and set the budget each year. The precise role and remit of the Council is set out in Part Two.

NEWARK & SHERWOOD DISTRICT COUNCIL

**CONSTITUTION
MAY 2021**

**Part One
Page No: 3**

There are three types of Council meeting:-

- (a) The annual meeting.
- (b) Ordinary meetings.
- (c) Extraordinary meetings.

Meetings are conducted in accordance with the Council Procedure Rules in Part Three of the constitution.

The Council Meeting is chaired by the Chairman of the Council or in his/her absence the Vice-Chairman. The Chairman and Vice-Chairman are elected annually by the Council.

The Chairman, and in his/her absence, the Vice-Chairman, has the following responsibilities:-

- (i) to promote and uphold the purposes of the constitution and to interpret it where necessary.
- (ii) to preside over meetings of the Council.
- (iii) to attend civic and ceremonial functions on behalf of the Council with preference being given to local organisations and to events within the District.

The Council has appointed Committees to discharge certain functions on behalf of the Council and has also agreed a scheme of officer delegation. This is set out in detail in the second part of the Constitution.

The roles and functions of all Members of the Council are described in detailed job descriptions which have been formally adopted by the Council and which will be revised and updated from time to time.

All Councillors will:

- (i) collectively be the ultimate policy makers.
- (ii) represent their communities and bring their views into the Council's decision making process.
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns.
- (iv) balance different interests and represent the Council as a whole.
- (v) be involved in decision making.
- (vi) be available to represent the Council on other bodies.
- (vii) maintain high standards of conduct and ethics.

Some Councillors have additional responsibilities from being the Leader or Deputy Leader of the Council, the Leader of a Political Group, the Chairman or Vice-Chairman of the Council or the Chairman or Vice-Chairman of a Committee. Further information on the role and powers of chairmen of committees and of the Leader of the Council are set out below.

Councillors have a right of access to such documents and information as are necessary for the proper discharge of their functions and in accordance with the law. These rights, and the limitations on those rights, are explained more fully in the Access to Information Procedure Rules contained in Part Three of the constitution.

The Council does not have any dedicated overview and scrutiny arrangements save for the Overview and Scrutiny of the Bassetlaw/Newark and Sherwood Community Safety Partnership which is undertaken under joint arrangements with Bassetlaw District Council.

Committees of the Council, with the exception of the Licensing Committee which is constituted under the Licensing Act 2003, are required to be constituted to reflect the political balance of the Council in accordance with principles contained in the Local Government and Housing Act 1989. Seats on Committees are therefore allocated between political groups in the same proportion as parties are represented on the District Council. Group Leaders are responsible for nominating Members from their Groups to the seats allocated.

The Leader of the Council will be appointed ex officio as a member of the Economic Development, Leisure and Environment and Homes and Communities Committees and will be entitled to attend and speak at those committees. He or she will not be entitled to vote unless expressly appointed as a voting member of the committee. The Deputy Leader will be entitled to attend the Economic Development, Leisure and Environment and Homes and Communities Committees in an ex officio capacity in the absence of the Leader except where the Deputy Leader is already a member of that Committee.

Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Code is contained in the fourth part of the Constitution.

Councillors are entitled to receive allowances in accordance with the Members Allowance Scheme set out in the fifth part of the Constitution.

Chairmen of Committees

Chairmen of Committees are normally appointed annually, at the Council's Annual General Meeting in May. If a Chairman is not so appointed, the Committee may elect the Chairman. Normally a Member will not be appointed as a Chairman of more than one committee without the express approval of the Council.

Usually the annual appointments made by the Council include the appointment of a Vice-Chairman to each committee. The Vice-Chairman is generally able to exercise the powers vested in the Chairman where the chairman is absent or otherwise unavailable.

Some aspects of the role of the chairman, principally relating to the conduct of meetings are recognised by law. The Chairman is also, in practice, a lead member in the area of the Council's work which falls within the remit of his or her committee and acts as spokesperson of the committee. This may also include a representative role on other bodies where appropriate.

Chairman of Committees have the following powers and duties:-

- Responsibility for the proper conduct of meetings
- A power to exercise a second (casting) vote in the event of an equality of votes on any matter
- A duty to sign the minutes of the previous meeting
- A power to agree to the addition of a late item of business to the agenda if he or she believes that it needs to be considered as a matter of urgency
- To respond to questions or comments raised by members at the Council meeting relating to decisions of the committee.

Leader of the Council

The Council's Procedure Rules provide for the election of a Leader which will normally be at the Council's Annual Meeting.

As the Council operates a committee style of governance the Leader has no formal powers or duties vested in him/her under the Local Government Act 1972 or the Local Government Act 2000. However, in practice all authorities need to appoint a Leader who will, as a consequence, hold the most significant member role within his/her authority. The Council's Leader will be the Council's political and elected head, the focus for political direction and the chief advocate and ambassador for the district (excluding civic and ceremonial duties).

The Leader will act as Chairman of the Policy & Finance Committee and is entitled to attend all meetings of the Council's functional committees in an ex officio capacity.

Deputy Leader of the Council

The Council's Procedure Rules provide for the election of a Deputy Leader which will normally be at the Council's Annual Meeting. The Deputy Leader will exercise the powers and functions of the Leader in his/her absence.

The Council's Staff

The Council appoints officers to give advice, implement decisions and manage the day to day delivery of Council services. Some officers have a specific duty to ensure that the Council acts within the Law and uses its resources wisely.

In particular the Council must appoint the following Statutory Officers:-

- (i) a Head of Paid Service.
- (ii) a Monitoring Officer.
- (iii) a Section 151 Officer.

The Head of Paid Service is responsible for the following functions:

- (i) Overall corporate management and operational responsibility (including overall management responsibility for all staff).
- (ii) reporting to the Council on the way in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (iii) the provision of professional advice to all relevant parties in the decision making process.
- (iv) together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions.

The Monitoring Officer is responsible for the following functions:-

- (i) maintaining an up to date version of the Constitution and ensuring that it is available for inspection by the Members, Officer and the Public.
- (ii) ensuring that Councillors complete a register of their interests and maintaining the register, a copy of which can be found on each Councillors individual page.
- (iii) ensuring lawfulness of decision making
- (iv) advising the Council on appropriate arrangements for dealing with complaints relating to the Code of Conduct, a link to which can be found on the Constitution home page.

The Section 151 Officer is responsible for the following functions:-

- (i) ensuring lawfulness and financial prudence of decision making.
- (ii) responsibility for the administration of the financial affairs of the Council.
- (iii) providing advice on the scope of powers and authority to take decisions.
- (iv) subject to the need to respect confidentiality where appropriate, to provide financial information to the media, members of the public and citizens.

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are, in the opinion of those officers, necessary to enable their duties to be undertaken.

Officers will comply with the Officers Code of Conduct and protocol on Officer/Member relations set out in part four of this constitution. Failure to do so may constitute a disciplinary offence.

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out in part three of this Constitution.

The Council's management structure is set out in part six of the Constitution. This includes details of the current Corporate Management Team and designated Chief Officers.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council.

Where members of the public use specific Council services, for example as a Council tenant, they may have additional rights. These are not covered in this Constitution.

The following is a general summary of the rights of citizens in terms of information, the opportunity to participate and the ability to make complaints.

The right to information and to attend meetings of the Council are explained in more details in the Access to Information Procedure Rules in part three of this Constitution.

Citizens have the right to:-

- vote at local elections if they are registered on the electoral roll.
- sign a petition including a petition to request a referendum for an elected mayor form of constitution.
- contact their local Councillor about any matters of concern to them, a link to which can be found on the Constitution home page.
- attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private.
- see reports and background papers and any record of decisions made by the Council unless these contain confidential or exempt information.
- complain to the Council under its complaint scheme, a link to which can be found on the Constitution home page.
- complain to the Ombudsman (but they should only do this after using the Council's own complaints process).
- complain, under such arrangements as are adopted by the Council from time to time, that a Member has not observed the Code of Conduct, a link to which can be found on the Constitution home page.
- inspect the Council's accounts and make their views known to the external auditor, contacts for which are: [KPMG LLP \(UK\)](#), St Nicholas House, Park Row, Nottingham, NG1 6FQ. The Council's Audit Manager is: Mike Norman on Tel. 0115 9353554 or Email: michael.norman@KPMG.co.uk
- request information under the Provisions of the Freedom of Information Act, a link to which can be found on the Constitution home page.

Citizens' Responsibilities

- Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully or recklessly harm things owned by the Council, Councillors or Officers. The Council has adopted a policy for dealing with vexatious complainants, a link to which can be found on the Constitution home page.

Area Committees and Forums

The Council may adopt Area Committees and Forums but currently none are established.

Joint Committees

The Council may establish joint arrangements with one or more other local authorities. Such arrangements may involve the appointment of a Joint Committee with those other local authorities.

Details of joint arrangements, including the remit of any joint committees which have been established under such joint arrangements, are set out in part two of the Constitution.

Finance, Contracts and Legal Matters

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in part three of this Constitution.

Every contract made by the Council will comply with the Contracts Procedure Rules set out in part three of this Constitution.

The Chief Executive and Chief Officers are authorised to institute, defend or participate in any legal proceedings, where such action is necessary to give effect to decisions of the Council or in any case where it is necessary, in the opinion of the relevant officer, to protect the Council's interests.

The above named officers have delegated powers to authorise officers to appear in court on the Council's behalf.

Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive, Deputy Chief Executive, Director – Safety or Director – Resources or such other person as is authorised by him/her, unless any enactment otherwise authorises or requires or the Council has given requisite authority to some other person.

Any contract entered into on behalf of the Council shall comply with the Contract Procedure Rules set out in Part Three of the Constitution.

In addition to any other person who may be authorised by resolution of the Council, the Proper Officers for the purposes of authentication of documents shall be the Chief Executive, Deputy Chief Executive, any Chief Officer of the Council concerned with the matter to which the document relates or any Officer authorised in writing by any of the above named.

The Common Seal of the Council shall be attested by the Chief Executive, Deputy Chief Executive, designated Monitoring Officer, designated Deputy Monitoring Officer or designated Section 151 Officer.

Review and Revision of the Constitution

The Head of Paid Service, Monitoring Officer and Section 151 Officer will monitor and review the operation of the Constitution to ensure that it is fit for purpose. Any significant changes to the Constitution will require the approval of the Council. Minor variations to the Constitution may be made by the Monitoring Officer in order to remove any inconsistency or ambiguity, to reflect legislative changes or to put into effect any decision of the Council or its Committees.

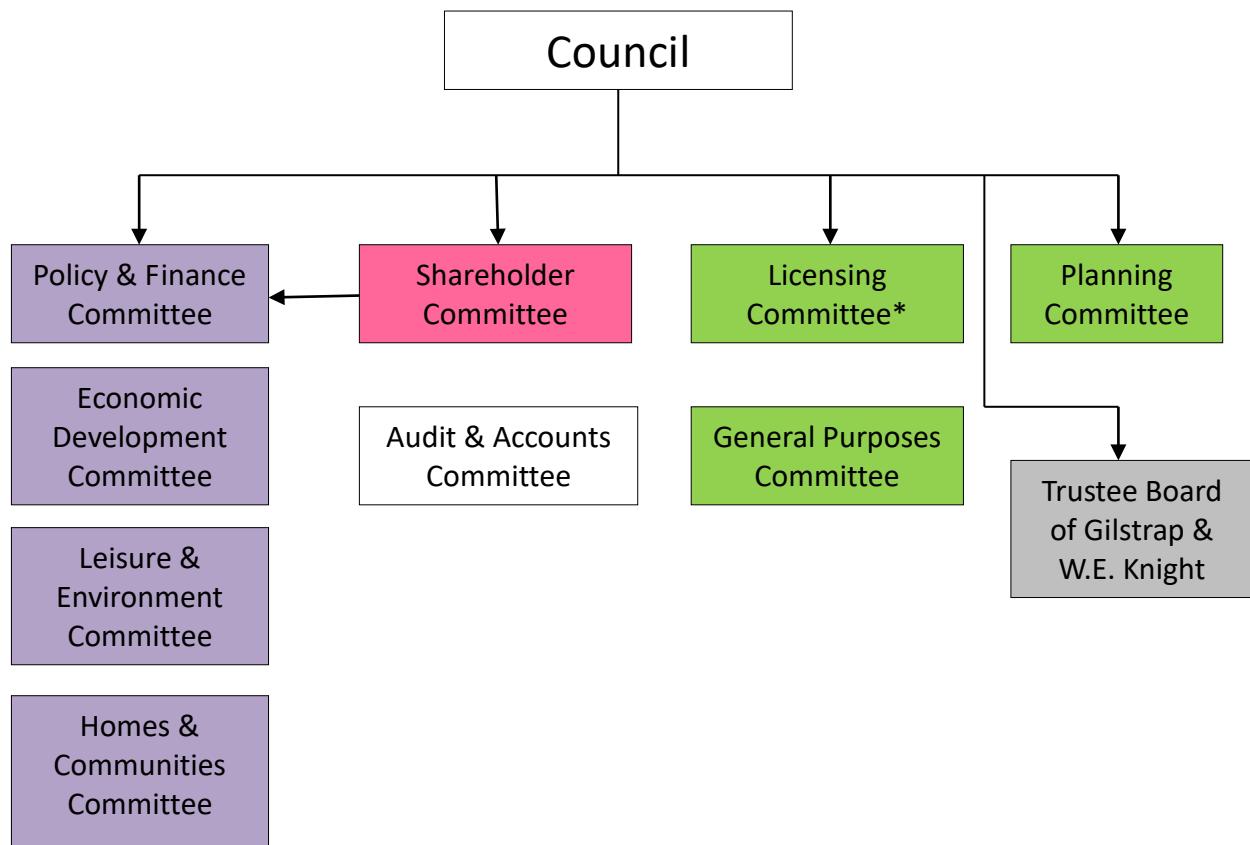
PART 2

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 Active4Today Limited
- 23 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.
- 24 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 Business Plan.
- Strategic Housing, including determining the future of and managing the Council's relationship with its Housing Management company, Newark and Sherwood Homes Ltd.
- 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 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);

- 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 – ie use to pay down debt or fund other initiatives/development;
- ‘Health Check’ of NSH by the Council as the sole shareholder including decisions regarding its future – i.e. retention, dissolution etc.
- 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
 - ICT including oversight of the direction towards becoming a Digital Council
 - 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
- 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 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:
 - Affordable Housing
 - Affordable Warmth Strategy
 - Allocation Scheme & Housing Register

- Anti Social Behaviour Policy (housing)
- Gypsy and Travellers
- HECA Statement Strategy
- Homelessness Strategy
- Housing Needs Assessment
- Housing Options and First Contact
- Local Housing Strategies and Action Plans
- Local Lettings Policies
- Neighbourhood sustainability/environmental estate improvements
- Regeneration and reconfiguration of the existing housing stock
- Tenancy Agreement
- Tenancy Strategies
- Tenant Engagement and Involvement
- decision making in respect of the following: -
 - CCTV
 - Citizens Advice
 - Communications including use of social media and relationships with the media
 - Community Cohesion
 - Community Resilience
 - Community Safety
 - Customer Services ~~and ICT including developing new customer access channels~~
 - Data Protection
 - E-Government
 - Electronic Records Management
 - Emergency Planning
 - External Relationships
 - Freedom of Information
 - Health and Safety Scrutiny
 - Homeless accommodation
 - Licensing (administrative and staffing)
 - Management of all land, estates, property and assets held for housing purposes
 - Public Relations
 - Safeguarding Children and Young Persons
 - Social inclusion (young people, older people, debt and rural issues)
 - Troubled Families
 - Voluntary Sector
- 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 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 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 1st 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:

Matter to be Dealt with	<u>Full Committee</u>	<u>Sub Committee</u>	<u>Officers</u>
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 management, 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, other consultees 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, vary or modify agreements regulating development or use of land.
- 1.12 Power to issue a certificate of existing or proposed lawful use or development, including those under Listed Building powers.
- 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 to take enforcement action and what level of enforcement action to take in accordance with the Council's Planning Enforcement Plan in instances where there has been a suspected breach of planning, listed building or other planning related 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 serve, vary and withdraw an Enforcement Notice and/or community protection 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 granted to local authorities pursuant to the Listed Building and Conservation Areas Act 1990.
- 1.25 Power to determine applications for Permissions in Principle and the related Technical Details Consent.
- 1.26 Duties relating to applications for listed building consent,-conservation areas, Listed Building Heritage Partnership Agreements, and Local Listed Building Consent Orders.
- 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 and recover costs by any appropriate means.
- 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.
- 1.38 To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.39 Power to determine prior approval, notifications and consents.
- 1.40 Power to make screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).
- 1.41 Power to pursue those convicted through the courts of a planning breach under The Proceeds of Crime Act 2002 (or as amended).
- 1.42 Power to issue Community Protection Notices.
- 1.43 Power to withdraw enforcement and other notices.
- 1.44 Power to issue Tree Replacement Notices.
- 1.45 Power to make minor alterations to the Planning Application Validation Checklist.
- 1.46 Power to determine Section 73 applications under Town and Country Planning Act 1990 and Section 19 applications under the Town and Country (Listed Building and Conservation Areas) Act 1990 (as amended) (subject to the caveat set out below in relation to major **and minor** applications).
- 1.47 Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee and to make minor non-material amendments to planning conditions, Section 106 legal agreements or reasons for refusal prior to issuing a decision notice, where the decision has been made by the Planning Committee, where those changes are minor and non-material and subject to the changes having no impact on the substance and terms of the planning decision so as to provide precise and robust conditions or reason(s) for refusal.
- 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 and in respect of the local settlement of complaints pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of the planning function.
- 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.

The functions set out above are delegated to officers with the exception of the following functions, which are expressly reserved to committee for determination and cannot be discharged by an officer:

1. Planning applications which involve a departure from the statutory development plan and are recommended for approval.

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 or comprises an extension to a dwelling forming part of the HRA housing stock.
3. Matters of significance to the district or which may potentially give rise to significant financial consequences when the recommendation is one of refusal except in cases of extreme urgency where delegated powers may be exercised.
4. All major (defined as 10 or more dwellings, where new floor space would be 1,000m² or greater or have a site area of 1 hectare or greater) applications where:
 - The recommendation is contrary to the response received from the host Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations¹ relevant to that application unless the recommendation is for refusal based on a recommendation of refusal by The Environment Agency's representations or Highways England direct refusal of an application regardless of whether or not other consultees support the application; or
 - The recommendation is one of approval, contrary to the response received from a statutory consultee.
5. 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.
6. 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)).
7. 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.

Caveats

- A) Where a major or minor (proposing between 1 and 9 dwellings) application is made under Section 73 of the Act to vary or remove planning conditions these will only be considered by the Planning Committee where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed.

B) For proposals of between 1 and 9 dwellings, where the officer recommendation is one of approval contrary to the views of the host Town or Parish Council (or Parish Meeting), the relevant Ward Member(s) shall be first notified in writing and given the opportunity to request 'referral' (see Section 8 for process) to the Planning Committee. The 'referral' shall be within 5 working days of the notification and should include

- a statement outlining material reasons why the proposal needs to be considered by Committee; and
- a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).

Where the above is not provided, the Case or Authorised Officer will contact the relevant Ward Member to seek clarification on their referral reason.

otherwise the application will be determined under delegated authority.

- 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 notification has first taken place with the Ward Member(s) where possible or it has been agreed with Chairman of Planning Committee where it has not been possible to do this.

8. Local Members can request that planning applications/functions be determined by Planning Committee rather than the Officers (this being known as a 'referral' request) acting under delegated powers in the following circumstances:

- The Member discusses the application with the Authorised Officer (or case officer) and a written request is made to the Authorised Officer or case officer within 21 calendar days of circulation of the weekly list otherwise the application will be determined by officers acting under delegated powers;
- The request should sets out:
 - a statement outlining material reasons why the proposal needs to be considered by Committee; and
 - a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).Where the above is not provided, the Case or Authorised Officer will contact the relevant Ward Member to seek clarification on their referral reason.
- The recommendation of officers is one of approval **and** different to the opinion of the Member having made the referral request having regard to the interests of their ward which must be specified.

Caveats

- A) Where a referral is made by a Member of an adjacent ward immediately adjoining the ward in which the application is situated, the relevant ward member(s) has/have been notified prior to the referral request being made.

- B) Where an application is referred by a Member whose ward is not either within or immediately adjacent to the application site, the referring Member must set out how:
- i. in their opinion the application would have a material impact on the whole or part of their ward (or the district as a whole or part) having regard to the nature of the development, or
 - ii. for the reason that the application will set a precedent for the whole or part of the District; and
 - iii. the relevant ward member(s) has/have been notified prior to the referral request and the Group Leader of the relevant group of the Member making the referral request has agreed to the referral.
 - iv. the referral should include:
 - a statement outlining material reasons why the proposal needs to be considered by Committee; and
 - a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).

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 management 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;
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.
7. To regularly receive and review the Company's Risk Management Strategy.

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.
 - (vii) To receive an annual report detailing the Council's current external partnership arrangements to give assurance that the partnerships are working effectively.
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 representing Newark wards to be appointed annually by the Council, with the remaining four Newark ward members being co-opted as non-voting members. (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 **11th** day of **November 2013**

BETWEEN

- (i) **Mansfield District Council of Civic Centre, Chesterfield Road South, Mansfield,**

-
- (ii) **Nottinghamshire NG19 7BH ("Mansfield") and
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 3rd July 2002 entered into a Joint Management Agreement ('the 2002 Agreement').
2. The 2002 Agreement and a subsequent Agreement on 27th July 2012 ("the 2012 Agreement") superseded an agreement entered into by the said Authorities or their predecessor authorities dated 4th 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 14th 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 th 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 st April in one calendar year until 31 st 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)

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

- 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)

$\frac{X}{Y} \times 100 = \%$ 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 31st 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 & 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.
- (iii) 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.

7.2.8 To affix the Council's seal to any document.

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 make any order requested by the Chief Constable and authorised by the Home Office prohibiting the holding of public processions or trespassory assemblies.
14. To discharge all functions relating to Parliamentary (including European) Elections, Police and Crime Commissioner Elections, Local Elections and National/Local Referendums.

15. To undertake appropriate Community Governance Reviews in accordance with the Local Government and Public Involvement In Health Act 2007.
16. To undertake a review of all polling stations within the District in accordance with the Electoral Registration Act 2006.
17. 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.

18. 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.
19. Implementation of circulars on national wage and salary awards and other alterations in conditions of service.
20. Approval of unpaid leave in excess of 13 weeks.
21. Authority to make agreements with other local authorities for the placing of staff at the disposal of these other authorities.
22. Authority to give approval to the payment of first class rail fare to members and officers in appropriate circumstances.
23. 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.
24. Implementation of requirements arising from Pension Act reviews where no discretion is afforded to the authority.

25. 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

26. To make an order under Section 39(a) of the Representation of the People Act 1983 in relation to a Parish Council.
27. Pay expenses properly incurred by electoral registration officer.
28. Fill vacancies in the event of insufficient nominations in relation to a Parish Council.
29. Declare a vacancy in office, when a member ceases to be qualified, is disqualified or ceases to be a member of the authority.
30. Give public notice of a casual vacancy.
31. Make temporary appointments to Parish Councils.
32. Deal with publicity requirements where the Council has decided on a change of scheme for elections.
33. Deal with notice to the Electoral Commission where the Council has decided on a change of scheme for elections.
34. Designate an alternative polling place should one become unavailable at short notice.
35. 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

36. The manner in which the discharge by the Council of its different functions is co-ordinated.
37. The number of grades of staff required by the authority for the discharge of its functions.
38. The organisation of the authority's staff.
39. 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.
 - acupuncture, tattooing, ear-piercing and electrolysis
 - air quality management
 - animal boarding establishments
 - any environmental health functions of the Council not otherwise expressly specified
 - architectural services, engineering services and quantity surveying
 - atmospheric pollution
 - camp sites and moveable dwellings
 - car parking and lorry parking (including charging policies)
 - cemeteries
 - community centres
 - contaminated land
 - council depots
 - country parks
 - culture and the arts
 - dairy establishments and egg product establishments
 - dangerous wild animals
 - destitute burials
 - dog breeding
 - dog control
 - establishments for massage and special treatments
 - food business premises
 - food premises
 - food regulations

- food safety, hygiene and quality
- game dealers
- game keepers
- guard dogs
- health and safety at work
- health issues generally, including Health Authority and hospital consultation documents
- health promotion
- historic sites
- home and community safety
- homelessness – to include the provision of temporary accommodation for those in urgent need through homelessness or emergency
- houses in multiple occupation
- housing advice
- housing associations – assistance and nomination arrangements
- housing services, including housing, tenancy & estate management and support, housing register, lettings, voids, maintenance and repair, determination of rent levels, maintenance of estate amenities
- infectious diseases and food poisoning
- leisure centres
- licences to kill game
- maintenance, repairs, lettings and management of shops and garages vested in the Council as housing authority
- making best use of housing stock, including stock condition surveys.
- markets and fairs (including Newark Livestock Market) including charging policies)
- meat product premises
- mobile home sites
- museums and art galleries
- nature reserves
- overcrowding
- pest control
- pet animals
- Pet shops
- picnic sites
- play leadership
- playing fields
- pollution control
- pre-school play groups
- 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
- private water supplies
- processes subject to control under Part 1 of the Environmental Protection Act

- public conveniences
 - public health nuisances and offensive trades
 - public parks and open spaces (including charging policies)
 - rag flock
 - refuse collection and litter control services
 - refuse storage, cleansing and waste management
 - retail butchers premises carrying out commercial operations in relation to unwrapped raw meat and selling both raw meat and ready to eat foods
 - riding establishments
 - right to buy
 - scrap metal dealers
 - sex establishments
 - special promotions/competitions
 - statutory nuisances
 - swimming pools
 - theatres
 - tree and plant nurseries
 - water quality and supplies
 - water recreation
 - Zoos
 -
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 relevant Committee 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 Council's policy on lettings.
11. To identify and analyse community needs and to recommend solutions to the relevant Committee 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 Section151 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.

PART 3

RULES OF PROCEDURE

CONTENTS

	PAGES
1. Council Procedure Rules	3
2. Access to Information Procedure Rules	39
3. Financial Regulations	50
4. A Brief Guide to Contract Procedure Rules	83
6. Officer Employment Procedure Rules	117
7. Petitions Scheme	123

NEWARK & SHERWOOD DISTRICT COUNCIL

**CONSTITUTION
MAY 2021**

**Part Three
Page No: 3**

RULE NO.	COUNCIL PROCEDURE RULES INDEX	PAGES
1	Definitions and Interpretation	4
2	Council Procedure Rules	6
3	Meetings of the Council	7
4	Extraordinary Meeting of the Council	7
5	Person Presiding at Meetings of the Council	8
6	Quorum of Meetings	8
7	Order of Business at Meetings of the Council	9
8	Opposition Priority Business	11
9	Communications	12
10	Presentation of Petitions	12
11	Consideration of Items referred direct to the Council by Officers	13
12	Consideration of Reserved Decisions from Committees, recommendations and Items referred from Committees and Sub-Committees	13
13	Notice of Motions	14
14	Questions by Members of the Council	15
15	Questions by the Public	16
16	Presentation of Minutes for Noting	18
17	Appointment of Committees and Sub-Committees and Allocation of Seats on Committees and Sub-Committees to Political Groups	18
18	Meetings of Committees, Sub-Committees and Working Parties	20
19	Persons Presiding in Committees, Sub-Committees and Working Parties	21
20	Order of Business in Committees and Sub-Committees	21
21	Reference of Items of Business by Officers to Council and Committees	22
22	Reservation of Decisions of Committees and Sub-Committees	23
23	Minutes	25
24	Motions and Amendments	25
25	Rules of Debate (General)	27
26	Additional Rules of Debate for Council Meetings	30
27	Prevention of Disorderly Conduct	31
28	Voting	31
28a	Recorded Vote at Budget Meeting	32
29	Attendance	33
30	Duration of Meeting	33
31	Disclosable Pecuniary Interests	33
32	Protocol for Cancellation of Meetings	33
33	Substitution of Members at Meetings	34
34	Amendments to the Constitution	35
35	Sub-Committees	35
36	Working Parties and Task & Finish Group	35
37	Application of these Rules to Committees and Sub-Committees	36
38	Remote Meetings Held by Virtue of the Coronavirus Act 2020	36

COUNCIL PROCEDURE RULES

RULE NO. 1 – DEFINITIONS AND INTERPRETATION

- 1.1 In these Rules, unless the context otherwise demands, the following terms have the meaning assigned to them:

"Authority" - the Newark and Sherwood District Council acting by any means which they may lawfully adopt;

"Chairman" - the Chairman of the Council or the Chairman of a Committee or Sub Committee and includes the Chairman of any meeting for the time being; and in respect of Rule No 16, shall include any other Member of the Council presenting the Minutes on his/her behalf;

"Chief Officer" - the Chief Executive, Deputy Chief Executive and Directors;

"Committee" - a Committee of the Authority expressly excluded within these rules;

"Council" - the Newark and Sherwood District Council acting by the Council;

"delegated decision" - a decision of a Committee or Sub Committee taken in exercise of its delegated powers and which has not been reserved in accordance with Rule No. 22;

"deputy leader" – the person elected by the Council as such;

"employee" - an employee of the Authority or the holder of a paid office under the Authority other than the Chairman or Vice-Chairman of the Council;

"Head of the Council's Paid Service" - the person designated as such under Section 4 of the 1989 Act;

"leader of a political group" - the leader of a political group as defined in the Local Government (Committees etc) Regulations 1990 or any amending regulations thereto;

"leader of the council" – the person elected by the Council as such;

"majority group" - a political group to which belong either:

- (i) more than half of the members of the Council; or
- (ii) exactly half of the number of members of the Council, including the Chairman of the Council;

"meeting" - a meeting of the Council, a Committee or a Sub Committee, unless described otherwise;

"member" - in relation to the Council, a member of the Council; in relation to any Committee or Sub Committee a person appointed as a member of that Committee or Sub Committee, whether or not entitled to vote;

"minority group" - a political group which,

- (i) where there is a majority group among the members of the Council, is not that majority group;
- (ii) in any other case, is designated as such by a resolution of the Council;

"Monitoring Officer" - the person designated under Section 5 of the 1989 Act (designation and reports of Monitoring Officer) or, if that person is unable to act owing to absence or illness, the person nominated as his/her deputy under Subsection (7) of that Section;

"number of members" - in relation to the Council, the number of persons who may act at the time in question as members of the Council, and in relation to a Committee or Sub Committee, the number of persons who may act at the time in question as voting members of that body;

"officer" - any person employed by the Council, a Committee or Sub Committee, unless described otherwise;

"opposition spokesperson" – any member of the major opposition group so appointed.

"person presiding" - the person entitled, or appointed, to preside at any meeting;

"political group" - a political group as defined in the Local Government (Committees etc) Regulations 1990 or any amending Regulations thereto;

"reserved decision" - means a decision, or that part of a decision, which has been reserved in accordance with Rule No 22;

"senior officer" - any officer graded senior officer or above;

Rules marked * shall apply only to meetings of the Council. Other Rules shall apply to meetings of Council, where appropriate, and to Committees and Sub Committees

(unless a Rule expressly states otherwise) as detailed in Rule No 30, and the word "Council" shall be adapted accordingly in the context;

"Sub Committee" - a Sub Committee of a Committee;

"the 1972 Act" - the Local Government Act 1972;

"the 1989 Act" - the Local Government and Housing Act 1989;

"the whole number of members" - in relation to the Council, the total number of persons who may become members of the Council, disregarding any person who is a member of the Council only by virtue of Section 3(3) or Section 5(2) of the 1972 Act (Chairman and Vice Chairman to remain members until replaced);

"without comment" - in relation to the moving, seconding or putting of a motion, without any person speaking except to indicate the wording of the motion, the fact that it is being moved, seconded or put, or (in the case of the person presiding) the effect of adopting the motion.

- 1.2 Unless the context otherwise requires, the singular includes the plural and the plural includes the singular.
- 1.3 Any reference in any Rule to a numbered paragraph is, unless the context otherwise requires, a reference to the paragraph of that Rule bearing that number.

RULE NO. 2 - COUNCIL PROCEDURE RULES

- 2.1 No arrangements shall be made whereby a Committee, Sub Committee or Officer may exercise any power of the Authority to vary, revoke or add to these Rules.
- 2.2 This Rule and Rule Nos 22(1), 26(4), and 27(2)(3) and (4) are not capable of being suspended.
- 2.3* Any of Rule Nos 4, 7(3), 8, 18(5)(6) and (7) and 21 may be suspended by the Council, but only if:
 - (a) notice of the intention to move such suspension has been included in the agenda for the meeting; and
 - (b) before the motion is put to the vote, every political group to which members of the Council belong has declared that they are content.
- 2.4* Provided at least one half of the number of members of the Council are present the Council may suspend any of the other Rules if the Members present at a meeting and voting thereon shall so decide, but the Rules shall be deemed to be suspended only to the extent required for the purpose stated in the resolution. Unless the Chief Executive has been notified of the item and of the intent before the commencement of the meeting and he/she has so notified the Council under "Communications", such suspension shall not operate at any meeting of the Council so as to permit a motion to alter a previous decision by the Council at that meeting or a delegated decision.
- 2.5 The ruling of the person presiding at any meeting as to the construction or application of any of these Rules shall not be challenged at that meeting.

RULE NO. 3 - MEETINGS OF THE COUNCIL

3 .1* The Annual Meeting of the Council shall be held concurrently with an ordinary meeting of the Council. All meetings of the Council shall be held on such days and at such times at Castle House, Great North Road, Newark or other place as the Council shall determine. Meetings of Committees and Sub-Committees will normally be held at Castle House, Great North Road, Newark but in exceptional circumstances and/or by reason that the nature of one or more of the items on the Agenda is of particular local significance, it is considered that meeting at an alternative venue would be beneficial in terms of citizen engagement, openness and transparency, the Chief Executive, after consultation with the Chairman of the relevant Committee, may agree to a meeting being held at an alternative venue.

3.2 The Council Chamber shall be laid out as the Council shall determine from time to time.

RULE NO. 4 - EXTRAORDINARY MEETINGS OF THE COUNCIL

4.1* The Chairman of the Council may at any time call an extraordinary meeting of the Council.

4.2* If the office of Chairman is vacant, or if the Chairman is unable to act for any reason, the Vice Chairman of the Council may at any time call an extraordinary meeting of the Council.

4.3* If the offices of Chairman and Vice Chairman are both vacant, or if both the Chairman and the Vice Chairman are unable to act for any reason,

(a) the Leader of the Council (if any); or

(b) any two members of the panel appointed under Rule No 4.8 below may at any time call an extraordinary meeting.

4.4* The Head of Paid Service, Monitoring Officer and/or Section 151 Officer may at any time call an extraordinary meeting.

4.5* The appropriate number of members of the Council may call an extraordinary meeting of the Council if a requisition for such a meeting signed by the appropriate number of members of the Council has been presented to the Chairman of the Council, and either the Chairman has refused to call a meeting or, without him/her so refusing, no extraordinary meeting has been called within seven days of the presentation of the requisition.

4.6* The appropriate number of members of the Council is:

(a) in any circumstances, the number of members who then form a quorum of the Council;

or

- (b) in relation to any item of business where any political group have required that the provisions of Rule No 8 (opposition priority business) should be applied to an item of business, and the question on that item of business has not been put to the vote, or has been put to the vote as a result of a resolution on Rule No 25(14) (closure motions), at least five.
- 4.7* Any requisition under Rule No 4.5 may be presented to the Chairman by being left for him/her with the Chief Executive.
- 4.8* At, or as soon as possible after, the Annual Meeting of the Council, the Council shall appoint a panel of at least four members of the Council for the purposes of Rule No 4.3(b).
- 4.9* Where any member or members or officers decide to call an extraordinary meeting of the Council, they shall signify to the Chief Executive that they have done so, the business to be transacted and the date and time for which the meeting is called. The Chief Executive shall thereupon ensure that the notices and summonses required by Paragraph 4 (2) of Schedule 12 to the 1972 Act are published and sent.
- 4.10* Any extraordinary meeting of the Council which may be called shall be held at Castle House, Great North Road, Newark or such other place as the Chairman of the Council may reasonably appoint.
- 4.11* No extraordinary meeting shall be called unless it is proposed to transact at the meeting business which, in accordance with the relevant enactments and these Rules, may be transacted at that meeting.

RULE NO. 5 - PERSON PRESIDING AT MEETINGS OF THE COUNCIL

- 5.1* Any power of the Chairman of the Council in relation to the conduct of a meeting of the Council may be exercised by the person presiding at the meeting.
- 5.2* If it is necessary to choose a member of the Council to preside in the absence of the Chairman and Vice Chairman, the Chief Executive shall call on a member of the Council to move that a member of the Council be proposed to take the chair.
- 5.3* If discussion arises on that motion, the Chief Executive shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting.
- 5.4* The motion, and any amendments, shall be put to the meeting in accordance with Rule No 28.5(voting on appointments).

RULE NO. 6 - QUORUM OF MEETINGS

- 6.1 If, during any meeting of the Council, the person presiding, after causing the number of members present to be counted, declares that there are not one quarter of the whole number of voting members (of the Council) present, the meeting shall stand adjourned for fifteen minutes.

- 6.2 If, after fifteen minutes, the person presiding, after again causing the number of members present to be counted, declares that there are still not one quarter of members present, the meeting shall end.
- 6.3 Notwithstanding any provision in these Rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph and which has not been completed before the meeting is brought to an end shall be postponed to the next meeting of the Council, whether ordinary or extraordinary.

RULE NO. 7 - ORDER OF BUSINESS AT MEETINGS OF THE COUNCIL

- 7.1* Subject to Rule No. 8 or unless the Council otherwise order in accordance with paragraph 7.3, the order of business at every ordinary meeting of the Council shall be:
- (a) at the commencement of a Council meeting, the Chairman of the Council shall be announced and members, officers, and the public shall forthwith come to order and stand;
 - (b) in the absence of the Chairman and Vice Chairman, to choose a member of the Council to preside;
 - (c) at the Annual Meeting, and at any other meeting which is the first after the office of Chairman shall have become vacant, to elect a Chairman;
 - (d) at the Annual Meeting, and at any other meeting which is the first after the office of Vice Chairman shall have become vacant, to appoint a Vice Chairman;
 - (e) to receive apologies for absence;
 - (f) to approve as a correct record the minutes of the last meeting of the Council, and of any earlier meeting of which the minutes have not been so approved, and for the person presiding to sign them;
 - (g) to receive declarations of interests from Members and Officers;
 - (h) to receive declarations of intention to record the meeting;
 - (i) to receive communications which the person presiding or the Chief Executive considers should be laid before the Council;
 - (j) to receive communications which the Leader of the Council and Committee Chairmen consider should be laid before the Council;

Members of the Council will be given the opportunity to ask questions of the Leader of the Council and Committee Chairman following receipt of communications, if these specifically relate to functions of the relevant committee of which the member is the chairman.

- (k) where the meeting has been called by Members under Rule No 4.5 to consider the business specified in the summons;
- (l) where a meeting has been summoned to consider
 - (i) a change of the name of the area of the Authority under Section 74 of the 1972 Act;
 - (ii) the promotion or opposition of a Bill under Section 239 of the 1972 Act;
 - (iii) the presentation of a petition to The Queen praying for the grant of a charter under Section 245 of the 1972 Act;
 - (iv) a report from the s151 Officer under Section 114 of the Local Government Finance Act 1988; or
 - (v) a report of the Monitoring Officer under Section 5 of the 1989 Act

to consider the business for which the meeting has been summoned;

- (m) the asking and answering of questions by Members of the Council under Rule No. 14 and the asking and answering of questions by the Public under Rule No. 15.
- (n) to receive and debate petitions under Rule No. 10;
- (o) at the Annual Meeting to:
 - (i) elect the Leader;
 - (ii) elect the Deputy Leader
 - (iii) appoint such Committees as is considered necessary including the Chairman and Vice-Chairman thereof;
 - (iv) appoint representatives on outside bodies.
- (p) to consider items of business required by Statute or the Council's Constitution;
- (q) to consider items of business, if any, which were on the agenda of the last meeting of the Council and which were not disposed of or did not lapse;
- (r) to consider items of business referred direct to the Council by the Chief Executive or any other Chief Officer pursuant to Rule No 21;
- (s) to consider reserved decisions from Committees and recommendations of Committees and Sub Committees which have arisen since the last ordinary meeting of the Council in the order prescribed under paragraph (2);

- (t) to consider motions of which notice has been submitted by members of the Council in accordance with Rule No 14 in the order in which they are recorded as having been received;
- (u) to receive for noting the minutes of all Committee and Sub Committee meetings held since the last ordinary meeting of the Council; and
- (v) to consider other business, if any, specified in the summons for the meeting.

7.2* The items of business under items (o), (p) and (q) in the last paragraph shall be considered in the order in which they are listed in the agenda for the meeting, and that order shall be in accordance with arrangements determined by the Chief Executive after consultation with the Chairman of the Council.

7.3* The order of business in paragraph (1) may be varied by

- (a) direction of the person presiding, made with the unanimous consent of the members present, but not so as to alter the order of items (a) to (i); or
- (b) a resolution of the Council, moved, seconded and put without comment but not so as to alter the order of items (a) to (i), or to over-ride the provisions of Rule No 8.

7.4* If the person presiding decides that an item of business not included in the agenda for the meeting sent with the summons for the meeting may be taken for reasons of urgency in accordance with the 1972 Act, that item shall, subject to any direction or resolution under Rule No 7.3 be taken at the end of the other items of business or at any other time which the person presiding considers appropriate and notifies to the meeting when announcing the item of urgent business.

RULE NO. 8 - OPPOSITION PRIORITY BUSINESS

- 8.1*** This Rule applies where there is a majority group among the members of the Council.
- 8.2*** A minority group may require, by a notice in writing given to the Chief Executive not later than the latest time for the receipt of notices of motion for that meeting, that any one item of business to be placed on the agenda for any meeting of the Council shall be treated as opposition priority business.
- 8.3*** Where the Chief Executive receives more than one such notice for any meeting, he/she shall decide which notice shall be effective so as to ensure that as far as possible each minority group's share of such notices which are effective fairly reflects the relative sizes of those groups in the period since the last Annual Meeting of the Council.
- 8.4*** The Chief Executive shall indicate on the agenda which (if any) item of business is to be treated as opposition priority business.

- 8.5* If an item of business is to be treated as opposition priority business, and if, after a period of two hours from the commencement of the meeting, consideration of that item has not begun, that item shall be taken next after the conclusion of the business then under discussion.
- 8.6* The normal rules of debate shall be suspended to the extent necessary to enable the opposition priority business to be debated but shall otherwise have full force and effect.
- 8.7 If, at the opening or at any time before the close of the debate, the minority group which gave notice of the opposition priority business wish to move a formal motion, prior notice must be given in accordance with Rule 13.

RULE NO. 9 - COMMUNICATIONS

- 9.1* Where communications are laid before the Council by the Chairman of the Council or the Chief Executive the meeting shall resolve without debate that these:-
- (i) be discussed with the minutes of any Committee containing a reference to the same subject matter; or
 - (ii) be referred to a Committee; or
 - (iii) be recorded in the minutes; or
 - (iv) be allowed to lie on the table.

RULE NO. 10 - PRESENTATION AND DEBATING OF PETITIONS

Presentation of Petitions

- 10.1* In accordance with the Council's published Petition Scheme (attached at Section 9 of these Rules of Procedure) petitions with less than 1,000 valid signatures can be presented to the Council.
- 10.2* At a meeting of the Council any member of the Council may present a petition, signed by persons other than members of the Council, which is relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of them. The member presenting the petition shall satisfy himself/herself that the petition is proper to be received.
- 10.3* A member wishing to present a petition shall give notice of his/her intention to do so to the Chief Executive at least six clear working days before meeting at which he/she wishes to present it.
- 10.4* The presentation of a petition shall be limited to not more than three minutes, and shall be confined to reading out or summarising the prayer of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition as the person presenting it shall think fit. There will be no debate.

10.5* Petitions shall be presented in the order in which notice of them is received by the Chief Executive.

Debating of Petitions

10.6* In accordance with the Council's published Petition Scheme (attached at Section 9 of these Rules of Procedure) petitions with more than 1,000 valid signatures can be presented by the lead petitioner to the Council for debate.

10.7* The presentation of the petition by the lead petitioner will be limited to not more than five minutes and shall summarise the content of the petition and highlight the course of action it wishes the Council to take.

10.8* If the lead petitioner is unable to attend the Council Meeting to present their petition this will be debated by the Council in their absence.

10.9* The Council will limit the debate on the petition to a maximum of 15 minutes and will close the debate with an agreed course of action.

10.10* Petitions for debate will be taken in the order in which notice of them was received by the Chief Executive.

RULE NO. 11 - CONSIDERATION OF ITEMS REFERRED DIRECT TO THE COUNCIL BY OFFICERS

11.1* Where the Council considers an item of business which has been referred direct to it by either the Chief Executive or any other Chief Officer pursuant to Rule No 21 the following procedure shall apply:-

- (a) the appropriate officer shall be requested to introduce any officer report presented to the meeting in connection with the item; and
- (b) thereafter the item may be disposed of in accordance with the Council's usual procedures with regard to motions and possible amendments thereto.

RULE NO. 12 - CONSIDERATION OF RESERVED DECISIONS FROM COMMITTEES, RECOMMENDATIONS AND ITEMS REFERRED FROM COMMITTEES AND SUB COMMITTEES

12.1* The following procedure shall be observed for consideration of reserved decisions from Committees to which Council Procedure Rule 22 applies and recommendations and items referred from Committees and Sub-Committees which have arisen since the last ordinary meeting of the Council: -

- (i) Each reserved decision and each recommendation shall be dealt with separately and disposed of before moving on to the next;

- (ii) In the case of a reserved decision of the Planning Committee relating to the determination of an application for planning permission the following motions only may be proposed and seconded: -
 - either
 - (a) that the matter be referred back to the Planning Committee with a request that it reconsider its original decision; or
 - (b) that the reservation not be supported and that the original decision of the Planning Committee accordingly take effect.
 - (iii) In the event of either motion being proposed and seconded, the alternative motion may be moved and seconded as an amendment to the original motion;
 - (iv) No further amendments or alternative motions may be put;
 - (v) In the case of a recommendation from a Committee or Sub-Committee, or in the case of any other decision of a Committee to which Council Procedure Rule No. 22 applies the recommendation of the Committee or the reserved decision, as the case may be, shall be formally moved by the Chairman of the Committee and seconded by the Vice-Chairman (which expression shall include any other members of the Committee moving or seconding the recommendation on his/her behalf);
 - (vi) If the recommendation or decision is not in accord with their own views, the proposer and seconder of the formal motion shall be permitted to speak against the same in the debate, but the proposer shall not then have a right of reply to the debate.
 - (vi) When a recommendation of a Committee is discussed, regard shall be had to the views and recommendations of any other Committee on the same subject, as identified in the agenda of the Council meeting;
 - (viii) Where an item has been referred to the Council for decision by a Committee or Sub Committee without any recommendation on the action to be taken, the item may be disposed of in accordance with the Council's usual procedure with regard to motions and possible amendments thereto; and
- 12.2* The debate and decision of the Council on the subject matter of any reserved decision recommendation or item referred from a Committee or Sub-Committee shall preclude any further questions, comment or debate on the same subject matter during that meeting.

RULE NO. 13 - NOTICE OF MOTIONS

- 13.1* Notice of every motion to be moved at an ordinary meeting of the Council other than a motion which, under Rule No 24, may be moved without notice, shall be given in writing, and be signed by the mover and seconder and delivered to the Chief Executive not later than noon on the day eight days before the meeting of the Council at which it is intended to be moved. The notice shall state for which meeting of the Council the notice is given.

13.2* Written notice of any motion to be moved at an Extraordinary meeting of the Council signed by the proposer and seconder shall be delivered to the Chief Executive not later than noon at least two working days before that meeting (i.e. excluding the day of the meeting). The Chief Executive shall send a copy of the motion to each member on the day of receipt.

13.3* The method of delivery of a Notice of Motion submitted under Rule Nos. 13.1 and 13.2 above shall be:-

- (i) by submitting an original in writing signed by the mover and seconder of the motion; or
- (ii) by submitting a faxed copy showing the facsimile signature of the mover and seconder of the motion; or
- (iii) by electronic mail which shall show the names of the mover and seconder of the Motion, together with the name and electronic mail address of the sender;
and in the case of (ii) and (iii) above, shall be subject to verification to the satisfaction of the Chief Executive.

13.4* The Chief Executive shall record the time and date at which every such notice is delivered to him/her. That record shall be open to the inspection of every member of the Council.

13.5* Every motion shall be relevant to some matter in relation to which the Authority have functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of them.

13.6* A motion shall only be moved by the member by whom notice has been given, or by a member authorised by such a member.

RULE NO. 14 - QUESTIONS BY MEMBERS OF THE COUNCIL

14.1* Members of the Council may submit questions to the Chairman of a Committee at any meeting of the Council in accordance with the following procedure:

- (i) Notice of a question shall be given to the Chief Executive (or an appropriate officer) in writing or by electronic mail not later than noon on the day eight days before the date of the Council meeting;
- (ii) if submitted by email this must be sent from the Members' official Newark & Sherwood District Council email address or one accordingly recognised and identified as being an official email address belonging to that Member;
- (iii) the question (unless ruled out in accordance with Rule 14.2) shall be published with the summons for the meeting;
- (iv) each question shall be taken as read and the relevant Committee Chairman will be invited to reply;

- (v) the Committee Chairman may refer the question to any other Member who is willing to undertake to answer it;
- (vi) the relevant Member may give an oral or written reply, unless a full reply cannot be given, but in any case a written reply will be sent to all Members as soon as practicable after the meeting, in addition to the responses to all questions being published as an appendix to the minutes for the meeting;
- (vii) the Member shall be entitled to put a single supplementary question provided that it is relevant to the subject matter of the original question;
- (viii) if considered expedient the relevant Member will circulate a written reply to any question at the meeting which will be taken as read;
- (ix) each question shall be put and answered without discussion.

- 14.2* Every question shall be relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of them.
- 14.3* A reference to any publication of the Council which contains the desired information, shall be a sufficient answer.
- 14.4* A period not exceeding thirty minutes shall be allocated at each Council meeting for questions from Members of the Council and the public (under Rule 15) and no further questions shall be put once that time period has expired. Questions from Members of the Council will be time limited to 15 minutes where there are questions submitted from the public.
- 14.5* Questions which have not been answered within the period referred to in 14.5 shall be referred to the relevant Member who shall arrange for a written reply to be sent to all Members of the Council.
- 14.6* When a question is submitted in accordance with this Rule, significantly in advance of the deadline for submission, the Chief Executive will determine if it is more expedient to respond in writing if it is considered the question should not wait until the next scheduled Council Meeting.

RULE NO. 15 – QUESTIONS BY THE PUBLIC

- 15.1* Members of the public resident in the District may submit questions to Council at Council meetings in accordance with the following procedure:
 - (i) Notice of a question shall be given to the Chief Executive (or an appropriate officer) in writing or by electronic mail not later than noon on the day eight days before the date of the Council meeting;

- (ii) when submitting a question the questioner must provide their full name and address;
- (iii) the question (unless rejected under Rule No 15.4) shall be published with the summons for the meeting;
- (iv) each question shall be taken as read and the relevant Member will be invited to reply;
- (v) the relevant Member may give an oral or written reply, unless a full reply cannot be given, but in any case a written reply will be sent to the questioner as soon as practicable after the meeting, in addition to the responses to all questions being published as an appendix to the minutes for the meeting;
- (vi) if the questioner is in attendance at the meeting they will be entitled to ask a single supplementary question provided that it is relevant to the subject matter of the original question;
- (vii) there will be no discussion of the answers given;
- (viii) if considered expedient the relevant Member will circulate a written reply to any question at the meeting which will be taken as read.

15.2* Every question shall be relevant to matters in relation to which the Council has powers or duties or which affects the area or the residents of the area.

15.3* Questions shall be asked in the order in which they were received, except that the Chairman may group together similar questions.

15.4* The Chief Executive shall not accept a question if it is considered that it:

- (a) is not about a matter for which the Council has a responsibility or which affects the area or the residents of the area;
- (b) is frivolous, defamatory, vexatious or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the previous 6 months; or
- (d) requires the disclosure of confidential or exempt information when being answered.

15.5* A period not exceeding thirty minutes shall be allocated at each Council meeting for questions by the public and questions from Members of the Council (under Rule 14) and no further questions shall be put once that time period has expired, save that a minimum of 15 minutes will be reserved for questions by the public.

- 15.6* Questions which have not been answered within the period referred to in 15.5 shall be referred to the relevant Member who shall arrange for a written reply to be sent to the questioner as soon as practicable with a copy to all Members of the Council.
- 15.7* At any one meeting no person shall submit more than one question and no more than one question may be asked on behalf of one organisation provided that the Chairman may, in exceptional circumstances, waive this rule.
- 15.8* When a question is submitted in accordance with this Rule, significantly in advance of the deadline for submission, the Chief Executive will determine if it is more expedient to respond in writing if it is considered the question should not wait until the next scheduled Council Meeting.

RULE NO. 16: - PRESENTATION OF MINUTES FOR NOTING

- 16.1* The following procedure shall be followed when the delegated decisions of Committees and Sub Committees are presented for noting to the Council:-
- (i) the decisions will be presented by the Chairman of the appropriate Committee/Sub Committee in the order set out in the agenda;
 - (ii) after giving the Committee Chairman the opportunity to comment thereon, the Chairman of the Council will ask for questions or comments on the delegated decisions of the Committee page by page;
 - (iii) the Committee Chairman shall reply item by item. If the Committee Chairman defers an item to obtain further information, he/she shall give that answer in writing to the questioner as soon as practicable after the meeting and, in any event, prior to the next meeting of the Council. The response will, in addition, be circulated to all Members of the Council or published for information with the agenda for the following meeting of the Council.
 - (iv) after the Committee Chairman has replied to any question or comment on any page, there shall be no further debate on those decisions, except for any supplementary question arising out of the replies which the Chairman of the Council may allow.

RULE NO. 17 – APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES AND ALLOCATION OF SEATS ON COMMITTEES AND SUB-COMMITTEES TO POLITICAL GROUPS

- 17.1* The Council shall at its annual meeting appoint such Committees as it is required by law and as it deems necessary to appoint for the ensuing year and the Chairman and Vice-Chairman of those Committees. It shall also appoint the Leader and Deputy Leader at its annual meeting.

- 17.2* Subject to any statutory provisions in that behalf the Council may at any time appoint such other Committees, Sub-Committees or Working Parties as are necessary to carry out the work of the Council; or dissolve a Committee, Sub-Committee or Working Party; or alter its Chairmanship, Vice-Chairmanship or its membership. Subject to Rule 13, Notice of Motions, the Leader and/or Deputy Leader may be removed at any time during his or her term by a majority resolution of the Council.
- 17.3 Subject to any statutory provisions in that behalf a Committee may at any time appoint such other Sub-Committees or Working Parties and their respective Chairman and Vice-Chairman as are necessary to carry out the work of the Committee; or dissolve a Sub-Committee or Working Party; or alter its Chairmanship, Vice-Chairmanship or its membership.
- 17.4 Subject to Rule Nos. 17.2 and 17.3 Committees shall continue until the next annual meeting of the Council and shall retain their powers and membership, except as regards members who have not been re-elected in a year of ordinary election of members or have otherwise ceased to be members.
- 17.5 Subject to Rule No 17.2 Sub Committees and Working Parties shall continue until the first meeting of the appropriate Committee after the next annual meeting of the Council, or until that Committee has dissolved the Sub Committee or Working Party, except as regards those members who have not been re-elected in a year of ordinary election of members or have otherwise ceased to be members.
- 17.6 Whenever
- (a) the Council is required to review the allocation of seats on Committees between political groups; or
 - (b) the Council resolves to carry out such a review; or
 - (c) a Committee is required to review the allocation of seats on a Sub Committee between political groups; or
 - (d) a Committee resolves to carry out such a review;
- the Chief Executive shall submit a report to the Council or Committee (as the case may be), showing what allocation of seats would, in his/her opinion, best meet the requirements of Section 15(4) of the 1989 Act.
- 17.7 The Leader of the Council will be appointed ex officio as a member of the Economic Development, Leisure and Environment and Homes and Communities Committees and will be entitled to attend and speak at those committees. He or she will not be entitled to vote unless expressly appointed as a voting member of the committee. The Deputy Leader will be entitled to attend the Economic Development, Leisure and Environment and Homes and Communities Committees in an ex officio capacity in the absence of the Leader except where the Deputy Leader is already a member of that Committee.

RULE NO. 18 - MEETINGS OF COMMITTEES, SUB COMMITTEES AND WORKING PARTIES

- 18.1 The Council may fix the date, time and place of ordinary meetings of committees, Sub Committees and Working Parties.
- 18.2 If the Council do not fix the date, time, or place of an ordinary meeting of such a Sub Committee or Working Party, then the Committee or Sub Committee which appointed them may do so.
- 18.3 If the date, time or place of an ordinary meeting of such a Committee, Sub-Committee or Working Party has not been fixed by the Council or the appointing Committee or Sub-Committee (as the case may be), then that Committee, Sub-Committee or Working Party shall fix those details of the meeting which have not otherwise been fixed, provided that:
- (a) for the first ordinary meeting of any Committee, Sub-Committee or Working Party, the Chairman of the Council or, if a person has been appointed to preside in such a Committee, Sub-Committee or Working Party, that person, may fix any details which have not otherwise been fixed.
 - (b) for any other meeting of such a Committee, Sub-Committee or Working Party, the Chairman of the Council or the person appointed to preside in that Committee, Sub-Committee or Working Party after consultation (so far as practicable) with such persons as appear to him/her to be representative of the political groups to which have been allocated seats on the Committee, Sub-Committee or Working Party may cancel or change any of the details of place, date or time already fixed for a meeting of the Committee, Sub-Committee or Working Party other than one called under Rule No. 18.5.
- 18.4 The person appointed to preside at meetings of such a Committee, Sub Committee, or Working Party or his/her deputy, may call a special meeting of the Committee, Sub Committee or Working Party at any time after prior consultation with the leader of or the designated spokesman for each group normally attending such Committee, Sub Committee or Working Party.
- 18.5 (a) a requisition for a special meeting of such a Committee, Sub Committee or Working Party, signed by at least two or one quarter of the total number of the voting members of such a Committee, Sub Committee or Working Party, whichever is greater, has been presented to the person appointed to preside at their meetings, and
- (b) either he/she has refused to call a meeting or, without him/her so refusing, no special meeting has been called within seven days of the presentation of the requisition, then any two, or one quarter of the number, of the members of the Committee, Sub Committee, or Working Party, whichever is greater, may forthwith call a special meeting of the Committee, Sub Committee or Working Party.

- 18.6 If any person decides to call a special meeting of a Committee, Sub Committee or Working Party, he/she shall forthwith give notice that he/she has done so to the Chief Executive specifying the business proposed to be transacted.
- 18.7 The Chief Executive shall forthwith give notice to all members of the Committee, Sub Committee or Working Party and all persons entitled to receive their papers.
- 18.8 Any requisition under Rule No 19.5 may be presented by being left with the Chief Executive.

RULE NO. 19 - PERSONS PRESIDING IN COMMITTEES, SUB COMMITTEES AND WORKING PARTIES

- 19.1 The Council may appoint, from among the voting members, a person to preside at the meetings of a Committee, Sub Committee or Working Party, and a person to preside in the absence of the first person.
- 19.2 If any appointment possible under the previous paragraph is not made, such a Committee or Sub Committee may appoint, from among the voting members, a person to preside at the meetings of any Sub Committee or Working Party as appropriate appointed by them, or a person to preside in the absence of the first person, as the case may be.
- 19.3 If any appointment possible under the previous two paragraphs is not made, such a Committee, Sub Committee or Working Party at their first meeting after the annual meeting of the Council shall, from among their voting members, appoint a person to preside at their meetings, and may, in the same way, appoint a person to preside in the absence of the first person.
- 19.4 If the persons appointed under the previous paragraphs of this Standing Order are absent, a meeting of such a Committee, Sub Committee or Working Party shall appoint, from among the voting members present, a person to preside at that meeting.
- 19.5 If it is necessary for such a Committee, Sub Committee or Working Party to appoint a person to preside, the Chief Executive shall call on a member of the Committee, Sub Committee or Working Party to move that a voting member of the Committee, Sub Committee or Working Party shall take the chair.
- 19.6 If discussion arises, the Chief Executive shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting.
- 19.7 The motion, and any amendments, shall be put to the meeting in accordance with Rule No 28.5 (voting on appointments).

RULE NO. 20 - ORDER OF BUSINESS IN COMMITTEES AND SUB COMMITTEES

- 20.1 At least five clear days before every meeting of a Committee or Sub Committee, or as soon as the meeting is called, whichever is later, the Chief Executive shall send to every voting member and to every other person entitled to receive the papers of the Committee or Sub Committee a copy of the agenda for the meeting.

20.2 The agenda shall include

- (a) to receive apologies for absence;
- (b) to approve as a correct record the minutes of the previous meeting in accordance with Rule No. 23;
- (c) to receive declarations of interests from Members and Officers;
- (d) to receive declarations of intention to record the meeting;
- (e) all items of business which have been, or are deemed to have been, referred to the Committee or Sub Committee by the Council or by another Committee or Sub Committee, as the case may be;
- (f) all reports submitted to the Committee or Sub Committee by the Head of the Paid Service or any Chief Officer;
- (g) any item of business directed to be included by the person appointed to preside at the meetings of the Committee or Sub Committee; and
- (h) any other item of business of which the requisite notice has been given to the Chief Executive by a member of the Committee or Sub Committee (whether voting or not), provided that no member (other than the person appointed to preside at meetings of the Committee or Sub Committee) may give notice of more than one item of business for any one meeting.

20.3 The requisite notice is seven clear days notice in writing before the date fixed for the meeting of the Committee or Sub Committee.

20.4 Subject to any directions given by the person appointed to preside at the meetings of the Committee or Sub Committee, the items of business shall be arranged in such order as the Chief Executive thinks will best ensure the effective despatch of business.

RULE NO. 21 - REFERENCE OF ITEMS OF BUSINESS BY OFFICERS TO COUNCIL AND COMMITTEES

21.1* The Chief Executive or any other Chief Officer may refer items of business direct to the Council for decision after consultation with either:-

- (a) the Leader of the Council; or
- (b) the Deputy Leader of the Council in the absence of the Leader;
- (c) the Chairman of the Committee in whose remit the matter would normally fall or, in their absence, the Vice-Chairman;

and

- (d) the appropriate Committee or Sub Committee spokesman of the major opposition group.

21.2* The "appropriate Committee or Sub Committee spokesman" for the purpose of this Standing Order shall be the spokesman for the Committee or Sub Committee within whose remit the item of business would normally fall.

RULE NO. 22 - RESERVATION OF DECISIONS OF COMMITTEES AND SUB-COMMITTEES

22.1 Any Committee or Sub-Committee, when making a decision within the scope of its delegated authority, shall be held to be exercising that authority and the decision shall be implemented accordingly unless:

- (a) It shall be resolved prior to making that decision that it is not exercising that authority, provided that the said resolution may not be reserved under Rule No. 22.1(b);
- (b) During the meeting at which the decision is made or before 5.00pm on the next working day:-
 - (i) Where the Committee or Sub-Committee comprises 10 or more members, any 3 members of the Committee or Sub-Committee, or
 - (ii) Where the Committee or Sub-Committee comprises 9 or less members, any 2 members of the Committee or Sub-Committee, or
 - (iii) In either case, any 13 members of the Council

may require the decision or part of it to be reserved to the next meeting of the Council (or in the case of a Sub-Committee to the Parent Committee if that next meets before the Council) by either notifying the Chairman of the relevant meeting, in writing, prior to the close of the meeting or by notifying the Chief Executive or his representative in writing or by e-mail before 5.00pm on the next working day."

Note "Members of the Committee or Sub-Committee" for the purposes of Rule 22.1(b) shall include any substitute Member who attended the Committee where the decision which is intended to be reserved was taken and who was present at the meeting when the decision was taken, but shall not include the ordinary Member for whom they were acting as substitute".

In any such event the said decision, or if only part has been reserved, that part, shall not be implemented unless and until it shall have been approved at a meeting of the Council or committee as appropriate, provided that the following decisions may not be reserved under this standing order: -

- (i) whether to exclude the public and press from the meetings
 - (ii) whether (if the Chairman shall put this to the vote) to alter the order of business of a meeting
 - (iii) to invite a member who is not a member of a committee or sub-committee to speak in accordance with the Access to Information Procedure Rules.
 - (iv) on closure motions under standing order Rule No.24(13)(a)-(d) that the Committee proceed to next business, that the question be now put, that the debate be now adjourned or that the Council do now adjourn
 - (v) to appoint a person to preside in the absence of the Chairman or Vice-Chairman under Rule No. 19.4.
- 22.2 The written notice or e-mail notification referred to in Clause 22.1(b) ante shall clearly set out the decision or the part of the decision which the members exercising the right of reservation require to be reserved and shall specify the names of the members who have exercised the right of reservation."
- 22.3 Procedure Rules 22.1 (a) and (b) shall not apply in respect of decisions of the Licensing Committee.
- 22.4 In the case of decisions of the Planning Committee the right to reserve a decision to the Council under 22.1(b) above shall only be capable of being exercised where:-
- (i) information which, in the opinion of the Members requesting the reservation, is material to the determination of the application was not available to the Planning Committee when making its original decision; or
 - (ii) the decision is contrary to Officer recommendation and the reasons put forward for approval/refusal are such that, in the opinion of the Members requesting the reservation, the Council may be at risk of maladministration or an award of costs at any subsequent inquiry or may otherwise be at risk of costs or legal challenge.
- 22.5 In the event of the right of reservation being exercised in respect of a decision of the Planning Committee, the Council may resolve only to either: -
- (i) to refer the matter back to the Planning Committee with a request that it reconsider its original decision.
 - (ii) not to support the reservation in which event the original decision of the Planning Committee shall take effect.
- 22.6 A request for a reservation may be withdrawn at any time prior to the meeting to which it was reserved by written notice to the Chief Executive who shall only agree to withdraw the reservation after consultation with all Group Leaders and where the request to withdraw is signed by all the parties who requested that the decision be reserved.

22.7 The right to require a decision to be reserved under Council Procedure Rule 22.1(b) ante may only be exercised once in respect of the same decision and, for the avoidance of doubt, may not be exercised again in respect of any decision even where altered or amended when referred back to the relevant Committee under Council Procedure Rule 22.5(i)."

RULE NO. 23 - MINUTES

- 23.1 The person presiding shall put the question "that the minutes submitted to the meeting be approved as a correct record of that meeting".
- 23.2 No discussion shall take place upon the minutes, except upon their accuracy. Any question of their accuracy shall be raised by motion. If no such question is raised or, if it is raised then as soon as it is disposed of, the person presiding shall sign the minutes.

RULE NO. 24 - MOTIONS AND AMENDMENTS

- 24.1 The following motions may be moved without notice at any meeting at which they would be in order:
- (a) to elect a Chairman of the Council, to appoint a Vice Chairman of the Council, or to appoint a person to preside at the meeting at which the motion is made;
 - (b) motions relating to the accuracy of the minutes;
 - (c) motions under Rule No 7.3 (change in order of business);
 - (d) motions extending the time limit for speeches;
 - (e) "that the Council proceed to the next business";
 - (f) "that the question be now put";
 - (g) "that the debate be now adjourned";
 - (h) "that the council do now adjourn";
 - (i) motions under Rule No 2.4 (suspension of Standing Orders without notice);
 - (j) motions in accordance with Section 100A(2) or (4) of the 1972 Act to exclude the public from a meeting where there is likely otherwise to be disclosures of exempt or confidential information;
 - (k) motions giving consent of the Council, Committee or Sub Committee where it is required under these Rules;

- (l) motions to refer a petition which has been presented to the Council to a Committee for consideration;
 - (m) motions to resolve the Council into Committee for the purposes of appointing:-
 - (i) the members, Chairman and Vice Chairman of Committees, Sub-Committees and Working Parties
 - (ii) representatives of the Council on outside bodies
 - (n) motions under Rule No 27 (prevention of disorderly conduct) that a named member "be not further heard", or "do leave the meeting";.
 - (o) motions and amendments under Rule No 12 (Reserved Decisions),
- 24.2* On consideration of a report or a recommendation from a Committee, Sub-Committee or Officer, the adoption of the report or recommendation and any resolutions consequential upon that adoption may be moved without notice.
- 24.3 An amendment to a motion may be moved without notice, but shall be relevant to the motion. No amendment shall be moved to an amendment.
- 24.4 An amendment shall be relevant to the motion and shall be either:-
- (a) to refer the matter to a Committee, a Sub Committee or an Officer for consideration or reconsideration;
 - (b) to leave out words; or
 - (c) to leave out words and insert or add others; or
 - (d) to insert or add words; but such omission, insertion or addition shall not have the effect of simply negating the motion before the meeting.
- 24.5 With the consent of the meeting, signified without discussion, a member may
- (a) alter a motion of which he/she has given notice, or
 - (b) with the further consent of the seconder, alter a motion or amendment which has been moved and seconded, if (in either case) the alteration is one which could be made as an amendment or further amendment thereto.
- 24.6 With the consent of the seconder (if he/she is still present) and of the meeting, signified without discussion, the mover of a motion or an amendment may withdraw it. No member shall speak to such a motion or amendment after the mover has asked for consent for its withdrawal, unless such consent has been refused.

- 24.7 No motion to rescind or vary any resolution of the Council or a delegated decision, and no motion or amendment to the same effect as one which has been rejected within the previous six months by the Council or by a Committee or Sub Committee acting under a delegated authority, shall be proposed unless a notice of motion is given in respect thereof in writing and bearing the signatures of at least twelve members and the said Notice of Motion shall be delivered to the Chief Executive not later than noon on the day eight days before the meeting at which it is intended to be moved.

When any such motion or amendment has been dealt with, no similar motion or amendment may be proposed or set down within a further period of six months.

NOTE: For the avoidance of doubt, this rule does not apply to decisions of the Planning Committee where they are considering a new application which is identical to, virtually the same or similar to an application which it has received and determined within the previous six months".

- 24.8 Where notice of a motion has been given for any meeting and it is not moved and seconded either by the members who gave the notice or by some other members on their behalf it shall, unless postponed by consent of the meeting, be treated as withdrawn and shall not be moved without fresh notice.
- 24.9 Where the consent of the Council, Committee or Sub Committee is required for anything, that consent may be given either
- (a) by the person presiding asking the meeting whether there are objections to the consent being given, and if no objection is raised, giving that consent; or
 - (b) if objection is raised, or if the person presiding so chooses, by a motion moved, seconded and put to the meeting.

RULE NO. 25 - RULES OF DEBATE (GENERAL)

- 25.1 Unless otherwise stated the rules of debate in this Rule shall apply to all meetings of the Council, of any Committee and of any Sub Committee.

Motions and Amendments

- 25.2 A motion or amendment shall not be discussed unless it has been proposed and seconded.
- 25.3 When seconding a motion or amendment, a member may reserve his speech until a later period of the debate by declaring his/her intention to do so.
- 25.4 At meetings of Committees and Sub Committees a member may, with the consent of his/her seconder, alter a motion or amendment which he/she has proposed, if the alteration is one which could be taken as an amendment or further amendment.

- 25.5 Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, but notice of any number of amendments may be given.

Nevertheless the person presiding may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

- 25.6 If an amendment is lost, other amendments may be moved to the original motion. If an amendment other than one agreed by the proposer of the original motion is carried, the amended motion shall replace the original motion, becoming the substantive motion to which any further amendment may be moved. In that event the proposer of the successful amendment shall become the proposer of the substantive motion for the purpose of a right of reply under Rule No 25.12.

Speeches

- 25.7 If two or more members offer to speak, the person presiding shall call on one to speak.
- 25.8 When speaking, a member shall address the person presiding.
- 25.9 A member shall direct his/her speech strictly to the question under discussion, or to a personal explanation or a point of order under the provisions of paragraph 25.11.
- 25.10 Except where a motion or recommendation under Rule No 24(7) is under debate, no member shall bring forward anything which in the opinion of the Chairman is a substantial or persistent argument in favour of any course of action which within the preceding six months has been rejected by the Council.
- 25.11 A member may claim to speak on a point of order or in personal explanation in accordance with the following provisions and shall be entitled to be heard forthwith:-
- (i) **Point of Order:** A point of order shall relate only to an alleged breach of a Council procedure rule or statutory provision. The member raising the point of order shall indicate which Rule or statutory provision is relevant. Having done so, the member shall address the Chairman briefly on the point in the form of a question.

A member may not upon raising a point of order express differences of opinion with, or contradict, a speaker on the question before the meeting.

The ruling of the Chairman on a point of order shall not be open to discussion. The member against whom the point of order is raised shall sit until the Chairman has given his decision.

- (ii) **Personal Explanation:** A personal explanation shall be confined to some material part of a former speech by him/her in the current debate which he/she believes to have been misunderstood by a subsequent speaker.

A member may not, upon a personal explanation, otherwise comment upon or answer the speech of another member or seek to clarify or add to his former speech.

The ruling of the person presiding on the admissibility of a personal explanation shall not be open to discussion.

- 25.12 The mover of a motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on the amendment. The mover of an amendment shall have no right of reply to the debate on that amendment.

Ancillary Motions

- 25.13 When a motion is under debate, no other motion shall be moved except the following:

- (a) to amend the motion;
- (b) a closure motion under the next paragraph;
- (c) a motion under Rule No 27 (prevention of disorder);
- (d) a motion under Section 100A(2) or (4) of the 1972 Act (exclusion of the public).

- 25.14 The following closure motions shall be permitted during discussion of another motion ("the original motion"). They shall be moved by a person who has not yet spoken on the question before the meeting at the conclusion of a speech of another member. They shall be moved, seconded and put without discussion. If the motion is moved and seconded, then the person presiding shall proceed as follows:

- (a) "that the meeting proceed to the next business": if, in the opinion of the person presiding, the question before the meeting has been sufficiently discussed, he/she shall put the motion to the vote, but shall first allow the proposer of the original motion to speak briefly to the closure motion. If the closure motion is carried, the original motion shall be deemed withdrawn.
- (b) "that the question be now put": if the person presiding is of the opinion that the matter before the meeting has been insufficiently discussed, he/she may refuse to accept the motion; if he/she accepts the motion, he/she shall put to the vote forthwith the motion that the question be now put. If it is carried the proposer of the original motion shall be given a right of reply before that is put to the vote.

- (c) "that the debate be now adjourned": if the person presiding is of the opinion that the question has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she shall put the adjournment motion to the vote. If the person presiding is satisfied that the motion has been sufficiently discussed or that it can be sufficiently discussed on that occasion, he/she shall announce what further speakers he/she will call to conclude the debate.
- (d) "that the meeting do now adjourn": if the person presiding is of the opinion that the question has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he/she shall put the adjournment motion to the vote. If the person presiding is satisfied that the motion has been sufficiently discussed or that it can be sufficiently discussed on that occasion, he/she shall announce what further speakers he/she will call to conclude the debate.

RULE NO. 26 - ADDITIONAL RULES OF DEBATE FOR COUNCIL MEETINGS

- 26.1* A member shall stand when speaking unless disabled from doing so.
- 26.2* While a member is speaking, the other members shall remain seated and silent unless rising to a point of order or in personal explanation.
- 26.3* Whenever the person presiding rises during the debate, a member then standing shall resume his/her seat, and the Council shall be silent.
- 26.4* Immediately after any motion of which notice has not been given, or an amendment to any motion has been moved and seconded, it shall be put in writing, be signed by the proposer and seconder and be handed to the person presiding.
- 26.5* Motions of which notice has been given shall be moved in the terms in which they are stated in the written notice. Any alterations of those terms shall be by way only of formal amendment.
- 26.6* Subject to the discretion of the person presiding no speech shall exceed five minutes except that the proposer of a motion under Rule No 13.1 or 13.2 may speak for up to ten minutes. For the purposes of this paragraph a person who moves an amendment is not moving a motion, and the length of time allotted to the mover of the motion does not include any time permitted under a right of reply.
- 26.7* A member who has spoken on any motion shall not speak again while it is the subject of debate, except:
 - (a) to speak once, on an amendment moved subsequently by another member;
 - (b) if his first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he spoke was carried;

- (c) to move a second or subsequent amendment of which he gave notice when he first spoke on the motion;
- (d) in exercise of a right of reply under Rule No 25.12 or 25.14.
- (e) on a point of order or by way of personal explanation under Rule No 25.11

RULE NO. 27 - PREVENTION OF DISORDERLY CONDUCT

- 27.1 If at a meeting any member, in the opinion of the person presiding, misconducts himself/herself by persistently disregarding the ruling of the person presiding, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the meeting, or by persisting in irrelevance, tedious repetition or unbecoming language whilst speaking, the person presiding or any other member may propose that the member named be not further heard on the question before the meeting. The motion, if seconded, shall be put and voted upon without discussion.
- 27.2 If, in the opinion of the person presiding, the member named continues his/her misconduct during the meeting after a motion under the foregoing paragraph has been carried, the person presiding shall either move "that the member named do leave the meeting" (in which case the motion shall be put and voted upon without a seconder or discussion) or shall adjourn the meeting for such period as he/she in his/her discretion shall consider expedient.
- 27.3 If a member of the public interrupts proceedings at any meeting, the person presiding shall warn him/her. If he/she continues the interruption, the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the person presiding shall order him/her to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for fifteen minutes or such period as shall seem expedient to him/her.
- 27.4 In the event of general disturbance in any part of the room where any meeting is being held which is open to the public, the person presiding shall order that part to be cleared and may adjourn the meeting for fifteen minutes or such period as shall seem expedient to him/her.
- 27.5 The powers conferred by this Rule are in addition to any other powers which the person presiding may lawfully exercise.

RULE NO. 28 - VOTING

- 28.1 Except where a requisition is made under the next paragraph or where Rule 2.9 applies, the method of voting at meetings of the Council, Committees and Sub-Committees shall be by show of hands.
- 28.2 If a requisition is made by the specified number of Members, before a vote is taken on any question, the following method of voting shall be adopted:

- (i) Leaders of the Political Groups on the Council, or their nominees, will be asked to indicate if they wish the votes of Members of their Political Groups present at the time of the vote to be taken en bloc and, subject to their agreement, the votes shall be taken accordingly;
- (ii) in the event of any of the Leaders of the Political Groups on the Council not agreeing to the votes of Members of their Political Group being recorded en bloc, the voting of Members of that particular Political Group shall be taken so as to show whether each Member of their Political Group gave his/her vote for or against that question, or abstained from voting;

provided that whichever of the methods of voting outlined in (i) and (ii) above is used, the names of the Members present at the time the vote was taken shall be listed in the Minutes of that meeting, with an indication as to whether they voted for or against or abstained from voting.

28.3 The specified number of members is:

- (a) one fifth of the members entitled to vote at the meeting, or
- (b) where the Council is divided into political groups, in the case of a meeting of the Council, the number of members of the second largest political group, or, in the case of a meeting of a Committee or Sub Committee, the number of seats on that body allocated to the second largest political group among the members of the Council, whichever is the less.

28.4 Where, immediately after a vote is taken at meetings any member so requires, there shall be recorded in the minutes of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.

28.5 Where a vote is required on a motion to appoint or elect a member of the Council to a position to be filled by the Authority, and there are two or more members nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

RULE NO. 28a – RECORDED VOTE AT BUDGET MEETING

28a.1 Immediately after any vote is taken relating to the budget and Council Tax setting at a budget decision meeting there shall be recorded in the minutes of the proceedings of the meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

28a.2 “Budget decision” shall have the meaning prescribed in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.

RULE NO. 29 - ATTENDANCE

29.1 Every member attending a meeting of the Council, a Committee, Sub Committee or Working Party shall sign his/her name in the attendance book or on the attendance sheet provided for that purpose.

RULE NO. 30 – DURATION OF MEETINGS

30.1 Time Limit

If the business of the meeting (Council, Committees and Sub-Committees) has not been concluded three hours after the start of the meeting, the Chairman will indicate that time has expired and the Member speaking must immediately sit down. The Chairman will adjourn the meeting immediately unless a motion to continue the meeting is moved and seconded.

30.2 Motion to Continue

A motion to continue the meeting will be voted on without discussion. If the motion is passed, the meeting will continue for a further hour and the procedure in Rule 30.1 will be repeated. If the second motion to continue the meeting is passed, the meeting will continue for a further hour and the procedure in Rule 30.1 will again be repeated. This procedure will continue until it is resolved by a simple majority that the meeting be adjourned or the business is completed.

30.3 Business Not Dealt With

If, when the meeting is adjourned, there is business on the Agenda that has not been dealt with, it will be deferred for consideration at the next meeting of the Council, unless an extraordinary meeting is called under Rule 4.

RULE NO. 31 – DISCLOSABLE PECUNIARY INTEREST

31.1 Where a Member has a Disclosable Pecuniary Interest as defined by Regulations under the Localism Act 2011 they are required to leave the meeting during discussion and voting on the item in which they have a Disclosable Pecuniary Interest (unless a dispensation has been granted).

RULE NO. 32 – PROTOCOL FOR CANCELLATION OF MEETINGS

32.1 Where it is intended to cancel a meeting due to lack of business or to adjourn a meeting to a revised date by reason of severe inclement weather or other exceptional and/or disrupting circumstances on the proposed meeting date, the following procedure shall be followed before such meeting is cancelled or adjourned:-

- (i) The Head of Paid Service or an Officer acting on his or her behalf shall first consult and obtain the agreement of the Chairman of the Council or of the Committee which it is proposed to cancel or adjourn as the case may be.
 - (ii) The Head of Paid Service or an Officer acting on his or her behalf shall, further, consult the Leader of the Council together with the Leaders of all Opposition Groups so far as practicable before resolving whether or not to cancel or adjourn the meeting.
- 32.2 Where a meeting is cancelled rather than adjourned, at least one quarter of the Members of the relevant committee may submit a request in writing to the Head of Paid Service for it to be rearranged as soon as practicably possible, rather than the business of that meeting being deferred to the next scheduled meeting of the committee.
- 32.3 This rule shall apply to meetings of the Council, Committees and Sub-Committees but shall not apply to meetings of Working Parties where the Head of Paid Service or an Officer acting on his or her behalf in consultation with the Chairman of the Working Party shall have the discretion to cancel or adjourn meetings where appropriate.

RULE NO. 33 – SUBSTITUTION OF MEMBERS AT MEETINGS

- 33.1 The Policy & Finance Committee, Economic Development Committee, Leisure & Environment Committee and Homes & Communities Committee only shall have provision for substitute members.
- 33.2 For each Committee which has provision for substitute Members, the Council will at its Annual Meeting (or at an ordinary Council meeting in the event that a substitute Member resigns or otherwise ceases to hold office) appoint substitute Members.
- 33.3 For each Committee which has provision for substitute Members, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee, up to a maximum of two in respect of each group.
- 33.4 Substitute Members will have all the powers and duties of any ordinary Member of the Committee, but will not be able to exercise any special powers or duties exercisable by the person they are substituting. (For example they will not automatically be entitled to chair the meeting if acting as substitute for the Chairman).
- 33.5 Substitute Members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are substituting and where the ordinary Member will be absent for the whole of the meeting.
- 33.6 The Ordinary Member who cannot attend, the relevant Group Leader, the relevant Committee Chairman or relevant Opposition Spokesperson have the responsibility to make arrangements for the substitute to be present in the place of the Member who cannot attend and to notify the Proper Officer of the proposed substitution at least 24 hours before the meeting concerned. Substitution must be for the whole of the meeting. The attendance of substitute Members should be recorded in the minutes of the meeting.

- 33.7 Once the substitution has been made the substitute Member will assume all the powers and duties of the ordinary Member until after the close of the meeting for which the substitution has been effected and the ordinary Member shall not be entitled to exercise those powers and duties for the currency of the meeting for which the substitution has been made. With the exception of the Chairman of the meeting who, if present at the meeting, shall take the place of the substitute appointed by them and shall preside at the meeting.

RULE NO. 34 - AMENDMENTS TO THE CONSTITUTION

- 34.1 No motion to Council to make any significant change to the constitution shall be considered by the Council unless not less than 21 days prior notice has been given to the Proper Officer and the matter has first been considered by the Councillors' Commission or such body as may be constituted from time to time to consider and review the Council's constitutional arrangements provided that this rule shall not prevent a recommendation being made to the Council by the Councillors Commission (or such body as may be constituted from time to time to consider and review the Council's constitutional arrangements) to make changes to the constitution notwithstanding that such recommendation may be made less than 21 days prior to the Council meeting.

RULE NO. 35 - SUB-COMMITTEES

- 35.1 Notwithstanding the legislative provisions in the Local Government Act 1972, a Committee shall not be permitted to appoint a sub-committee carrying delegated powers on behalf of the Committee unless this has first been approved by the Council.

RULE NO. 36 - WORKING PARTIES AND TASK & FINISH GROUPS

- 36.1 Committees may establish working parties or task and finish groups to act in an advisory capacity and to make recommendations to the parent committee.
- 36.2 Where such a working party or task and finish group is established the Committee will be required to determine:
- (i) Its remit
 - (ii) Its duration and procedures for reporting back to the parent committee
 - (iii) Its membership
- 36.3 All working parties and task and finish groups shall be held in private unless an express resolution is passed to the contrary.
- 36.4 Where appropriate, the Committee will appoint a lead officer for the conduct of the working party or task and finish group's business.

RULE NO. 37 - APPLICATION OF THESE RULES TO COMMITTEES AND SUB-COMMITTEES

37.1 The following Rules shall apply to Committees and Sub-Committees:

1, 2.1, 2.2, 2.5, 6, 17.3, 17.4, 17.5, 17.6, 18, 19, 20, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32.3, 35 and 36.

RULE NO.38 – REMOTE MEETINGS HELD BY VIRTUE OF THE CORONAVIRUS ACT 2020

38.1 Wherever there is a conflict between this Rule and another Council Procedure Rule this Rule takes precedence in relation to any remote meeting. This Rule will have effect until 7 May 2021 subject to any amendments to legislation. This Rule should be read in conjunction with the Remote Meeting Protocol.

38.2 The requirement to hold an Annual Meeting is to be disregarded prior to 7 May 2021.

38.3 For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

- (i) “open to inspection” shall include for these and all other purposes as being published on the website of the council; and
- (ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

38.4 For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

- (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and
- (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

38.5 If the Chairman is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chairman shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

- 38.6 A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance;
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- 38.7 A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 38.6 above are not met. In such circumstance the Chairman may, as they deem appropriate;
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in 38.6 above to be re-established; or
 - (ii) count the number of Members in attendance for the purposes of the quorum and continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.
 - (iii) In relation to meetings of Planning Committee, the provisions of paragraph 14 of the Protocol for Members on Dealing with Planning Matters shall apply; any Member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter.
- 38.8 A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

38.9 A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 38.8 above are not met. In such circumstance the Chairman may, as he or she deems appropriate:

- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in 38.8 above to be re-established;
- (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
- (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

38.10 Unless a recorded vote is demanded, the Chairman will take the vote

- (i) through the use of an electronic voting system and voting in the Chamber or;
- (ii) by the affirmation of the meeting if there is no dissent; or
- (iii) the Chairman will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

38.11 Where a Member is required to leave the meeting for any reason such as having a disclosable pecuniary interest, the Member will be required to disable their microphone and video whilst any discussion or vote takes place in respect of the item or items of business.

RULE NO.	ACCESS TO INFORMATION PROCEDURE RULES INDEX	PAGES
1	Scope and Definitions	40
2	Additional Rights to Information	40
3	Rights to Attend Meetings	40
4	Notice of Meetings	40
5	Access to Agendas and Reports before the Meeting	40
6	Supply of Copies	41
7	Access to Minutes etc. after the Meeting	41
8	Background Papers	41
9	Summary of Public's Rights	42
10	Exclusion of Access by the Public to Meetings	42
11	Exclusion of Access by the Public to Reports	44
12	Disorderly Conduct etc.	44
13	Record of Decisions	44
14	Additional Rights of Access for Members	44
15	General Rights	45
16	Nature of Rights	47
17	Access to meetings by Members	47
18	Right of Members to Request a Review of Exempt Information	48

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE AND DEFINITIONS

These rules apply to all meeting of the Council, its Committees and Sub-Committees and area Committees (if any), (together called “Meetings”). They summarise the public’s right to attend meetings and to inspect and copy documents, full particulars of which are contained in Part VA of the Local Government Act 1972. With the exception of paragraphs 17.3 to 17.7, these rules do not apply to Working Parties, Task & Finishing Groups and Commissioning Groups. They do not apply to site visits conducted by the Planning Committee. These shall not constitute “meetings” for the purposes of these rules”.

The “Proper Officer” for the purposes of these rules shall be the Head of Paid Service or, in his or her absence, the Deputy Chief Executive or the Monitoring Officer.

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETINGS

The Council will give at least five clear days notice of any meeting by posting details of the meetings at the Council Offices, Castle House, Great North Road, Newark Nottinghamshire, unless the meeting is called at shorter notice, in which case a notice will be posted when the meeting is called.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and all reports which do not contain confidential or exempt information available for public inspection at the Council’s main offices at least five clear days before the meeting (unless called at shorter notice, in which event the documentation will be available when the meeting is called). If an item is added to the agenda later, the revised agenda will be given to inspection from the time the item is added to the agenda. Where a report which does not contain confidential or exempt information is issued after the agenda has been sent out, the designated officer shall make such a report available to the public as soon as the report is completed and has been sent to councillors. The Council will make a reasonable number of the agenda and of reports which do not contain confidential or exempt information available for use of members of the public present at the meeting.

6. SUPPLY OF COPIES

The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

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

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

Also the Council will (subject to copyright of any person other than the Council) supply copies or extracts of any of the above on payment of such reasonable copying fees as may be required.

8. BACKGROUND PAPERS

8.1 List of Background Papers

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

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

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

8.2 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of the meeting, one copy of each of the documents on the list of background papers and (subject to the copyright of any person other than the Council) supply a copy or an extract on payment of such reasonable copying fee as may be required.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council Offices, Castle House, Great North Road, Newark, Nottinghamshire. These rules constitute that written summary.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – Requirement to Exclude Public

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

10.2 Exempt Information – Discretion to Exclude Public

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of The Human Rights Act 1998 ("Right to a Fair Trial") may be applicable. In such cases there is a presumption that the meeting will be held in public unless a partial or completely private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of Confidential Information

"Confidential information" means information given to the Council by a Government department on terms which forbid its public disclosure or information the public disclosure of which is prohibited by or under any enactment or by the order of a Court.

10.4 Meaning of Exempt Information

10.4.1 Exempt information means information falling within the following categories/ paragraphs under which the press and public can be excluded:-

- (1) Information relating to any individual.
 - (2) Information which is likely to reveal the identity of an individual.
 - (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (This includes contemplated as well as past or current activities).
 - (4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
 - (5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 - (6) Information which reveals that the authority proposes:-
 - (a) to give under any enactment or notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
 - (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 10.4.2 Information falling within Paragraph 3 above is not exempt information by virtue of that paragraph.
- (i) If it is required to be registered under:-
 - (a) the Companies Act 1985
 - (b) the Friendly Societies Act 1974
 - (c) the Friendly Societies Act 1992
 - (d) the Industrial and Provident Societies Acts 1965 to 1978
 - (e) the Building Societies Act 1986
 - (f) the Charities Act 2011
 - (ii) It is recorded in the public file of any building society under the Building Societies Act 1986.
- 10.4.3 Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10.4.4 Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 10.4.2 and 10.4.3 above

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication". Also, where any report is excluded from the public on the basis that it contains exempt (rather than confidential) information, the report will be marked with the category of exempt information likely to be disclosed.

12. DISORDERLY CONDUCT ETC

The public's right of admission to meetings set out in the Rules above are subject to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

13. RECORD OF DECISIONS

After any meeting of a Committee or Sub-Committee, whether held in public or private, the Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflicts of interest declared and any dispensation granted.

14. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

14.1 Material Relating to Previous Business

All members will be entitled to inspect any document which is in the possession or under the control of the Council and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:-

- (a) it contains exempt information falling within paragraphs 1 to 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser or assistant (if any).

Members may in certain circumstances be able to inspect a wider range of documents on a confidential basis if it is shown to be necessary to carry out their role as Councillors (see paragraphs 15.1(b) post)

15. GENERAL RIGHTS

15.1 In addition, the above rights of access to material and documents, set out in paragraph 14 above, all members of the Council shall have the following general rights:-

- (i) to inspect any documents or have access to other information of the following descriptions:-
 - (a) any member of the Council or other member (whether voting or not) of any committee or sub-committee may have access to:-
 - (1) any document in the possession, or under the control of the Council which relates to any matter in relation to which a committee or sub-committee of which he/she is a member may discharge a function of the Council or advise the body which appointed them;
 - (2) any other recorded information, not in the form of a document, in the possession, or under the control, of the Council which is necessary for the proper discharge of his/her functions as a member of such a committee or sub-committee.
 - (b) any member of the Council may have access to any document or other recorded information in the possession of, or under the control of the Authority, access to which is necessary for the proper discharge of his/her functions as a member of the Council:

provided that;

- (1) no person shall be entitled to inspect any document or have access to any information relating to a matter in which he/she has a disclosable pecuniary interest;
- (2) a person may be refused the right to inspect a document within paragraph (a) (i) which is not necessary for him/her to inspect for the purposes of the proper discharge of his/her functions as a member of the committee or sub-committee in question, if there is good reason why such inspection should be refused;
- (3) access to information not in the form of a document need not be given where the cost of providing the access is unreasonably high, or during such period as the giving of access would unreasonably disrupt the work of the Council.

- 15.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply, and in any case of information which is not in the form of a document, if the Proper Officer considers that access to any document or other information is not necessary for the proper discharge of the functions (as a member of the Council or as a member of a committee or sub-committee, as the case may be) of the person requesting such access, and there is good reason why access should be refused, he/she may refuse the person concerned access to the document or information in question.
- 15.3 Where a person inspects a document under the rights conferred by Section 100F of the 1972 Act or this paragraph, and the Council may lawfully make a copy of that document, he/she shall be entitled, on request, to be given a copy of that document provided that:
- (a) a reasonable charge shall be made for the copy unless the Proper Officer otherwise directs;
 - (b) a copy may be refused if the Proper Officer considers that it is impracticable to make a copy.
- 15.4 If any member of the Council or any other member of a committee or sub-committee is dissatisfied with any determination of the Proper Officer under Section 100F of the 1972 Act or under this paragraph, he/she may refer the question to the Council, who shall, after considering any representations that that person or the Proper Officer may wish to make, determine whether or not to uphold the Proper Officer's determination.
- 15.5 No member of the Council and no other member (whether voting or non-voting) of a committee or sub-committee shall have any claim by virtue of his/her position:
- (a) to enter any land or buildings occupied by the Council to which the public do not have access or to which members of the Council do not regularly have access except with the permission of the Chief Officer responsible for the services of the Council for which the land or buildings are occupied;
 - (b) to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised to do so by the Council;
 - (c) to exercise any other power of the Council;
 - (d) to issue any order with respect to any works which are being carried out by, or on behalf of, the Authority, or with respect to any goods or services which are being, or might be, purchased by the Authority.
- 15.6 The Proper Officer for the purposes of Section 100F (2) of the 1972 Act and for the purposes of this paragraph is the Chief Executive or, in his absence, The Deputy Chief Executive or the Monitoring Officer.

- 15.7 For the purpose of this paragraph a person has a disclosable pecuniary interest in a matter if, on the assumption that he/she were a member of the Council, and that the matter were to be considered by the Council, he/she would have to declare the interest under the Local Code of Member Conduct.
- 15.8 Where any information is given to any person (including a member of the Council or any other member of a committee or sub-committee) by the Council or by one of its employees in the course of transacting any business of the Council, and it is made clear (in whatever way) that the information is given in confidence, that person is not entitled to make that information public without the consent of the Council.

16. NATURE OF RIGHTS

Where the general rights set out in paragraph 15 above confer additional rights to those set out elsewhere in these Rules, paragraph 15 shall prevail. Moreover, such rights are additional to any other right a member may have.

17. ACCESS TO MEETINGS BY MEMBERS

- 17.1 Other than where prohibited by law or by reason of the nature of the business being transacted, a member of the Council shall be entitled to attend a meeting of any committee when that meeting is considering an item for which the press or public have been excluded, regardless of whether or not he/she is a member of the committee other than in exceptional circumstances.

This paragraph shall not entitle any member to attend a meeting of a committee, sub-committee or panel exercising functions of a quasi-judicial nature.

- 17.2 When a meeting of a sub-committee is considering an item for which the public and press have been excluded in accordance with the Local Government Act 1972, the following shall apply:-

- (a) a member of the committee to which the sub-committee concerned reports, shall be entitled to attend, regardless of whether or not the member is a member of that sub-committee; and
- (b) a member who is not a member of the committee to which the sub-committee reports, shall request the permission of the meeting to remain and shall state his/her reasons for the request based on his/her "need to know" and the person presiding at the meeting of the sub-committee shall put any such request to the meeting for consideration. The decision of the meeting shall be final.

- 17.3 In the case of attendance at meetings of Working Parties, the following shall apply:-

- (a) a member of the Committee which has appointed a Working Party shall be entitled to attend meetings of that Working Party; and

- (b) a member of the Council who wishes to attend a meeting of a Working Party and who is not a member of the Committee which appointed the Working Party shall make application to the Proper Officer and shall, in his/her application, state his/her reasons for wishing to attend based on his/her “need to know”.

- 17.4 The Proper Officer shall be authorised to determine any application made under 17.3(b) above in accordance with general principles of law;
- 17.5 In the event of the Proper Officer refusing the request to attend, the member shall have a right of appeal to the Committee which appointed the Working Party and the decision of that meeting shall be final; and
- 17.6 If a motion under Council Procedure Rules No 13(1) or 13(2) has been referred by the Council to the Committee or Sub-Committee of which the proposer or seconder is not a member, the chairman of the Committee or Sub-Committee may invite the proposer to attend the meeting at which it is to be discussed, but only to assist the meeting with an explanation of the motion and answer questions. Such proposer shall not otherwise take part in the proceedings or vote.
- 17.7 Apart from the circumstances set out in paragraph 17.6 above, a member may not speak at a meeting of the Committee or Sub-Committee of which he is not a member, unless the Committee or Sub-Committee shall approve and he shall not vote on any business before the Committee or Sub-Committee.

18. RIGHT OF MEMBERS TO REQUEST A REVIEW OF EXEMPT INFORMATION

- 18.1 Any Member may make a written request to the Proper Officer that information which it has been resolved by the Council or any of its Committees or Sub-Committees should be treated as exempt information under paragraph 10.4 of the Access to Information Procedure Rules should be released into the public domain.
- 18.2 The written request shall clearly set out the reasons for the request including any material change in circumstances since the information was categorised as exempt and why the Member making the request considers that the need to treat the information as exempt no longer outweighs the public interest in disclosure. For the avoidance of doubt it shall not be a sufficient reason for such a request that the Member making the request disagreed with the original decision to treat the information as exempt, if there has been no relevant and material change in circumstances between that decision being taken and the request being made.
- 18.3 If the Proper Officer considers that there are substantive reasons to support a review of the original decision, he will refer the request to the Committee which resolved to treat the information as exempt. The request will be considered at the next available meeting of the Committee following the Proper Officers decision on the request.

- 18.4 If the Proper Officer determines that there are no substantive reasons to support a review of the original decision, the Member making the request shall have a right of appeal to the Committee which classified the information as exempt.
- 18.5 The Committee shall determine, by majority of those present and voting either:-
- (a) to support the decision of the Proper Officer in which event the decision shall be final and the Member making the request shall have no further right of appeal; or
 - (b) to support the Members request for the review of the classification of the information as exempt in which event the matter will be placed on the agenda for the next meeting of the Committee for a decision to be taken.
- 18.6 Where a request is considered under Paragraph 18.3 or 18.5(b) above, the Committee shall decide, by a majority of those present and voting, whether to continue to treat the information as exempt or whether to release it into the public domain.
- 18.7 The decision of the Committee shall be final and there shall be no right of reservation of the decision to Council."

FINANCIAL REGULATIONS

INDEX

- 1. GENERAL**
1.1 Notice to All Employees
- 2. INTRODUCTION**
2.1 Complementary Factors
2.2 Financial Implications of Committee Reports
2.3 Availability
2.4 Compliance
- 3. DEFINITIONS**
3.1 Terms
- 4. LEGAL RESPONSIBILITIES**
4.1 Local Government Act 1972 Section 15 - Legal Responsibilities of Officers
4.2 LG Act 1972 Section 117(1) & (2) -Disclosure by Officers of Pecuniary Interest
4.3 LG Act 1972 Section 151 - Officer Responsible for Financial Administration
4.4 LG Act 1988 Section 114 - Reporting under Part VIII: Responsibility of the S151 Officer
- 5. RESPONSIBILITIES/REGULATORY ROLES**
5.1 Policy & Finance Committee
5.2 Section 151 Officer
5.3 Internal Audit
5.4 Business Managers
- 6. FINANCIAL MANAGEMENT**
6.1 Financial Consultation
6.2 Financial Planning and Control
6.3 Variation of Estimates
6.4 Treasury Management
6.5 Bank Accounts and Cheques.
6.6 Procurement Cards
6.7 Controlled Stationery
6.8 Retention of Financial Records
6.9 Authorised Signatory List
6.10 Taxation

7. EXPENDITURE RELATED REGULATIONS

- 7.1 Employers Records and Payments of Wages and Salaries**
- 7.2 Travelling and Subsistence Claims**
- 7.3 Members Allowances**
- 7.4 Orders for Goods, Works and Services**
- 7.5 Goods Received**
- 7.6 Invoices**
- 7.7 Petty Cash**
- 7.8 Right to Set Off**
- 7.9 Contracts**

8. INCOME RELATED REGULATIONS

- 8.1 Responsibilities**
- 8.2 General**
- 8.3 Cash Receipting**
- 8.4 Debtor Accounts – Recovery, Amendment and Write-off**
- 8.5 Gifts and Hospitality**

9. PROTECTION OF ASSETS

- 9.1 Security**
- 9.2 Inventories**
- 9.3 Stores**
- 9.4 Insurance.**
- 9.5 Asset Management.**
- 9.6 Management of Information**
- 9.7 Motor Vehicles**
- 9.8 Reporting of Irregularities**
- 9.9 Whistleblowing Policy**
- 9.10 Information Systems**

10. EXTERNAL ARRANGEMENTS

- 10.1 Partnerships and Shared Services and Collaboration Arrangements**
- 10.2 External Funding**
- 10.3 Work for Third Parties**

11.0 CORPORATE DIRECTOR/OFFICER DELEGATIONS

12.0 CONTRACT AND WINDFALL SAVINGS

13.0 FAILURE TO COMPLY WITH THE FINANCIAL PROCEDURE RULES

1. **GENERAL**

1.1 **Notice to All Employees**

- (i) These Financial Regulations provide the framework of controls and standards necessary to achieve the proper administration of the Council's financial affairs. Financial Regulations are designed to safeguard the interests of the Council, its Members and its employees. They apply to all Members, employees, and temporary and agency staff and to all transactions of the Council including those relating to Southwell Leisure Centre.
- (ii) All Members and officers have a responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- (iii) **The Council expects the highest standards of financial probity from its officers and Members. The Section 151 Officer may report any breach of Financial Regulations to the Policy & Finance Committee or if sufficiently serious, direct to full Council. Any failure to comply with these Regulations may result in action being taken in accordance with the Council's disciplinary procedures or in the case of Members referred to the Standards Committee. If you have any doubt on their meaning or interpretation, it is advised that you contact the Section 151 Officer.**
- (iv) It is the responsibility of officers to ensure that they have the necessary knowledge of the Council's Financial Regulations to enable their duties to be undertaken to meet the requirements of these regulations.
- (v) These Financial Regulations supersede all previous versions.
- (vi) If after reading these regulations you require further guidance or clarification, or if you are not sure how best to comply with the regulations then please contact your Line Manager, Financial Services or the Head of Internal Audit.

2. **INTRODUCTION**

2.1 **Complementary Factors**

2.1.1 These Financial Regulations form part of the Constitution and are complementary to:

- (i) Any current or future legislation, and shall not be considered to over-ride any such legislation affecting the functions of the Council;
- (ii) The Council's Standing Orders;
- (iii) The Council's Contract Procedure Rules;
- (iv) Any EU Public Procurement Directives;
- (v) The Codes of Conduct for Members and Officers;

- (vi) The Information Technology Regulations (for all matters relating to Information Technology).
 - (vii) The Council's Anti-Fraud Strategy.
 - (viii) The Council's Guidance for Dealing with Irregularities.
 - (ix) The Council's Whistleblowing Policy.
 - (x) Appropriate Guidance Notes issued by the Section 151 Officer
- 2.1.2. The above documents shall be considered to have the force of financial regulations for all their related matters. This shall also include any related subsidiary regulations.
- 2.2 Financial Implications of Proposals and Reports to Members**
- 2.2.1 No item having financial consequences shall be placed on a Council or Committee agenda without obtaining the Section 151 Officer's financial assessment and comments. Any report containing new proposals shall include an independent financial assessment by the Section 151 Officer.
- 2.2.2 In general, reports requiring comments of the Section 151 Officer shall be presented to the Financial Services Business Unit a minimum of 3 working days prior to the comments being required.
- 2.2.3 Where there are significant financial implications it is a requirement that the Financial Services Business Unit will be involved in the development of the proposals.
- 2.3 Availability**
- 2.3.1 A copy of these Financial Regulations shall be made available to Members, Officers and the public at all reasonable times.
- 2.4 Compliance**
- 2.4.1 Corporate Management Team and Business Managers shall be responsible for ensuring that these Financial Regulations are complied with and are available to all employees within their areas of responsibility.
- 3. DEFINITIONS**
- 3.1 Terms**
- (i) The term Council shall be deemed to include reference to Committees, Sub Committees or Officers acting in accordance with delegated authority on behalf of the Council.
 - (ii) Where legislation and regulations are referred to in these Financial Regulations, they are deemed to refer to the latest statutory and regulatory requirements.
 - (iii) The term Chief Executive relates to the Head of the Council's paid service.

- (iv) The term Section 151 Officer relates to the Director - Resources (the Responsible Financial Officer). This is a statutory officer appointed by Full Council to have responsibility for the financial affairs of the Council as required by Section 151 of the Local Government Act 1972.
- (v) The term Deputy Section 151 Officer relates to the officer nominated by the Section 151 Officer to undertake the Section 151 responsibilities in the absence of the Section 151 Officer.
- (vi) The term Director relates to Corporate Directors.
- (vii) The term Monitoring Officer relates to the officer appointed by the Council as required by the Local Government Housing Act 1989.
- (viii) The term Duly Authorised Officer relates to an officer with delegated authority from the relevant Business Manager.
- (ix) The term Head of Internal Audit relates to the officer appointed by the contractor in consultation with the Section 151 Officer.

4. LEGAL RESPONSIBILITIES

4.1 Local Government Act 1972 Section 115 - Legal Responsibilities of Officers

- 4.1.1 Officers employed by the Council have a legal responsibility under Section 115 of the Local Government Act, which states that:

“Every Officer employed by a Local Authority, whether under this Act or any other enactment, shall at all times during the continuance of his office, or within three months after ceasing to hold it, and in such manner as the Local Authority directs, make out and deliver to the Authority, or in accordance with their directions, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each”.

- 4.1.2 Every such officer shall pay all money due from him to an officer designated by the Section 151 Officer or in accordance with their directions.

4.2 Local Government Act 1972 Section 117(1) & (2) - Disclosure by Officers of Pecuniary Interest in Contracts.

- 4.2.1 Staff involved in contract and purchasing procedures shall be aware of the provisions of section 117(1) of the Local Government Act 1972 concerning the disclosure by officers of pecuniary interests in contracts. This provides that “if it comes to the knowledge of an officer employed whether under this Act or any other enactment by a Local Authority that a contract in which he has a pecuniary interest, whether direct or indirect, (not being a contract to which he is himself a party), has been or is proposed to be entered into by the Authority or any Committee thereof, he shall as soon as practicable, give notice in writing to the Authority of the fact that he is interested therein”. An indirect pecuniary interest for these purposes is as follows:

- (a) If the officer or any nominee of the officer is a member of a company or other body with which the contract was or is proposed to be made.
- (b) If the officer is a partner or is in the employment of a person with whom the contract is, or is proposed to be made.
- (c) In the case of married persons or partners, the interests of one partner, if known to the other, is deemed to be the interest of the other spouse.

Appropriate officers will be required to complete a declaration form covering any related third party transactions on an annual basis.

The clause above shall also refer to contracts relating to Active4Today Ltd.

4.2.2 Section 117(2) states that “an officer of a Local Authority shall not under colour of his office or employment, accept any fee or reward whatsoever, other than his proper remuneration”.

4.2.3 Any Officer who has any direct or indirect pecuniary interest in any contract, or is offered any fee or reward, whether or not it is accepted, shall notify the Chief Executive, who shall enter such details into a central register maintained for such purposes. Any person who fails to comply with Section 117(1) and (2) may render themselves liable to a fine.

4.2.4 Section 117(4) states that “References to a local authority shall include references to a joint committee appointed under part VI of the Act or any other enactment”.

4.3 Local Government Act 1972 Section 151 - Officer Responsible for Financial Administration.

4.3.1 Under Section 151 “every Local Authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers (who in accordance with the Local Government and Housing Act 1989 (Section 6 paragraph 3) must be a member of one or more of the Accountancy Bodies specified in the Act), has responsibility for the administration of those affairs”.

4.3.2 The Council has appointed the Director – Resources as the Section 151 Officer (the Responsible Finance Officer). Under the Accounts and Audit Regulations 2006, the Section 151 Officer is responsible for determining the accounting systems and the form of accounts and supporting records. This officer shall also ensure that all such determinations are observed, and that the accounts and supporting records are kept up to date.

4.4 Local Government Finance Act 1988 Section 114 - Reporting under Part VIII: Responsibility of the Section 151 Officer.

4.4.1 A requirement is placed upon the Section 151 Officer by Section 114(1) of the Local Government Act 1988 to make a report to the Council in certain circumstances where there is the possibility of an illegal payment, or of spending exceeding resources available.

- 4.4.2 Making a report falls under two Sections. Section 114(2) states that the Section 151 Officer is required to decide that an act or omission is or could be unlawful.
- 4.4.3 **Under Section 114(2) the duty to send the report starts a “21 day clock” whereby the Council is required to hold a meeting within this time and until this is done, must refrain from the course of action reported.**
- 4.4.4 **Section 114(3) requires the Section 151 Officer to issue a report in cases of an unbalanced budget - real or potential. This report is also subject to the procedure described in 4.4.3 above.**
- 4.4.5 **In the absence of the Section 151 Officer the duties referred to at 4.4.1 to 4.4.4 shall be performed by the officer acting as the Deputy Section 151 Officer.**

5. RESPONSIBILITIES/REGULATORY ROLES

5.1 Policy & Finance Committee

The Policy & Finance Committee is responsible for controlling the finances of the Council.

5.2 Section 151 Officer

- (i) Under Section 151 “every Local Authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers (who in accordance with the Local Government and Housing Act 1989 (Section 6 paragraph 3) must be a member of one or more of the Accountancy Bodies specified in the Act), has responsibility for the administration of those affairs”.
- (ii) Under the Accounts and Audit Regulations 2006, the Section 151 Officer is responsible (under the control and general direction of the Policy & Finance Committee and in accordance with the Accounts and Audit Regulations 2006) for the accounts and finances of the Council, including determining the accounting systems and the form of accounts and supporting records. This officer shall also ensure that all such determinations are observed, and that the accounts and supporting records are kept up to date.
- (iii) The Section 151 Officer shall have regard to any statutory guidance issued by the appropriate Secretary of State and professional guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- (iv) The Section 151 Officer shall advise the Council on all financial matters.
- (v) The Section 151 Officer shall present annually to the Council detailed estimates of the Council's income and expenditure for the following financial year and shall provide a risk assessment of the Council's proposed budget.

- (vi) The Section 151 Officer shall also present to the Audit and Accounts Committee, after the close of each financial year, a Statement of Accounts in accordance with the latest Accounts and Audit Regulations. The Accounts of the Council shall be submitted to the Council's External Auditor.
- (vii) Under the Accounts and Audit Regulations 2006, the Council is responsible for maintaining an adequate and effective system of Internal Audit covering financial and all other operations of the Council and also require any Officer or Member of the Council to make available such documents as appear necessary for the purpose of the audit together with such information and explanation considered necessary for that purpose. This function is discharged through the Section 151 Officer together with Corporate Management Team (CMT).
- (viii) The Section 151 Officer shall periodically present to the Policy & Finance Committee, budgetary control statements showing performance against the approved estimates of revenue expenditure and income. The appropriate Business Manager will report on any major variances from planned budget performance.
- (ix) Notwithstanding the information available on the on-line Financial Information System, the Section 151 Officer shall supply to Business Managers, by arrangement, such cost and other financial statements as may reasonably be required in the interests of financial control and general management. The production of additional financial and statistical information shall also be maintained, as considered necessary by the Section 151 Officer, to provide efficient overall management control.
- (x) The Section 151 Officer, in consultation with CMT, shall review the Financial Regulations periodically and shall have regard to their relevance and practical application in changing circumstances. A motion to add to, vary or revoke these Financial Regulations shall, unless the addition, variation or revocation has previously been considered by the Policy & Finance Committee, stand adjourned to the next meeting of the Council when the motion shall proceed whether or not it has been considered.

5.3 Internal Audit

- 5.3.1 The Council will comply with the current Accounts and Audit Regulations, the Public Sector Internal Audit Standards and the CIPFA Code of Practice for Internal Audit in Local Government and shall maintain an adequate and effective system of Internal Audit of the accounts and other operations of the Council.
- 5.3.2 The Head of Internal Audit shall be responsible for the operation of the internal audit function, agreed with the Section 151 Officer covering financial and all other operations of the Council and value for money studies as required, considering the efficient, effective and economic use of resources. The Head of Internal Audit shall periodically report to Corporate Management Team and the Section 151 Officer and will provide reports to the Audit and Accounts Committee on progress made concerning on-going investigations and reviews and audits completed.

5.3.3 The Section 151 Officer or his authorised representative shall have authority for the purpose of the Internal Audit function to:

- (i) Enter any Council premises or land at all reasonable times.
- (ii) Have access to all records, documents, files (including information held electronically) and correspondence relating to any financial and other business of the Council which the Section 151 Officer considers necessary to fulfil his duties under S151 of the Local Government Finance Act 1972. No record shall be removed by audit staff without notification to the appropriate Business Manager, or relevant senior officer. This authority also shall apply to all records, documents and files maintained by any partner of the Council and by Southwell Leisure Centre Trust.
- (iii) Require and receive such explanations as are necessary concerning any matter under examination, and
- (iv) Require any employee of the Council to produce cash, stores or any other Council property under his control.

5.3.4 Each Director or Business Manager is responsible for ensuring that action is implemented in response to Internal Audit's agreed recommendations in accordance with the agreed timescale. Where an Internal Audit recommendation is not accepted a written explanation and acceptance of the consequent risk must be provided by the Business Manager and reported to the Section 151 Officer. Such an explanation may be reported to the Audit and Accounts Committee.

5.3.5 The Section 151 Officer, or his nominated officer shall:

- (i) Approve any new systems for the maintenance of financial records, or records of assets or any changes to such systems.
- (ii) Be notified by Business Managers of any plans for transferring staff duties in order to allow for the examination of the implications as regards internal control (e.g. authorisation, separation of duties etc.)

5.4 Business Managers

5.4.1 In addition to the general responsibilities described elsewhere in this document, Business Managers will be responsible for certifying on an annual basis the necessary requirements to enable the Section 151 Officer to complete the Council's Annual Governance Statement and Letter of Representation to the Council's External Auditor.

6. FINANCIAL MANAGEMENT

6.1 Financial Consultation

There will be consultation between Business Managers and the Section 151 Officer on any matters concerning the following:

- (i) Preparation and submission of estimates of Council expenditure and income.
- (ii) Preparation of estimates for any external body or partnership e.g. County Council, Government Departments etc., the purpose being the adequacy and accuracy of the estimates.
- (iii) It will be the responsibility of the relevant Business Manager to ensure that any report presented to a Committee or to the Council which has financial implications shall include the Section 151 Officer's observations (See Section 2.2).
- (iv) Proposals for and methods of financing specific expenditure not included in the approved estimates, together with means of approval for such expenditure where this is not otherwise stipulated.
- (v) Proposals to reduce or cancel income included in approved estimates.
- (vi) Applications, bids or submissions by the Council for grant aid or any external funding or spending power from outside bodies. Consultation must take place before submitting any such proposal to an outside body.
- (vii) Proposals to enter into any joint working arrangement with another local authority or other partner.

No financial matter under headings 6.1 (i) to (vii) above shall be concluded **without consultation with the Section 151 Officer**.

6.2 Financial Planning and Control

A major project, as defined by the Council's Corporate Management Team, cannot proceed until a project plan is submitted to CMT and approval is received, followed by political approval where appropriate.

6.2.1 Process for Developing the Budget

The process for developing the budget is set out as part of the Budget Strategy reported to Policy & Finance Committee in September of each year.

6.2.2 Budgetary Control

- 6.2.2.1 Business Managers shall be responsible for monitoring and regulating the financial performance of their appropriate service throughout the financial year using the Council's online financial management system and performance information provided by the Section 151 Officer. Where budgets are delegated to Budget Holders they are charged with the same responsibility.
- 6.2.2.2 The Section 151 Officer shall provide performance monitoring information on a monthly basis.
- 6.2.2.3 Budget performance monitoring information shall be provided to the appropriate Committee on a regular quarterly basis.
- 6.2.2.4 Where it appears that the amount included under any head of the approved budget is likely to be exceeded or the budgeted amount of income under any head is unlikely to be reached then budget officers are required to find savings elsewhere in their budget. Variations over £10,000, where savings cannot be identified, to the Business Manager must consult with the Section 151 Officer and ultimately take a report to the Policy & Finance Committee.
- 6.2.2.5 The Section 151 Officer shall be entitled to receive from each Business Manager such information as he requires in relation to the annual amount of income achieved and expenditure incurred for inclusion in the Council's annual Statement of Accounts.
- 6.2.2.5 The Section 151 Officer shall report to the Audit and Accounts Committee on the accounts of each financial year as soon as is practicable, and in accordance with the Accounts and Audit Regulations applicable at the time.

6.2.3 Capital Estimates

- (i) New schemes must be accompanied by the appropriate Appraisal forms, and will normally be added to the uncommitted scheme list before proceeding to the committed Capital Programme.
- (ii) Each Committee may recommend capital schemes to Policy & Finance Committee for inclusion within the Council's Capital Programme.
- (iii) Prior to February of each year the Policy & Finance Committee shall consider the comprehensive capital estimates together with capital financing proposals and shall consult as appropriate with other Committees in accordance with the Council's Constitution.
- (iv) The Policy & Finance Committee shall consider any recommendations arising from consultation with Members and will submit recommendations to the Council for the approved Capital Programme for the following five years, or such other period as the Section 151 Officer advises.

- (v) The Council shall in March of each year, by simple majority, determine the Council's Capital Programme, having considered the proposals of the Policy & Finance Committee.
- (vi) Following approval of the Council's committed Capital Programme the appropriate Business Managers are authorised to incur expenditure in respect of all schemes included in the committed Capital Programme unless otherwise directed by the Policy & Finance Committee or Section 151 Officer.
- (vii) The Section 151 Officer is authorised to arrange the financing of the Capital Programme so as to maximise the resources available to the Council, having regard to the provisions of the Local Government and Housing Act 1989 or subsequent relevant legislation.
- (viii) The Section 151 Officer is authorised to make any necessary adjustments to the Capital Programme that arise at year-end due to slippage and report these retrospectively to the Policy & Finance Committee.
- (ix) Any under-spends identified within the approved committed Capital Programme revert to the centre and must be reported to the Policy & Finance Committee for consideration.
- (x) Any scheme involving matched funding that does not proceed will have any funding which has already been released returned to the central pot and must be reported to the Policy & Finance Committee for consideration.
- (xi) The Section 151 Officer will report periodically to the Policy & Finance Committee on any variations to the Capital Programme which have been identified.
- (xii) The Section 151 Officer is required to take all necessary steps to implement the committed Capital Programme and is authorised, in the event of slippage, to bring forward schemes from the following year provided that this does not increase the total commitment and that such changes are reported to the Policy & Finance Committee.
- (xiii) In the event of the Section 151 Officer or the Deputy Section 151 Officer not being available, the Chief Executive will determine how the delegated authority to bring schemes forward will be exercised.
- (xiv) No third party funding or grant aid may be accepted where matched funding is required until the source of the matched funding has been identified and approved by the Policy & Finance Committee.

6.2.4 Capital Programme Monitoring

- 6.2.4.1 The monitoring of the overall Capital Programme, with regard to the monitoring of funding, progress, variations, amendments etc. is the responsibility of the Section 151 Officer who can delegate to an appropriate working group.

6.2.4.2 Regular reports will be made to the Policy & Finance Committee on the overall progress of the Capital Programme.

6.2.4.3 It is the individual Business Manager's responsibility to exercise control over any capital schemes within their remit and to report any possible significant variations which may arise to the Section 151 Officer.

6.3 Variation of Estimates

6.3.1 Virement - Revenue Expenditure

The object should be to avoid the transfer of estimates and this is best achieved by sound and detailed estimating together with the accurate coding of expenditure during the year in accordance with the provisions made.

Where it is desired to transfer funds between cost headings, the following procedure shall be adopted and the Section 151 Officer informed in every case, to effect the necessary amendments in the Council's Financial Management System:

- | | |
|---|--|
| (i) Between sub or detail codes within a particular main head | Authorised by the relevant Business Manager. Undertaken by Financial Services. |
| (ii) Between business units within a particular service area up to a cumulative limit of £25,000 within each financial year. Over this, prior Committee approval is required for amounts up to £50,000 and for amounts above this limit the approval of Policy & Finance Committee is required. | Authorised by the relevant Business Manager. Undertaken by Financial Services. |
| (iii) Between Committees Areas | Subject to the appropriate authorisation of the Section 151 Officer, Chief Executive and the approval of the Policy & Finance Committee. |

6.3.2 No virement shall be undertaken with the purpose of utilising additional income for expenditure purposes without the express consent of the Section 151 Officer. No virement shall be undertaken out of savings on payroll codes without the express consent of the Section 151 Officer.

6.3.3 There shall be no carry forward of any under-spending on budgets into the following financial year without the express authorisation of the Section 151 Officer. This includes budgets held on job codes. When considering any applications for carry forwards, the Section 151 Officer shall consider the overall budget position of the Council.

6.3.4 The Section 151 Officer is authorised to introduce additional restrictions on virements.

6.4 Treasury Management

6.4.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice 2011 as updated from time to time.

6.4.2 All matters relating to Treasury Management shall be subject to the supervision and control of the Section 151 Officer.

6.4.3 External Borrowing, and all other Treasury Management transactions, shall be undertaken in accordance with the CIPFA Treasury Management Code of Practice, Prudential Code and the rules and procedures laid down in the Council's Treasury Management Policy. The Treasury Management Manual shall be considered to be the Council's Financial Regulations for Treasury Management transactions and procedures.

6.5 Bank Accounts and Cheques

6.5.1 The Section 151 Officer shall arrange for such bank accounts to be kept as may be deemed necessary. The Section 151 Officer shall be responsible for the operation, supervision and control of those accounts. No member of staff shall arrange for a bank account to be opened without the express authorisation of the Section 151 Officer.

6.5.2 No direct debits from the Council's bank account must be set up without the prior approval of the Section 151 Officer.

6.5.3 Bank overdraft facilities and the amounts and conditions of bank charges shall be negotiated and agreed by the Section 151 Officer

6.5.4 The Officers authorised to sign cheques or transfer money on behalf of the Council, shall be limited to the Section 151 Officer, Deputy Section 151 Officer or such officers as authorised by the Section 151 Officer.

6.5.5 Any cheques exceeding £50,000 must bear two authorised signatures, at least one of which must be a manual signature.6.5.6 Where use is made of the on-line banking system for payments to be made out of any of the Council's bank accounts electronically, the requirements for authorisation of payments shall be of the same, or higher, standard as if a cheque payment is being made. The ability of individual post-holders to raise or authorise such payments is contained within the Council's Treasury Management Manual.

6.5.7 All unused cheques shall be held as "Controlled Stationery" and shall be held in a secure location.

6.5.8 No cheques are to be cancelled except by persons authorised by the Section 151 Officer.

- 6.5.9 Instructions for stopping cheques shall be notified to the Bank in writing and all preliminary telephone instructions in this connection shall be confirmed in writing immediately afterwards by the Section 151 Officer or Duly Authorised Officer.
- 6.5.10 No replacement cheques shall be issued until the Bank confirm that a stop has been placed on the original cheque. Confirmation received from the Bank regarding stopped cheques must be retained for a period approved by the Section 151 Officer.
- 6.5.11 All Giro credit balances shall be transferred by automatic transfer at regular intervals by officers authorised by the Section 151 Officer.
- 6.5.12 Bank accounts shall be reconciled with financial records and cashbooks at least once in each month and any discrepancies identified and appropriate action undertaken.

6.6 Procurement Cards

- 6.6.1 The Section 151 Officer shall have the authority to approve requests for applications for procurement cards, including merchant category code blocks, monthly card limits and single transaction limits.
- 6.6.2 The Business Manager (Administrative Services) shall administer all applications for procurement cards. No officer shall apply for procurement cards other than through the Council's Business Manager (Procurement).
- 6.6.3 All procurement cards must be held securely. Card details and PIN numbers must not be disclosed other than for the purposes of using the card for payments. Cardholders may be held personally liable for any expenditure that they cannot account for.
- 6.6.4 On a monthly basis, a record of card purchases shall be maintained by individual cardholders and reconciled to the card statement provided by the card issuer. Business Managers shall approve the monthly record of card purchases and provide a copy to the Financial Services Business Unit for processing.
- 6.6.5 Any discrepancies between the card issuer statement and the cardholder's record of purchases must be promptly reported to the Business Manager Procurement.
- 6.6.6 Procurement cards shall only be used for authorised purchases relating to council business. Under no circumstances shall they be used for personal expenditure.
- 6.6.7 In all circumstances, every purchase with VAT will require a VAT receipt in order for the card statement to be accounted for correctly. Any items that do not include a VAT receipt will be charged fully to the revenue code.

6.7 Controlled Stationery

- 6.7.1 The term Controlled Financial Stationery refers to stationery which is sequentially pre-numbered to provide a sound audit trail, usually to record and process items of a financial nature, the use of which has to be regulated in order to ensure it is restricted to authorised Officers only.
- 6.7.2 Within the Council the primarily relates to cheques, income collection sheets, income receipts, petty cash books and car park tickets.
- 6.7.3 The Section 151 Officer may designate any item he considers appropriate to be controlled stationery.
- 6.7.4 Such stationery must be retained securely at all times and any issues from stock signed for.

6.8 Retention of Financial Records

- 6.8.1 All financial records, whether in written or printed form or stored electronically and all records supporting financial transactions in whatever form shall be retained in accordance with instructions issued by the Section 151 Officer, who shall determine the Council's retention requirements in accordance with relevant legislation and shall be responsible for the Council's Retention and Disposal Policy with respect to financial records.

6.9 Authorised Signatory List

- 6.9.1 CMT and Business Managers, in consultation with the Section 151 Officer will nominate authorised signatories for their service for the authorisation of orders, invoices, timesheets, overtime claims and contracts. The Section 151 Officer may authorise additional officers to undertake these duties.

6.10 Taxation

- 6.10.1 The Section 151 Officer is responsible for ensuring that adequate procedures are in place and adequate advice available for Business Units so as to ensure that the Council is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 6.10.2 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 6.10.3 All Business Managers will at all times conduct the financial arrangements of their Business Units, with regard to taxation issues, in accordance with advice or instructions issued by the Section 151 Officer, and shall provide any related information or documents upon request.

7. EXPENDITURE RELATED REGULATIONS

7.1 Employers Records and Payments of Salaries and Wages

- 7.1.1 Business Managers shall be responsible for promptly notifying the Business Manager Human Resources & Legal of all information required to maintain correct records for all employees of the Council in respect of service, including appointments, terminations, promotions (including 'acting up' allowances and honorariums), qualifying examination awards, sickness and absenteeism.
- 7.1.2 Memoranda to the Business Manager Human Resources & Legal in respect of 7.1.1 above shall be signed by the Business Manager or Duly Authorised Officer. The Human Resources Business Unit shall immediately forward such details to the Financial Services Business Unit to ensure that the correct payment of wages and salaries and other related items (including deductions) can be made.
- 7.1.3 Business Managers shall be responsible for arranging the submission of wages time sheets, staff salary data, overtime claims and claims for standby payments to arrive in the Financial Services Business Unit in accordance with the prescribed timescale.
- 7.1.4 Payment of wages/salaries shall only be made to:
 - (i) Personnel included in the approved establishment for the service areas of the Council, or
 - (ii) Approved temporary or casual personnel who have been properly notified to the Financial Services Business Unit.
 - (iii) Appointments as authorised in sub-paragraph 7.1.6 below.
- 7.1.5 Business managers will be required to provide positive confirmation of current post holders prior to the payment of wages and salaries
- 7.1.6 Appointments other than those included in the approved establishment as amended from time to time shall be made in accordance with Human Resources Policies.

7.2 Consultants

- 7.2.1 Where a consultant is to be engaged, it is the responsibility of the person arranging the contract to determine whether or not payments are to be made to the consultant directly or to a personal service company (PSC). This is a limited company owned by the consultant and is commonly used to reduce tax and National Insurance liability. If payment is to be through a personal service company, advice must be sought from the S151 Officer and the Business Manager HR and Legal before any appointment is made.

7.3 Travelling and Subsistence Claims

- 7.3.1 All claims by Officers for payment of subsistence allowances, travelling and incidental expenses shall be submitted, duly certified by or on behalf of the Business Manager, on the Council's Envoy electronic expense system in accordance with a timetable specified by the Section 151 Officer.
- 7.3.2 The names of Officers authorised to certify claims shall be sent to the Section 151 Officer by each Business Manager. The Section 151 Officer will determine the controls, to be put in place for electronic systems.
- 7.3.3 The certification by or on behalf of the Business Manager shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council.
- 7.3.4 Un-receipted expenditure will only be considered for reimbursement at the discretion of the Section 151 Officer or his nominated officer where they are satisfied that the authorising officer has established that a receipt was not available.
- 7.3.5 Officers claims shall normally be submitted monthly, and any submitted more than six months after the expenses were incurred shall be paid only with the express approval of the Section 151 Officer. Business Managers shall ensure that all Officers using their own vehicles on Council business:
- (i) Hold a current full driving licence authorising them to drive the vehicle in question.
 - (ii) Have a current insurance policy, which indemnifies the Council against all third party claims (including those of passengers) arising out of the use of the vehicle in question on the Council's business.
 - (iii) Hold a current MOT certificate, where applicable, for the vehicle in question.
 - (iv) Have paid the appropriate road tax, where applicable, for the vehicle.

7.4 Members Allowances

- 7.4.1 Claims shall be undertaken in accordance with the Members' Allowance scheme approved by the Council on a form approved by the Section 151 Officer on the following basis:
- (i) Claims may be submitted at the end of each month.
 - (ii) Claims for all expenses and travelling in any financial year up to the end of January must be submitted to the Financial Services Business Unit by the 5th working day of March.
 - (iii) Claims for expenses and travelling during February and March must be submitted to the Financial Services Business Unit by the end of April.
- 7.4.2 The Member is wholly responsible for certifying the validity of the claim.

7.4.3 Further guidance concerning Members Allowances is given in the Members handbook and the latest scheme of Members Allowances approved by Council.

7.5 Orders for Goods, Works and Services

7.5.1 Each member of CMT and Business Manager shall be responsible for all official orders issued from their remit ensuring that:

- (i) The estimated costs are covered by an approved budget or other prior sanction.
- (ii) There is compliance with Standing Orders and Contract Procedure Rules, and procurement law and regulations concerning tenders and contracts.
- (iii) It can be demonstrated that the purchase represents value for money.
- (iv) Order values are not split to avoid having to comply with procurement rules.

7.5.2 All orders must be made through the Council's Financial Management system and must be in the name of Newark & Sherwood District Council and in a form approved by the Section 151 Officer. Wherever possible electronic orders should be raised in advance of the purchase, and the supplier advised of the relevant purchase order number.

7.5.3 Official orders must clearly show the nature and quantity of the materials, works or services required, and details of the agreed price (or estimated price), discounts and terms in relation to packing and delivery.

7.5.4 Official orders shall indicate that invoices/accounts are to be submitted to the Financial Services Business Unit quoting the relevant purchase order number unless expressly authorised by the Section 151 Officer.

7.5.5 Official orders and variations to orders shall be authorised only by:

- (i) Business Managers.
- (ii) Duly Authorised Officers, nominated by appropriate Business Managers detailed in a schedule supplied to the Section 151 Officer showing the financial limits to an Officer's authority and a specimen signature.

7.5.6 Official orders must be generated for all work, goods, and services to be supplied to the Council except:

- (i) No order shall be issued if the estimated value of the work or services exceeds the value where a tender process is required in accordance with Contract Procedure Rules (This value is £75,001). In this instance a formal tender process must be initiated in consultation with the Business Manager (Procurement).

- (ii) For periodic payments such as rents or rates, for petty cash purchases or such other exception as the Section 151 Officer may approve.
- (iii) Goods and services ordered by use of a Council Procurement Card.

7.5.7 Council orders shall not be used for personal or private purchases.

7.5.8 Business Managers or Duly Authorised Officers must review electronic purchase orders on a regular basis and cancel those that are no longer required.

7.6 Goods Received

7.6.1 The system of checking goods received, or works done, against official orders shall be in accordance with instructions laid down by the Section 151 Officer and must be adhered to by all officers.

7.6.2 Where an electronic order has been raised, a Goods Receipt Note should be input to the Financial Management system as soon as the goods have been checked.

7.7 Invoices

7.7.1 Where an invoice is not subject to an electronic order raised on the Council's Financial Management system, due to any of the circumstances outlined at 7.5.6, the invoice should be authorised for payment by one of the following:

- (i) SLT
- (ii) Business Managers
- (iii) Duly Authorised Officers, nominated by appropriate Business Managers detailed in a schedule supplied to the Section 151 Officer showing the financial limits to an Officer's authority and a specimen signature. Business Managers shall be responsible for promptly notifying the Financial Services Business Unit of amendments to Duly Authorised Officers.

7.7.2 Before certifying an invoice, the authorising officer shall be satisfied that:

- (i) The work, goods or services to which the invoice relates have been received, carried out, examined and approved.
- (ii) The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct.
- (iii) The relevant expenditure has been properly incurred, and is within the relevant estimate provision.
- (iv) Appropriate entries have been made in registers, inventories, stores records or stock books, as required, and
- (v) the invoice has not been previously passed for payment and is a proper liability of the Council.

- 7.7.3 Where any amendment is required to an invoice the supplier must be asked for an amended invoice or, alternatively, a credit note.
- 7.7.4 Business Units shall promptly forward any invoices received directly to the Financial Services Business Unit after ensuring that the appropriate purchase order has been goods receipted. The same Officer must not both authorise an order and certify that goods have been received or work done.
- 7.7.5 Invoices shall only be paid within the computer-based system timetable. Any invoices for which there is no purchase order and/or Goods Receipt Note on the Financial Management system cannot be paid (with the exception of those under circumstances detailed in 6.4.6) and the relevant Business Unit will be notified to correct the omission.
- 7.7.6 Business Managers are responsible for ensuring that all necessary data and authorisations are input to the Financial Management system to guarantee payment of commercial invoices within 30 days of receipt.
- 7.7.7 Copy invoices and orders substituted for the original document shall be clearly marked "copy" and initialled.
- 7.7.8 No payments made by the Section 151 Officer will be other than by use of official stationery or by approved electronic means.
- 7.7.9 The Section 151 Officer will be responsible for the deduction of any tax from payments to contractors under the provision of the Construction Industry Tax Deduction Scheme.
- 7.7.10 Any queries on invoices that cause delay in payment must be raised formally with the supplier. When the invoice is passed to the Financial Services Business Unit for payment the reason for delay must be provided.

7.8 Petty Cash and Post

7.8.1 General

- (i) Petty cash is only available under special circumstances. Procurement cards should be used.
- (ii) Procedures for Petty Cash Imprest Accounts and Post shall be in accordance with instructions laid down by the Section 151 Officer. New or temporary accounts/floats shall not be raised out of income.
- (iii) New or temporary accounts/floats can only be raised by Financial Services

7.8.2 Petty Cash Imprest Accounts

- (i) A Petty Cash Imprest Account is defined as a fund of cash from which incidental expenses are paid, which is topped up periodically from central funds. These transactions should be minor, routine transactions, where raising an official order and processing an invoice through the Creditor system would be neither realistic nor cost effective. This differs from a change float which is a sum of money used to provide change at the start of the day, which is deducted from the total at the end of the day when calculating the day's takings. A Petty Cash Imprest Account should be kept and accounted for separately to a change float.
- (ii) Holdings of Petty Cash shall be limited to amounts prescribed by the Section 151 Officer.
- (iii) Signatures of Petty Cash holders confirming the amounts held shall be obtained annually under year-end procedures and periodic management checks shall be made to verify petty cash holdings.
- (iv) Business Managers shall be responsible for ensuring the comprehensive recording of all petty cash disbursements, the custody of supporting documents and vouchers and the safe custody of all unused balances of petty cash.
- (v) Reimbursement of petty cash shall be obtained by the production of the appropriate voucher together with receipts to the Section 151 Officer for inclusion in the invoice payment system.
- (vi) Un-receipted expenditure will only be considered for reimbursement at the discretion of the Section 151 Officer or his nominated officer where they are satisfied that the authorising officer has established that a receipt was not available.
- (vii) Two people shall be involved in the preparation/authorisation of an imprest claim.
- (viii) The Petty Cash system must not be utilised for payments that should be processed through other systems (e.g. Members/Officers expenses) unless expressly authorised by the Section 151 Officer.
- (ix) On leaving the employment of the Council or otherwise ceasing to be entitled to hold a petty cash or other float an Officer shall account to the Section 151 Officer for the amount advanced to him, and a hand over certificate shall be completed.

7.8.3 Post

- (i) All post should be processed through the Business Mail process.
- (ii) The Business Mail process is not to be used for personal items of mail.

7.9 Right to Set Off

- 7.9.1 The Right to Set Off concerns the situation whereby the Council owes a person money, but where that person also owes money to the Council, and the Council sets off what is owed before paying the balance (if any) to the person.
- 7.9.2 Business Managers shall be responsible for ensuring that suitable arrangements are in place to consider the setting off of monies owed to the Council where applicable.

7.9.3 Set Offs shall be undertaken where:

- (i) The opportunity arises, subject to any statutory obligation upon the Council.
- (ii) The circumstances of the particular case justify such a course of action.

Each case must be considered on its own merits.

7.9.4 Officers undertaking set offs shall ensure that the course of action proposed has been evaluated by the Legal Section and the VAT Officer within Financial Services prior to it being undertaken.

7.9.5 No grant shall be offered to a third party where that person/entity is in debt to the Council, and such debt has become outstanding and in arrears, without the express consent of the Section 151 Officer.

7.10 Contracts

7.10.1 All contracts shall be made and administered in accordance with the Contract Procedure Rules.

7.10.2 Directors are responsible for notifying the names of Officers authorised to sign contracts and their authorisation limits to the Section 151 Officer. Any changes should be notified to the Financial Services, Procurement and HR and Legal Business Units.

8. INCOME RELATED REGULATIONS

8.1 Responsibilities

8.1.1 Business Managers shall be responsible for the collection, custody and banking of income received as due to the Council in accordance with the instructions issued by the Section 151 Officer.

8.1.2 The Accounts and Audit Regulations 2006 require that “Every Officer of the Council who pays money into a bank account of the Council, shall enter on a paying in slip, and on the counterfoil or duplicate thereof, particulars of such payment, including, in the case of each cheque paid in:

- (i) The amount of the cheque, and
- (ii) A reference (such as the number of the receipt given or the name of the debtor) which will connect the cheque with the debt or debts in discharge or partial discharge of which it was received.

Where any cheque paid in was not received in discharge or partial discharge of a debt due to the Council, the Officer shall note the fact on the counterfoil or duplicate of the paying in slip.

8.2 General

- 8.2.1 The rules for the collection of all income due to the Council shall be under the general control of the Section 151 Officer.
- 8.2.2 The records kept by each budget holder with regard to items of income shall be in such a form as may be agreed by the Section 151 Officer from time to time.
- 8.2.3 All payments received in cash on behalf of the Council shall be acknowledged by the issue of an official receipt. Such receipts shall only be valid if in the form of an official machine printed receipt, except where official manual receipt books are issued for prescribed purposes.
- 8.2.4 All income shall be collected and deposited intact without delay into the Council's bank account, as directed by the Section 151 Officer, on the same day as received wherever possible. Where appropriate, income shall be deposited under night-safe arrangements, including suitably secure safes on the Council's own premises, or held securely by another appropriate method approved by the Section 151 Officer. Where cash is held in secure safes on Council premises the Business Manager responsible for the service depositing the money shall ensure that sufficient insurance arrangements are in place.
- 8.2.5 No personal cheques are to be cashed out of Council funds.
- 8.2.6 All cheques, postal orders, money orders and postal drafts etc, received on behalf of and due to the Council shall be crossed "A/C Newark and Sherwood District Council" immediately on receipt unless they are already clearly marked with equivalent wording.
- 8.2.7 Post-dated cheques will only be accepted at the discretion of the Section 151 Officer.
- 8.2.8 The Section 151 Officer on receipt of details from Business Manager shall ensure that a record is maintained of all items of income due to the Council classified as "periodic income" for which fixed or varying charges apply. For this purpose the term "periodic income" shall mean any fee or charge receivable by the Council on a recurring basis one or more times in any one year.
- 8.2.9 Business Managers shall be responsible for notifying the Section 151 Officer of all items of miscellaneous income due to be paid to the Council.
- 8.2.10 Cash receipts over a value of £1,500 shall be reported to the Council's Anti Money Laundering Reporting Officer (the Section 151 Officer) who shall be responsible for taking the appropriate action. The Section 151 Officer may issue further arrangements in respect of anti-money laundering.
- 8.2.11 Instances where currency is identified as being forged shall be reported to the Section 151 Officer.

8.2.12 No online payment system must be set up without the prior approval of the Section 151 Officer.

8.2.13 All online payments must be in accordance with instructions issued by the Section 151 Officer.

8.3 Cash Receipting

8.3.1 Receipt books are controlled stationery and shall be retained securely.

8.3.2 Where Council income other than cheque payments, whether cash or otherwise, is passed from one employee to another, the receiving employee shall sign an appropriate form of receipt, which shall be retained by the Officer who passed the income.

8.3.3 Adequate details of receipts and specific records of cheques shall be kept which refer to the original debt.

8.3.4 Postal income shall be held securely, opened wherever possible in a secure environment, by a minimum of two officers, recorded on appropriate documentation, and promptly investigated in the event of discrepancies.

8.3.5 Change must not be given in the event of a cheque being received for a greater value than the debt outstanding.

8.3.6 Coin operated machines shall be emptied on a regular basis, with the income counted in a secure environment by a minimum of two officers, with a note of machine readings being taken (where applicable), with discrepancies being promptly investigated.

8.3.7 Change floats shall be issued and approved by the Section 151 Officer, be kept secure when not in use, checked prior to use, and deducted from the total at the end of the day when calculating the days takings. Unofficial floats must not be maintained.

8.3.8 Cashing up duties shall be undertaken by a minimum of two officers, in a secure environment away from public view, with the details being recorded on an appropriate daily return, with discrepancies being promptly investigated.

8.3.9 Further details concerning cash handling procedures are outlined in the Cash Handling Guidance notes which can be found in the Safety section on the Council's intranet.

8.4 Debtor Accounts - Recovery, Amendment and Write-Off

8.4.1 The Council shall submit invoices for rechargeable work within one month of the work being completed and appropriate documentation being received.

- 8.4.2 All arrangements for recovery of outstanding debts to the Council shall be made in accordance with instructions from the Section 151 Officer (this may include the debtor details being submitted to the Council's Legal Section or an outside collection agency suitably appointed by the Council).
- 8.4.3 Cancellation of Sundry Debtor accounts, whether in part or full, shall be authorised in writing by the relevant Business Manager or Duly Authorised Officer, on the basis of appropriate documentation prepared by the originator of the debt, which justifies the said cancellation.
- 8.4.4 The Section 151 Officer shall be authorised to write off debts owed to the Council in accordance with delegated authority contained in the Council's Constitution. Items in excess of the amount specified in delegated authority may only be written off by the Policy & Finance Committee.

8.5 **Gifts and Hospitality**

- 8.5.1 The procedures to be adopted concerning gifts and hospitality being offered to an employee of the Council, shall be in accordance with guidance notes within the Employees Code of Conduct, Member Code of Conduct, or issued by the Councils Monitoring Officer or Section 151 Officer.

9. **PROTECTION OF ASSETS**

9.1 **Security**

- 9.1.1 The Section 151 Officer shall maintain an up-to-date asset register. The Section 151 Officer should be notified in any case where security is through to be defective or where it is considered that special arrangements may be needed.
- 9.1.2 Officers arranging legal contracts shall ensure that the legal documents are lodged with the Legal Section.
- 9.1.3 The Council's Legal Section shall be responsible for the safe custody of all legal agreements, leases etc, showing due dates for termination and for the review of "break clauses" as applicable and shall keep a register of all such legal agreements.
- 9.1.4 The Contract Officer is responsible for ensuring appropriate action is taken to meet the requirements of the relevant operative dates.
- 9.1.5 Each Business Manager shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc, under his control. He shall consult the Section 151 Officer (and, where necessary, the Business Manager Community Safety) in any case where it is considered that special security arrangements may be needed.

- 9.1.6 Maximum limits for cash holdings shall be agreed with the Section 151 Officer in accordance with insurance limits, and shall not be exceeded without his express permission.
- 9.1.7 Keys to safes, similar receptacles, cash offices, stock rooms and office keys must be held securely. The loss of any such keys must be reported to the Section 151 Officer immediately.
- 9.1.8 Each Business Manager shall be responsible for maintaining a secure record of key holders together with details of keys held in other locations. All keys held personally by individual officers must be signed out and signed back in again when they are no longer required to be held.
- 9.1.9 Any losses of either ID badges or building access cards must be reported immediately to the Business Manager Community Safety.
- 9.1.10 Any breaches in security shall be reported immediately to the Business Manager Community Safety.

9.2 Inventories

- 9.2.1 Business Managers shall ensure that an inventory is maintained of all items, as approved, in a form approved by the Section 151 Officer.
- 9.2.2 The inventory shall give an adequate description of all movable plant and machinery, vehicles, and valuable, desirable and portable equipment belonging to Newark and Sherwood District Council. The inventory will be a permanent record and under no circumstances shall an item be deleted. Entries relating to items disposed of or transferred shall be annotated to that effect. The inventory should detail such identification marks as to enable the item to be easily identified i.e. model number, serial number, unique identification number etc.
- 9.2.3 All new inventory items purchased must be entered onto the inventory immediately and where relevant, the Insurance Officer notified.
- 9.2.4 Business Managers shall be responsible for maintaining an annual check of all items on the inventory. As part of the Annual Governance Statement process, Business Managers are asked in May each year to certify the accuracy and completeness of inventories. As such, there must be an inventory check undertaken of all items in time to complete this certification. This is a minimum requirement; in some instances a more frequent review may be appropriate.
- 9.2.5 All surpluses or deficiencies shall be properly documented and recorded as an amendment to the inventory and reported to the appropriate Director and Insurance Officer, subject to 9.2.6 below.
- 9.2.6 Surpluses or deficiencies in excess of £50 for any one item and £500 in total must be reported to the Section 151 Officer who may, at his discretion, order an investigation.

9.2.7 In connection with surplus inventory items with a value over £50:

- (i) Prior to disposal, the surplus item must be offered for internal use elsewhere in the Council. In this case both inventories should record the transfer.
- (ii) All disposals must be authorised by the appropriate Business Manager.
- (iii) The method of disposal shall be approved by the Section 151 Officer.
- (iv) All disposals must be properly documented.
- (v) The Insurance Officer shall be informed of all relevant disposals.

9.2.8 Any inventory item identified as being obsolete must only be disposed of on the authority of the appropriate Business Manager, after consultation with the Section 151 Officer.

9.2.9 No inventory item shall be subject to personal use by an employee without authorisation by the appropriate Business Manager. Any item removed for home working should be shown as such on the inventory or through an appropriate booking out mechanism.

9.2.10 Employees are responsible for inventory items allocated to them. Employees are also responsible for keeping a record if they loan inventory items to other officers.

9.3 Stores

9.3.1 Each Business Manager shall be responsible for the custody, control, ordering, issuing and recording of stocks and stores in his Department. The system in operation shall be subject to the express approval of the Section 151 Officer.

9.3.2 Business Managers shall arrange for a continuous and independent stocktaking of stores.

9.3.3 Stocktaking procedures shall be sufficiently regular and robust so as to ensure that stock is accurately recorded. This must include a stocktake at 31st March.

9.3.4 Following the stocktaking of stores, the following procedures shall apply:

- (i) Investigations shall be made into discrepancies to isolate and correct accounting errors. The results of any investigations including any reports must be sent to the Section 151 Officer at an early stage.
- (ii) Discrepancies still outstanding shall be presented to the appropriate responsible Director for comment and explanation.
- (iii) The Section 151 Officer shall have authority after receipt and consideration of the comments and explanations to make the necessary adjustments to the stores ledger, and may require an investigation and/or report to the Audit and Accounts Committee.

9.3.5 The Section 151 Officer shall be entitled to receive from each Business Manager such information as he requires in relation to stores for the accounting, costing and financial records, including a certificate of the value of stores held at the 31st March each year for submission at audit.

9.3.6 Prior to disposal, the Business Manager shall ensure that the Council has ownership of the asset. Surplus or obsolete materials, stores or equipment with an estimated value over £500 shall be disposed of by competitive tender or public auction, unless appropriate written approval is obtained from the Section 151 Officer who decides otherwise in a particular case. The proceeds of the sale of any asset should be paid directly to the Council without any deductions.

9.3.7 No stores item shall be subject to personal use by an employee.

9.4 Insurance

9.4.1 The Section 151 Officer shall be responsible for effecting adequate insurance cover, through an insurance company (or companies) or such other means approved by the Policy & Finance Committee for all assets, commitments and contingent liabilities in the performance and discharge of statutory or other authorised duties by the Council, its Members and Officers.

9.4.2 No officer shall arrange insurance other than through the Council's Insurance Officer.

9.4.3 Insurance requirements shall be actioned in accordance with the Council's Insurance Guide, which can be found in the Financial Services section of the intranet.

9.4.4 The Section 151 Officer shall carry out periodic reviews to ensure the maintenance of adequate insurance cover as above, and shall maintain a record of "risks" covered, the amount of cover and premiums due.

9.4.5 Business Managers shall be responsible for promptly notifying the Section 151 Officer of the extent and nature of new risks or of any variations concerning insurance cover required in respect of their own service area.

9.4.6 Business Managers shall be responsible for promptly notifying the Section 151 Officer of full details of all accidents or occurrences likely to lead to a proper claim on the Council.

9.4.7 Where any claim is received from a third party by any officer, this must be immediately forwarded to the Council's Insurance Officer.

9.4.8 The Section 151 Officer shall maintain a record of all insurance claims made against the Council.

9.4.9 No correspondence should be entered into in respect of any claim or other insurance matter except by the Council's Insurance Officer, without the express approval of the Section 151 Officer.

9.4.10 At no time should any officer or Member or any other person acting on behalf of the Council make an admission of liability on behalf of the Council without the express authority of the Section 151 Officer.

9.4.11 Any expenditure in relation to dealing with the settling or resisting of claims must be authorised by the Section 151 Officer or any other duly authorised officer prior to any expenditure being committed.

9.5 Asset Management

9.5.1 All matters relating to Asset Management shall be administered in accordance with the Council's Asset Management Plan.

9.5.2 The Section 151 Officer shall ensure that an Asset Register is maintained by the Council in accordance with the latest advice issued by the Chartered Institute of Public Finance and Accountancy.

9.5.3 It is the responsibility of the appropriate Director to ensure that Asset Management expertise is available to the Council.

9.5.4 The Asset Register shall include all assets of the Council valued in excess of £15,000.

9.6 Management of Information

9.6.1 Business Managers shall be responsible for maintaining the proper security and privacy of all information under their control including computerised files and for ensuring the Council acts in accordance with the Data Protection/Freedom of Information legislation.

9.6.2 Intellectual property (i.e. the generic term that includes inventions, creative writings, software and drawings) arising from the course of employment will belong to the Council.

9.7 Motor Vehicles

9.7.1 Council vehicles must not be used for private purposes, or hired or lent out, without the express approval of the appropriate Director who shall check with the Council's Insurance Officer that such use is covered by the Council's insurance policy. Records of any such use should be kept to ensure the driver of any such vehicle shall be known at all times. If there is any doubt that adequate insurance cover is in place, no such use of the vehicle shall be permitted.

9.7.2 Business Managers shall ensure that all Officers using Council owned vehicles hold a current full driving licence authorising them to drive the vehicle in question.

9.7.3 All Officers using Council owned vehicles are responsible for the security of the vehicle, whilst it is in their care.

9.7.4 Where a Council vehicle is to be taken home overnight to facilitate call-out, stand-by or other appropriate duties, Financial Services must be informed to ensure that taxation issues are managed appropriately.

9.8 Reporting of Irregularities

- 9.8.1 The reporting of irregularities shall be in accordance with the Council's Guidance for Dealing with Irregularities which is available in the Financial Services section of the Intranet.

9.9 Whistleblowing Policy

- 9.9.1 Each Business Manager shall be responsible for ensuring that their staff are aware of, understand and comply with the Council's Whistleblowing Policy which is available within the Council's Constitution.

9.10 I.C.T. Systems

- 9.10.1 All proposals for the acquisition, development, maintenance and use of computing facilities and systems shall conform with the Council's I.C.T. policies and strategies and the Employee Code of Conduct.

10. EXTERNAL ARRANGEMENTS

10.1 Partnerships, Shared Services and Collaboration Arrangements

- 10.1.1 No partnership or shared service arrangement shall be set up without taking into consideration the factors covered in 10.1 of these regulations.

- 10.1.2 Business Managers shall ensure that the appropriate approval is obtained prior to any negotiations being concluded in relation to work with external bodies.

- 10.1.3 The Section 151 Officer must be consulted on the financial implications of new partnerships or shared services arrangements and must approve that:

- (i) A scheme appraisal for financial viability in both current and future years has been undertaken.
- (ii) Costs and income are provided for in the Council's budget.
- (iii) Arrangements are in place for accurate accounting for cost and income.
- (iv) Sufficient controls are in place for the successful operation of the partnership/shared service, including arrangements for sufficient access to financial and other records.
- (v) Carry forward arrangements have been determined.
- (vi) A formal risk appraisal has taken place and a management strategy devised.
- (vii) An auditing, security and control regime has been established.
- (viii) Appropriate arrangements are in place for the recovery of VAT.

- 10.1.4 Financial performance of partnerships and shared services must be monitored and reported back to the Council as agreed.

10.1.5 These Financial Regulations also apply to all partnerships and shared services unless similar arrangements have been approved by the Section 151 Officer.

10.1.6 Where collaboration is agreed with an external partner, the relevant Business Manager is responsible for ensuring that all income due is invoiced and recorded promptly within the Financial Management system and that invoices for expenditure incurred in relation to the collaboration are received and recorded promptly.

10.1.7 Where an Officer is working for a Collaboration partner, the Financial Regulations of the partner body will apply.

10.2 External Funding

10.2.1 No applications for external funding shall be made without prior consultation with the Section 151 Officer. Directors or Business Managers shall be responsible for providing the Section 151 Officer with the following information:

- (i) How the bid is compatible with the Council's aims and priorities.
- (ii) Whether the bid is for capital or revenue funding.
- (iii) Whether matched funding contributions are required from the Council and how these will be identified.
- (iv) Whether matched funding contributions are required from other organisations and how these amounts will be secured.
- (v) An exit strategy setting out how budgets will be adjusted after the external funding expires.
- (vi) Where the bid is for revenue funding, whether it is to support existing levels of activity or enhanced/new activities.
- (vii) Where the bid is for capital funding, whether an asset will be created and how this fits in with the Council's Asset Management Plan, how the ongoing maintenance of the asset will be funded and whether the asset can/will be disposed of at a later date.
- (viii) Details of ownership and insurance of the asset.

10.2.2 Business Managers shall be responsible for ensuring that:

- (i) The key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- (ii) Any funding received is used for the intended purpose and is notified to the Section 151 Officer.

10.2.3 The Section 151 Officer shall be responsible for:

- (i) Approving all external funding bids prior to application.
- (ii) Approving all interim and final claims for external funding once the bid has been accepted and is live.
- (iii) Ensuring that any funding received is properly recorded in the Council's accounts.

10.3 Work for Third Parties

10.3.1 No Officer should set up their own trading company to provide services to the Council without the prior approval of the Section 151 Officer and the Monitoring Officer.

10.3.2 Where works are to be provided to a third party, any contractual arrangement above £15,000 must be approved by the Section 151 Officer prior to being signed. This is regardless of whether the piece of work is a one off or on-going.

10.3.3 Business Managers shall be responsible for ensuring that:

- (i) A register is maintained of all contracts entered into with third parties.
- (ii) Any risks are minimised and such work is intra vires.
- (iii) Appropriate insurance arrangements are made.
- (iv) The Council is not put at risk from any bad debts.
- (v) No contract is subsidised by the Council.
- (vi) Wherever possible, payment is received in advance of the delivery of the service.
- (vii) The Business Unit has the appropriate expertise to undertake the Contract.
- (viii) All contracts are properly documented.
- (ix) Appropriate information is provided to the Section 151 Officer for final accounts purposes.

11. DIRECTOR/OFFICER DELEGATIONS

11.1 Director/Officer delegations will be in accordance with the latest Scheme of Delegation as approved by Council.

12. CONTRACT AND WINDFALL SAVINGS

12.1 Unless specific agreement with the Section 151 Officer is obtained, contract savings and windfall savings (i.e. unanticipated income or unanticipated savings on expenditure including any figure relating to previous years) will revert to General Balances.

13. FAILURE TO COMPLY WITH FINANCIAL PROCEDURE RULES

13.1 Failure to comply with the Financial Procedure Rules:

- Is a breach of the Code of Conduct for Officers that is covered by the Council's Disciplinary and Dismissal Policy.

13.2 Councillors must report any apparent breach of the Financial Procedure Rules to the Chief Executive. Officers must report apparent breaches to an appropriate Chief Officer or the S151 Officer. The Chief Officer (where this isn't the S151 Officer) should report breaches of these Rules to the S151 Officer and the Monitoring Officer.

Revised: February 2018

Next revision due: February 2020

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES (July 2019 revision)

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES
2. OFFICER RESPONSIBILITIES
3. PROCUREMENT OPTIONS
4. EXEMPTIONS
5. RELEVANT CONTRACTS

SECTION 2: COMMON REQUIREMENTS

6. STEPS PRIOR TO PURCHASE
7. RECORDS
8. ADVERTISING

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

9. COMPETITION REQUIREMENTS: PURCHASE, DISPOSAL AND PARTNERSHIPS
10. PRE-TENDER MARKET RESEARCH AND CONSULTATION
11. CONTRACT AWARD CRITERIA
12. INVITATIONS TO TENDER/QUOTATIONS
13. SHORTLISTING
14. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS
15. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION
16. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING CANDIDATES
17. INCOME GENERATING CONTRACTS

SECTION 4: CONTRACT AND OTHER FORMALITIES

18. CONTRACT DOCUMENTS
19. BONDS AND PARENT COMPANY GUARANTEES
20. PREVENTION OF CORRUPTION & COLLUSION
21. DECLARATION OF INTERESTS

SECTION 5: CONTRACT MANAGEMENT

22. MANAGING CONTRACTS
23. RISK ASSESSMENT
24. CURRENCY OF CONTRACT PROCEDURES
25. POST CONTRACT PROCEDURES

SECTION 6: DEFINITIONS

All costs stated in these Contract Procedure Rules are exclusive of VAT, staff costs and fees.

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability and deter corruption. They are designed to safeguard the interests of the Council, its Members and its employees. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

These rules should be read in conjunction with the Council's Financial Regulations and Purchasing Card Procedure (as appropriate).

They apply to all activities of the Council, and where the Council is a lead authority in any joint procurement, shared service, partnership or collaborative arrangement.

All Officers (including temporary or agency workers) and Members must comply with these Contract Procedure Rules for all relevant contracts (see Rule 5 Relevant Contracts). They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. Any breaches will be considered to be a disciplinary matter.

In accordance with the Constitution, Council shall have the power to make amendments from time to time to these Contract Procedure Rules.

If, after reading these Contract Procedure Rules, you require further guidance or clarification, or you are not sure how best to comply with the Rules , then please contact your Line Manager, the Business Manager – Financial Services or Welland Procurement.

Terms used in this document are defined in the Definitions Appendix at the end of this document.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

1.1 All purchasing and disposal procedures must:

- (i) Achieve [Value For Money](#) for public money spent
- (ii) Be consistent with the highest standards of integrity
- (iii) Ensure fairness in allocating public contracts
- (iv) Comply with all legal requirements
- (v) Ensure that [non-commercial considerations](#) do not influence any contracting decision
- (vi) Support the Council's corporate and Business Unit vision and priorities

2. OFFICER RESPONSIBILITIES

2.1 Contract Officers

2.1.1 Contract Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules, Financial Regulations, Standing Orders, Officers Code of Conduct and with all UK Government legislation and European Union binding legal requirements. Contract Officers must ensure that any agents, [consultants](#) and contractual partners acting on their behalf also comply. It is the responsibility of officers to ensure that they are aware of and fully understand these requirements.

2.1.2 Prior to any procurement exercise, Contract Officers must:

- (i) Check the Council's register of recurring contracts to see if a suitable corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to
- (ii) Advise Welland Procurement of their intention to let or re-let a contract with a Total Value in excess of £75,000 a minimum of six months in advance of placing an advertisement to invite tenders

During any procurement exercise, Contract Officers must:

- (iii) Keep relevant records
- (iv) Seek and follow all necessary legal, financial and professional advice
- (v) Be able to demonstrate the achievement of [Value for Money](#)

2.1.3 When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Contract Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal and HR advice before proceeding with inviting tenders or quotations.

2.2 Chief Officers

2.2.1 Chief Officers must:

- (i) Ensure that their staff (including temporary and agency staff) comply with these Contract Procedure Rules and are suitably trained
- (ii) Ensure that details of all current contracts are recorded on the Council's corporate register of recurring contracts
- (iii) Ensure that all completed contracts are passed to legal for safe keeping
- (iv) Ensure that any Contract Procedure Rules exemptions provided for under Rule 4 are duly recorded using the form on the [Procurement Intranet Pages](#)

3. PROCUREMENT OPTIONS

- 3.1 Officers need to consider what procurement method is most likely to achieve the purchasing objectives, in consultation with Welland Procurement.
- 3.2 For all procurements of Goods, Services or Works with a total value BELOW the relevant EU Goods & Services threshold an ***Open*** tender procedure must be used. Advice must be sought from the Welland Procurement.
- 3.3 For all procurements with a total value ABOVE the relevant EU threshold for either Goods/Services or Works, Contract Officers must consult with Welland Procurement before making a final decision on the appropriate procurement method.
- 3.4 For purchasing where there is no on-going commitment the Council's purchasing cards should be used where possible. Such purchases will be ad hoc and with no time bound commitment. Anything other than this must be referred to Welland Procurement.
- 3.5 Regardless of the procurement option used, all EU/UK legislation must be adhered to and all statutory guidance in respect of this legislation.
- 3.6 Where it is a Capital Programme scheme, the recommendation in the Council's guidelines on project management must be adhered to.
- 3.7 Welland Procurement must be consulted prior to commencing any procurement process using framework agreements including those established by the Crown Commercial Service (CCS) or other Public Sector Buying Organisations (PSBOs), where the requirement is valued over the OJEU threshold or otherwise high risk or complex. The terms and conditions of contract applicable to any CCS or PSBO framework agreements, including the requirement to undertake competition between providers, must be fully complied with.

3.8 Collaborative Procurement Arrangements

- 3.8.1 In order to secure [Value for Money](#), the Council may enter into collaborative procurement arrangements. The Contract Officer must consult the Section 151 Officer, the Business Manager - Legal and Welland Procurement where collaborative procurement arrangements are proposed with another local authority, government department, statutory undertaker or Public Sector Buying Organisation.
- 3.8.2 In order to allow the development of joint procurement, shared services, partnerships or collaborative arrangements, the Section 151 Officer shall have delegated authority to permit the use of the Contract Procedure Rules of a local authority partner. The Contract Officer must also consult with Welland Procurement and the Business Manager - Legal to ensure compliance with all legal requirements.
- 3.8.3 All purchases made via a Public Sector Buying Organisation (PSBO) (e.g. ESPO, YPO, CCS) are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the EU threshold must be let under the [EU procedure](#), unless the PSBO has satisfied this requirement already by letting their contract in accordance with the [EU procedure](#) on behalf of the Council and other eligible users.

3.9 Private Finance Initiatives

- 3.9.1 Contracts entered into concerning Private Finance Initiatives shall be undertaken in accordance with relevant legislation. The Contract Officer shall refer to the Legal Business Unit and the Section 151 Officer prior to a contract being entered into concerning Private Finance Initiatives.

3.10 [Framework Agreements](#)

- 3.10.1 Welland Procurement must be consulted prior to commencing any process which could lead to the use of a [framework agreement](#).
- 3.10.2 [Framework agreements](#) must only be used where the Council is either a named participant or where the Council is considered a recognisable class of contracting authority under the terms of the framework agreement.
- 3.10.3 Contracts based on [framework agreements](#) may be awarded by either:
 - (i) Applying the terms laid down in the [framework agreement](#) (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
 - (ii) Where the terms laid down in the [framework agreement](#) are not precise enough or complete for the particular call-off, by holding a mini competition.

Advice must be sought from Welland Procurement.

4. EXEMPTIONS

- 4.1 **The Contract Procedure Rules must be followed. This is to ensure open and transparent competition and protect the Council from any undue risk of challenge of anti-competitive behaviour.**
- 4.2 Where the total lifetime value of a proposed contract is likely to exceed the [EU threshold](#), a Chief Officer has no delegated powers and no exemption can be applied for.
- 4.3 For Supplies and/or Services contracts where the total lifetime value is below the EU threshold, an exemption to all or part of the requirements under section 9.1.1 may be granted with the written approval of the Council's Section 151 Officer. For Works contracts with an estimated total value below the EU threshold, an exemption to all or part of the requirements under section 9.1.1 may be granted with the written approval of the Council's Chief Executive and the Section 151 Officer. Any application for exemption is required to demonstrate valid reasons for not going through an open competition process together with a risk assessment.
- 4.4 Any contract entered into through collaboration with other Local Authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required. However, advice must be sought from Welland Procurement.
- 4.5 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, approval must be sought from the Section 151 Officer, or in the event of his absence the Deputy Section 151 Officer or in his absence, the Chief Executive or the relevant Business Unit Manager. Where this situation arises a report must be sent to the next Policy & Finance Committee to support the action taken.
- 4.6 All exemptions, and the reasons for them, must be recorded using the Contract Procedure Rules Exemption form which is available from the Business Manager – Financial Services. Exemptions shall be detailed by the Contract Officer and signed by the relevant Director and Section 151 Officer and a copy sent to the Business Manager – Financial Services for subsequent recording and monitoring.
- 4.7 The use of e-procurement technology does not negate the requirement to comply with all elements of these Contract Procedure Rules, particularly those relating to competition and [Value for Money](#).
- 4.8 Competitive tenders are not required in any of the following circumstances:
- (i) EU contracts or framework agreements may be modified without a new procurement procedure only in clearly defined situations as provided for under Regulation 72 of the Public Contracts Regulations 2015.

- (ii) The work to be executed or goods or materials to be supplied or the services to be provided constitute an extension of an existing **below EU threshold** contract provided that such an extension has received approval by the Section 151 Officer. Welland Procurement must be consulted and must be satisfied that the extension is in accordance with procurement legislation.
- (iii) The work to be executed or the goods or materials to be supplied consists of repairs to or the supply of parts to existing proprietary machinery or plant by the manufacturers or their agents. The Welland Procurement must be consulted and be satisfied that Value For Money is being achieved.
- (iv) The estimated expenditure is less than £10,000 provided that the appropriate Chief Officer shall take reasonable steps to secure the order at the most competitive price.
- (v) The purchase is by or at public auction, including online auction facilities (e.g. eBay) and the total value of the procurement is below the prevailing EU threshold.

5. RELEVANT CONTRACTS

5.1 All relevant contracts must comply with these Contract Procedure Rules. A relevant contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- (i) The supply or disposal of goods
 - (ii) The hire, rental or lease of goods or equipment
 - (iii) The delivery of services, including (but not limited to) those related to:
 - (a) The recruitment of non direct employees/agency staff
 - (b) Land and property transactions* (also covered by [Financial Regulations](#))
 - (c) Financial and consultancy services
- *(these are exempt from the EU Rules and corresponding UK Regulation)

5.2 Contracts for the sale of land and property must be conducted in accordance with these Contract Procedure Rules or a process approved by the Section 151 Officer and with the approval of the Policy & Finance Committee.

5.3 Relevant contracts do not include:

- (i) Contracts of employment which make an individual a direct employee of the Council
- (ii) Treasury management deals for borrowing or investment which will be dealt with in accordance with the latest Treasury Management Strategy approved by Council.

SECTION 2: COMMON REQUIREMENTS

6. STEPS PRIOR TO PURCHASE

6.1 The Contract Officer must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance contained on the Welland Procurement website, by:

- (i) Ensuring there is sufficient time to complete the purchase process
- (ii) Appraising the need for the expenditure and its priority
- (iii) Assessing the feasibility of the proposed order/tender
- (iv) Ensuring there is sufficient budget
- (v) Assessing and managing risks identified with the procurement process; financial risks should be assessed in consultation with the Section 151 Officer
- (vi) Considering which procurement method is most likely to achieve the purchasing objectives in consultation with Welland Procurement
- (vii) Consulting users as appropriate about the proposed procurement method, contract standards, contract performance (refer to Rule 19) and user satisfaction monitoring
- (viii) Preparing a robust specification of requirements
- (ix) Consulting, where appropriate, with a suitable Technical Officer(s) Drafting the terms and conditions that are to apply to the proposed contract. Consultation must take place with legal services prior to the terms and conditions being finalised
- (xi) Setting out these matters in writing per Rule 7. Records
- (xii) Considering project management arrangements, including [nominating a suitable officer to manage the contract once awarded](#)
- (xiii) Considering the requirements for [construction contracts](#)
- (xiv) Considering how the procurement of above EU threshold public [Services](#) contracts may improve the economic, social and environmental well-being of the District in order to demonstrate compliance with the Public Services (Social Value) Act 2012. Well-being considerations must be relevant and proportionate to the subject matter of the contract and enforceable within the constraints of existing EU legislation.
- (xv) Confirming that there is Member or delegated approval for the expenditure and the purchase accords with the approved scheme of delegation as set out in the Constitution

7. RECORDS

- 7.1 Where the [total value](#) of the procurement is less than £75,000, the Contract Officer must ensure an appropriate audit trail exists in the form of written &/or electronic records to evidence that the procurement process has been carried out in compliance with the Council's Contract Procedure Rules and secures Value for Money.
- 7.2 Where the [total value](#) of the procurement exceeds £75,000 the Contract Officer must record and keep:

- (i) Documented work undertaken pre tender as detailed in Rule 6. Steps prior to Purchase
- (ii) The method for obtaining bids and the basis for the selection of tenderers
- (iii) Any contracting decision and the reasons for it
- (iv) Any exemption under Rule 4 together with the reasons for it including a copy of the exemption form. See 4.5
- (v) The award criteria in descending order of importance
- (vi) Tender documents sent to and received from candidates
- (vii) Pre-tender market research
- (viii) Supporting documentation relating to tender examination
- (ix) Clarification and post-tender clarification (to include minutes of meetings)
- (x) The contract documents
- (xi) Post-contract evaluation and monitoring
- (xii) Written records of communications with candidates and with the successful contractor throughout the period of the contract
- (xiii) Contract monitoring undertaken during the life of the contract

- 7.3 All hard copy and electronic records relating to procurement activities including but not limited to tendering procedures and contracts must be retained by the Contract Officer in accordance with the Council's Retention & Disposal Policy and Retention and Disposal Schedule (Contracts & Tendering).
- 7.4 Business Unit Managers must supply the Business Manager – Financial Services with such information as is required to populate a central contracts register.
- 7.5 All signed contracts must be passed to the Business Manager – Legal Services for safekeeping.
- 7.6 The tender record log must be kept by the Business Manager - Democratic Services. A copy must be kept by the Contract Officer.

8. ADVERTISING

8.1 Identifying and Assessing Potential Candidates

- 8.1.1 Contract opportunities must be advertised in accordance with the provisions of rule 9.1.1 and in consultation with Welland Procurement.
- 8.1.2 Contract Officers are responsible for ensuring that all candidates for a relevant contract are suitably assessed. The assessment process shall establish that the potential candidates have sound:
 - (i) Economic and financial standing
 - (ii) Technical ability and capacity to fulfil the requirements of the authority.

The only exception to this process is direct purchases where the goods are received prior to payment being made.

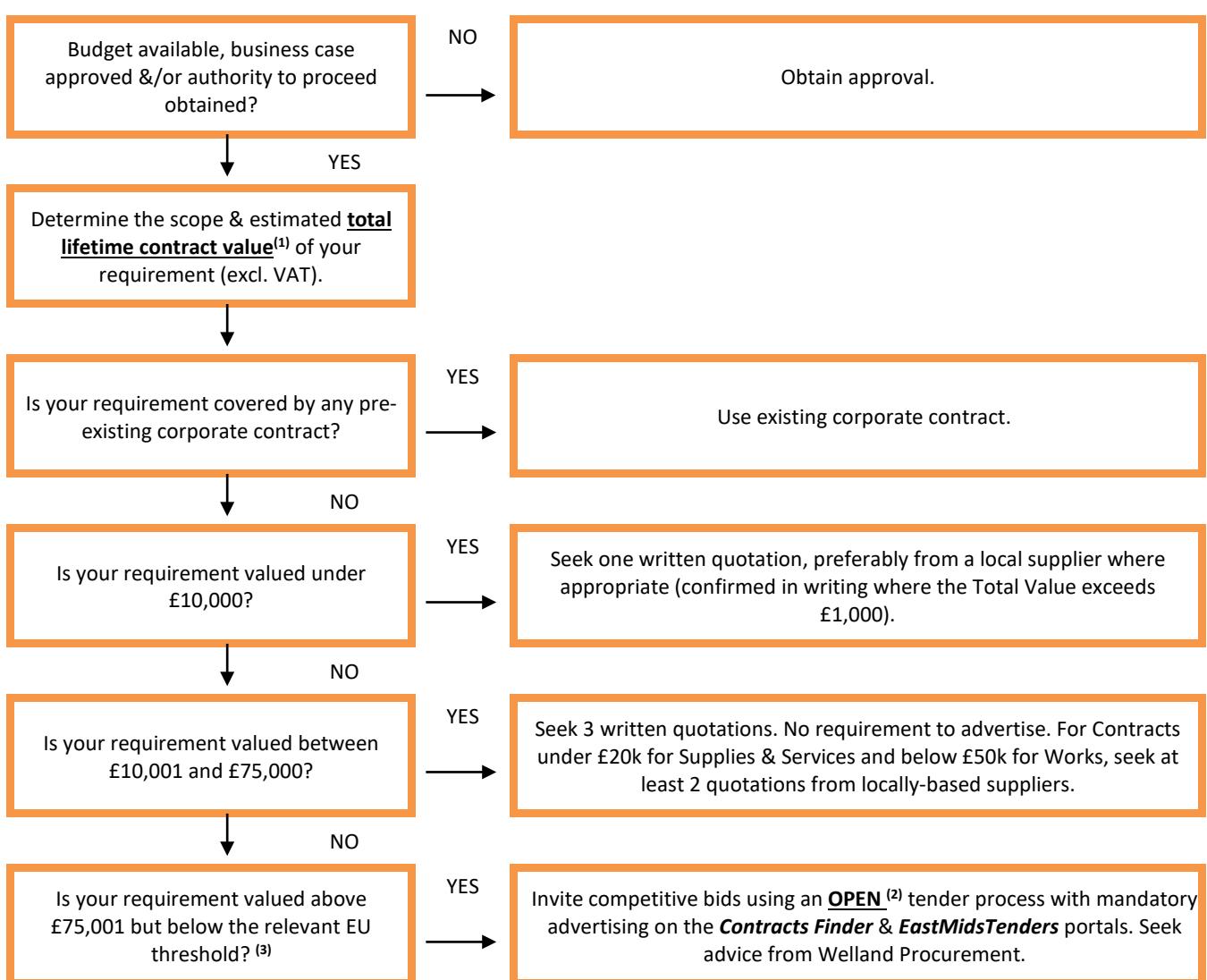
Suppliers/Contractors engaged to deliver Services and Works contracts with a total value in excess of £250,000 should be subject to financial assessment which may include but should not be limited to an Equifax commercial credit check in order to assess their financial viability.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

9. COMPETITION REQUIREMENTS: PURCHASE, DISPOSAL & PARTNERSHIPS

9.1 Purchasing – Competition Requirements

9.1.1 Where an option to proceed with a competitive procurement exercise has been chosen, the following flow chart will determine the appropriate procedure to use.





(1) When calculating the total lifetime value of a contract to appoint a consultant, ALL potential phases of work must be considered.

(2) The use of a RESTRICTED tender process with a separate pre-qualification stage is not permitted under the Public Contracts Regulations 2015 for **Supplies, Services and Works** contracts if the total value is under £181,302. However, the RESTRICTED tender process can be used for Works contracts above £181,302.

(3) The EU thresholds applicable from 01/01/2018 to 31/12/2019:-

- Supplies & Services contracts: £181,302
- Works contracts: £4,551,413
- Light Touch Regime for Health, Social, Education and certain other Service Contracts: £615,278

9.1.2 The Contract Officer must calculate the total value of the contract, taking into account what scope there might be for expansion on the initial requirements.

9.1.3 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirement, Contract Officers must consult with Welland Procurement for further guidance.

9.1.4 A Contract Officer must not enter into separate contracts nor select a method of calculating the total value in order to circumvent the application of these Contract Procedure Rules or to evade EU thresholds.

9.1.5 A Contract Officer may choose to go out to tender following the procedures laid out in the flowchart at 9.1.1 above, for an amount less than that specified. However, all other relevant contract procedure rules must still be followed and the advice of Welland Procurement should be sought.

9.2 Assets for Disposal

9.2.1 Prior to disposal the surplus asset must be offered for internal use elsewhere in the Council.

9.2.2 Assets for disposal with an estimated total value of over £500 must be disposed of by competitive tender or public auction (including online auction facilities such as eBay) unless written approval is obtained from the Section 151 Officer for a different method of disposal to be used. The method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the Section 151 Officer.

9.2.3 The Contract Officer must ensure that any regulations relating to safe and proper disposal are followed.

9.3 Providing Services to External Purchasers

9.3.1 Where works are to be provided to a third party, any contractual arrangement above £15,000 must be approved by the Section 151 Officer prior to being signed. This is regardless of whether the piece of work is a one off or on-going.

9.4 Collaborative and Partnership Arrangements

9.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these Contract Procedure Rules. If in doubt, Contract Officers must seek the advice of the Business Manager - Legal and Welland Procurement.

9.5 The Appointment of Consultants to Provide Services

9.5.1 Contract Officers must seek the advice and guidance of Welland Procurement prior to commencing any procurement process which could lead to the appointment of consultants.

9.5.2 Consultants, including technical and management consultants, shall be selected and commissions awarded in accordance with the procedures detailed within these Contract Procedure Rules and as outlined in the flowchart under Rule 9.1.1.

9.5.3 The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided (inclusive of ALL potential phases of work and associated costs) and shall be subject to completion of a formal letter or contract of appointment.

9.5.4 Records of consultancy appointments shall be maintained in accordance with Rule 7.

9.5.5 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant Chief Officer after consultation with the Section 151 Officer or in his absence the Deputy Section 151 Officer for the periods specified in the respective agreement and any subsequent liability.

9.5.6 All consultancy appointments should clearly stipulate that the copyright in any report or other work or information created as a result of the contract shall be assigned by the contractor to the Council absolutely with full title guarantee.

9.5.7 It is the responsibility of the person arranging the consultancy contract to determine whether or not payments are to be made to the consultant's employer, to the consultant directly or to a personal service company (PSC). This is a limited company owned by the consultant and is commonly used to reduce tax and National Insurance liability. If payment is to be to the contractor personally or through a personal service company, advice must be sought from the S151 Officer and the Business Manager – Human Resources OD before any appointment is made.

10. PRE-TENDER MARKET RESEARCH AND CONSULTATION

10.1 The Contract Officer responsible for the purchase:

- (i) Should seek advice from Welland Procurement
- (ii) May consult potential suppliers prior to the issue of the invitation to tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, **provided** this does not prejudice the objective selection of any potential candidate, but;
- (iii) Must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential candidates or distort competition. This applies to all contracts and is especially relevant in the case of software contracts.

11. CONTRACT AWARD CRITERIA

11.1 The Contract Officer must define award criteria that are appropriate to the purchase and designed to secure an outcome giving demonstrable Value for Money for the Council. The basic criteria shall be:

- (i) 'Most economically advantageous tender', where considerations other than price also apply, or;
- (ii) 'Lowest price' where payment is to be made by the authority
- (iii) 'Highest price' if payment is to be received

If the first criterion is adopted a whole life costing approach is applicable and must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

The extent and weighting of these sub criteria must be decided, declared and documented prior to first advertising the contract opportunity.

The Contract Officer shall ensure the weighting of non-financial criteria within a proposed contract ensures equal treatment of all potential contractors and does not preclude, or give undue preference to, any contractor, and that all dealings with contractors are undertaken on a fair and equitable basis.

11.2 Award criteria must not include:

- (i) Non-commercial considerations
- (ii) Matters that discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement

12. INVITATIONS TO TENDER/QUOTATIONS

12.1 The Invitation to Tender or Quotation shall state that no tender will be considered unless it is received by the date, time and conditions stipulated in the Invitation to Tender or Quotation.

12.2 The conditions applying to Invitations to Tender shall include the following:

- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers or descriptions contained in bills of quantities, including details of workmanship, health and safety and quality.
- (b) The relevant British, European or International standards that apply to the subject matter of the contract in order to describe the required quality.
- (c) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose)
- (d) A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
- (e) Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
- (f) A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance, including any non-financial criteria.
- (g) Where written tenders are to be received, notification that tenders must be enclosed in a securely sealed plain envelope or container which bears the word 'tender' followed by the subject to which it relates (but no other name or mark indicating the sender) and the date and time by which tenders must be returned and marked for the attention of the 'The Chief Executive'.
- (h) Tenders received by fax or other electronic means (e.g. e-mail) will be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Section 151 Officer and the Business Manager - Legal.
- (i) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with; in particular, whether the overall price prevails over the rates in the tender or vice versa.

12.3 All invitations to tender or quotations must specify the terms and conditions of contract that will apply (see Rule 18).

- 12.4 The invitation to tender or quotation must state that the Council does not bind itself to accept the lowest tender, or any tender (after the application of financial and non-financial criteria).
- 12.5 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Should questions arise during the tendering period which in the Council's judgement are of material significance then Contract Officers must write to all tenderers to explain the nature of the question and our formal reply.

13. SHORTLISTING

- 13.1 Shortlisting is illegal in tenders below the EU Services Threshold. All tenders below the applicable threshold, whether for goods, works or services, must follow an open procedure, meaning that all tenders must be evaluated, subject to any grounds for exclusion. These may include any specified minimum technical or professional requirements.
- 13.2 Under an EU procedure that allows shortlisting, this must be based on the published selection criteria and weightings which must have regard to the financial and technical standards relevant to the contract.

14. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

- 14.1 Candidates must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of tenders. The EU procedure lays down specific time periods (see guidance on the [Welland Procurement website](#)).
- 14.2 All tenders that are submitted in writing must be marked for the attention of and returned to the Chief Executive.
- 14.3 Tenders received by electronic means must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Section 151 Officer and the Business Manager - Legal.
- 14.4 Tenders not received by the specified time and date must not be considered unless the conditions detailed under 14.11 prevail.
- 14.5 Tenders that do not comply with the requirements of 12.2 must be rejected and recorded as such on the Tender Log Sheet.
- 14.6 The Business Manager - Democratic Services shall be responsible for the safekeeping of tenders until the appointed time of opening. Each tender must be:
 - (i) Suitably recorded so as to subsequently verify the date and precise time it was received;

- (ii) Adequately protected immediately on receipt to guard against amendment of its contents;
 - (iii) Recorded immediately on receipt in the Tender Record Log.
- 14.7 The Chief Executive must ensure that all tenders are opened at the same time when the period for their submission has ended. When written tenders are received these must be opened in the presence of a Chief Officer and one officer representing the Chief Executive. The Contract Officer or his or her representative must be present, but may not open the Tenders. Where the total value is more than the EU threshold, one officer must be the Section 151 Officer or his representative. Tenders above the EU threshold must only be received via an electronic tendering system.
- 14.8 Upon opening, a summary of the main terms of each tender must be recorded in the Tender Record Log, i.e. significant issues that are unique to each tender submission and were not stated in the tender invitation documents such as tender sum, construction period, etc. If it is not possible to determine the total value of a bid from a bidder's Form of Tender for the purpose of recording it on the Tender Record Log, then the officers in attendance are required to initial all key tender documents in blue ink. The Tender Record Log must be signed by two officers, one on behalf of the Chief Executive.
- 14.9 The tender record log must be in a form approved by the Monitoring Officer and the Section 151 Officer.
- 14.10 Following tender opening, all tenders must be promptly passed to the Contract Officer responsible for evaluation.
- 14.11 Treatment of Late Tenders:
- (i) Any tender received after the specified date and time must not be considered, unless the Chief Officer with the approval of the Section 151 Officer and the Business Manager - Legal consider that circumstances warrant it, such as where there is evidence of posting in time for delivery by the due date and time in the normal course of post delivery (Note: in this instance, the other tenders must not have been opened). Appropriate supporting documentation must be maintained to substantiate the Chief Officer's decision.
 - (ii) Under no circumstances must any late tender be considered after the other tenders have been opened.
 - (iii) Any tender submitted after the specified date and time must be returned promptly to the tenderer by the appropriate Chief Officer unless accepted in accordance with 14.11 (i).
 - (iv) Any tender excluded from the tender opening process may be opened to enable it to be returned promptly but no details of the tender shall be disclosed.
- 14.12 The Contract Officer must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of Tenders.

15. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 15.1 Providing clarification of an invitation to tender to potential or actual candidates or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted but must not be conducted such as to distort competition. Where a clarification is of general relevance to the procurement process, the information must be provided to all candidates.
- 15.2 Except when following specific procedures, negotiation is not allowed under the EU Rules or UK Regulations. Clarification is allowed and if required please seek the advice of Welland Procurement.
- 15.4 Where clarification results in a fundamental change to the specification or contract terms (as agreed by Welland Procurement and the Business Manager - Legal on an individual basis), the contract must not be awarded but re-tendered.

16. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING CANDIDATES

- 16.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of quotations, tenders and the identity of Candidates must be preserved at all times and information about one candidate's response must not be given to another candidate.
- 16.2 Tenders shall be promptly examined for adequacy, completeness (including Health and Safety competence) and accuracy by the Contract Officer and/or appropriate Technical Officer.
- 16.3 Tenders must be evaluated and contracts awarded in accordance with the award criteria. During this process, Contract Officers shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily. Where there are significant differences, these must be reported to the appropriate Chief Officer and the Section 151 Officer immediately.
- 16.4 The arithmetic in compliant tenders must be checked. If arithmetical errors or discrepancies are found which would affect the tender figure (in an otherwise successful tender), they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 16.5 If the tenderer withdraws, or fails to confirm their tender within 10 working days or such period as agreed, the next tender is to be examined and dealt with in the same way. Any exception to the above procedure may only be authorised by the Business Manager - Legal or the Section 151 Officer, after consideration of a suitable report prepared by the Contract Officer, or the Technical Officer who examined the tender.

16.6 All unsuccessful tenderers shall be notified promptly and in accordance with the contract conditions, EU and English law.

16.7 For contracts with a total value above the EU threshold:

16.7.1 The Contract Officer must contact Welland Procurement who will be responsible for drafting all such notifications.

16.8 For contracts with a total value below the EU threshold:

16.8.1 Contract award is notified simultaneously to all bidders. Unsuccessful bidders are provided with their scores and those of the successful bidder for each award criterion and also a brief summary of the relative strengths and weaknesses of their bid. Templates for this purpose and further advice appear on the Welland Procurement website under <http://wellandprocurement.org.uk/newark-and-sherwood-district>.

17.0 INCOME GENERATING CONTRACTS

17.1 Contracts generating income shall only be entered into if the relevant Chief Officer is satisfied that:

- (i) The relevant power to provide a service (for a service contract) and the resources and time required have been properly identified and the proposed contract is in the best interests of the Council;
- (ii) Where the income is to be generated by the granting of a concession, e.g. the opportunity to an external provider to provide an income generating service at a Council event and the estimated value of the concession is:
 - (a) below £10,000 then a minimum of three potential concessionaires should be invited to make offers to the Council
 - (b) above £10,000 then the opportunity should be advertised in accordance with the flowchart under Rule 9.1.1.

and the offers submitted should be evaluated to assess which offer is most economically advantageous to the Council.

17.2 The terms of any contract shall be clearly set out in writing.

SECTION 4: CONTRACT AND OTHER FORMALITIES

18. CONTRACT DOCUMENTS

18.1 Relevant Contracts

18.1.1 All relevant contracts shall be in writing in a form approved by the Business Manager - Legal or their nominated representative.

18.1.2 All relevant contracts, irrespective of value, shall clearly specify:

- (i) What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done) per the specification, bills of quantity or descriptions supplied as part of the tender process
- (ii) The provisions for payment (i.e. the price to be paid and when). The Public Contracts Regulations 2015 require that every contract a contracting authority enters into must provide that payment will be made to the contractor no later than 30 days from the date from which the relevant invoice is regarded as valid and undisputed. This provision also applies to a sub-contract awarded by the contractor and also any sub-sub-contract which the sub-contractor in turn awards
- (iii) The time, or times, within which the contract is to be performed
- (iv) The provisions for the Council to terminate the contract.
- (v) The address at which the works or services are to be undertaken
- (vi) A right of access by the Council to relevant documentation and records held by the Contractor or on their behalf, for monitoring and audit purposes if relevant.
- (vii) [Whistleblowing Policy](#)
- (viii) GDPR requirements relevant to the handling of personal data, its use, storage and disposal during the term of the contract and up to the end of the applicable statutory period of limitation of a contractor's liability.

18.1.3 Additional contractual requirements must include where relevant:

- (i) [Assignment requirements](#)
- (ii) [Nominated sub contractors and nominated supplier requirements](#)
- (iii) [Liquidated damages](#) requirements
- (iv) Any [insurance](#) requirements
- (v) [Health and safety](#) requirements
- (vi) Ombudsman requirements
- (vii) Data protection requirements
- (viii) That charter standards are to be met
- (ix) Equality and Diversity legislation requirements
- (x) Freedom of Information Act requirements
- (xi) [Consultants](#) requirements
- (xii) [Cartels and anti collusion requirements](#)
- (xiii) Necessity for security to be provided.
- (xiv) Business continuity arrangements
- (xv) Disability Discrimination Act requirements
- (xvi) Equalities requirements
- (xvii) Safeguarding requirements

18.1.4 The formal advice of the Business Manager - Legal must be sought for the following contracts:

- (i) Where the [total value](#) exceeds £75,000 or involves the purchase of application software
- (ii) Those involving leasing arrangements
- (iii) Where it is proposed to use a supplier's own terms
- (iv) Those that are complex in any other way

18.2 Contract Formalities

18.2.1 Agreements shall be completed as follows:

<u>Total Value</u>	Method of Completion	By
Below <u>EU threshold</u>	Signature	Please refer to list of officers authorised to sign contracts
Above <u>EU threshold</u>	Advice must be sought from the Business Manager - Human Resources, OD & Legal as to whether the contract should be signed or sealed	Please refer to list of officers authorised to sign contracts Also see Rule 18.3

18.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Business Manager - Legal, after consultation with the Section 151 Officer.

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

18.3 Sealing

18.3.1 Where contracts are to be sealed they must be forwarded to Legal Services for entry in the Seal Register and the affixing and attesting of the Seal. They must be accompanied by the relevant Council or Committee authority.

18.3.2 Contracts shall be sealed in accordance with the Council's Constitution.

18.3.3 Advice must be sought from the Business Manager - Legal whether a contract should be sealed when:

- (i) The Council may wish to enforce the contract more than six years after its end; or
- (ii) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- (iii) There is any doubt about the authority of the person signing for the other contracting party, or
- (iv) The total value exceeds the EU threshold.

19. BONDS AND PARENT COMPANY GUARANTEES

19.1 The Contract Officer, when assessing the contractor's financial viability, shall consider whether the Council requires security for due performance of the contract.

- 19.2 The Contract Officer must consult the Section 151 Officer about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and the total value exceeds the EU threshold.
- 19.3 Where security is considered to be appropriate and required, the Contract Officer, in consultation with the appropriate officers, shall specify in the tender the nature and amount of the security to be given. This as a minimum shall be at least 10% of the total value of the contract.
- 19.4 The security shall be obtained by the contractor in a format, and from an institution or bank approved by the Section 151 Officer.

20. PREVENTION OF CORRUPTION AND COLLUSION

- 20.1 The Contract Officer must comply with the Officer's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Contract Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 20.2 below.
- 20.2 The following clause must be put in every written Council contract:

"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- a) *Offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or*
- b) *Commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972, or*
- c) *Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.*

Any clause limiting the Contractor's liability shall not apply to this clause."

- 20.3 The Contract Officer and/or Technical Officer shall undertake periodic reviews of tenders submitted by successful tenderers to consider the potential for tenderer collusion and cartels.
- 20.4 All Officers, Members, potential and existing contractors must be made aware of the Council's Whistleblowing Policy.

21. DECLARATION OF INTERESTS

- 21.1 If it comes to the knowledge of a Member or an employee of the authority that a contract in which he or she has a personal or prejudicial interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer.
- 21.2 Such written notice is required irrespective of whether the interest is direct or indirect. Interests are defined in the Members and Officers [Codes of Conduct](#).
- 21.3 A shareholding in a body less than a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not an interest for the purposes of these Contract Procedure Rules.
- 21.4 The Monitoring Officer shall maintain a record of all declarations of interests notified by Members and Officers.
- 21.5 The Monitoring Officer shall ensure that the attention of all Members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

22. MANAGING CONTRACTS

- 22.1 Contract management should be proportionate to the total value, risk and complexity of the contract.
- 22.2 Contract Officers must follow the procedures set out in these Contract Procedure Rules as well as the good practice guidance on contract management available on the Welland Procurement Portal.

23. RISK ASSESSMENT

- 23.1 A risk register must be prepared for all contracts with a total value over the [EU threshold](#) to ensure that identified contract risks are managed by named Officers over the lifetime of the contract.
- 23.2 For all contracts with a potential value under the EU threshold, Contract Officers must, where appropriate, undertake risk assessments and, for identified risks, ensure contingency and risk mitigation measures are in place.

24. CURRENCY OF CONTRACT PROCEDURES

24.1 Monitoring and Review

24.1.1 During the life of the contract, the Contract Officer must closely monitor and address the following areas:

- (i) Performance
- (ii) Compliance with specification and contract
- (iii) Cost
- (iv) Any [Value for Money](#) requirements
- (v) User satisfaction
- (vi) On-going economic and financial standing of the supplier/contractor. Periodic Equifax commercial credit reports are to be sought for all suppliers/contractors linked to major programmes and projects being delivered by the Council with a total value in excess of £250,000 and for the duration of the contract.
- (vii) On-going technical ability and capacity of the supplier/contractor
- (viii) On-going risk assessment & risk mitigation

24.1.2 Contract Officers must keep management aware of progress, so that any required corrective action can be taken promptly.

24.1.3 Appropriate supporting documentation shall be maintained to substantiate the monitoring undertaken.

24.1.4 In respect of construction contracts:

- (i) The Contract Officer shall report progress to the Capital Monitoring Group on a regular basis and in an agreed format.
- (ii) Where there is any unforeseen specification adjustments which occur during the construction phase, the Contract Officer must seek to find savings within the total project budget and advise SLT to ensure they agree the savings are realistic. Alternatively, they must seek additional funding via a report to Policy & Finance Committee where the amount is in excess of delegated authority.
- (iii) Where savings cannot be found the Contract Officer must advise SLT as soon as practicable.
- (iv) The Section 151 Officer must be kept informed of any additional costs and potential savings. The Section 151 Officer will report these to Policy & Finance Committee.

24.1.5 All contracts which have a value higher than the relevant [EU threshold](#), or which are high risk, are to be subject to periodic formal review with the contractor.

24.1.6 A risk register should be established for all contracts exceeding the EU threshold to ensure that contract outcomes are fully delivered.

24.2 Certificates/Interim Payments

- 24.2.1 No certificate of work performed on a contract shall be raised prior to the signing of the contract, subject to compliance with appropriate contract conditions. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.
- 24.2.2 Interim payments to contractors shall only be made by the Section 151 Officer or his nominated officer on receipt of an approved form of certificate signed by an authorised officer.
- 24.2.3 Where a performance bond is required for a contract, no payment is to be made until the bond has been received. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.
- 24.2.4 Any contractual retention monies shall be deducted from payments in accordance with contract conditions.

24.3 Variations to the Contract

- 24.3.1 EU contracts or framework agreements may be modified without a new procurement procedure only in clearly defined situations as provided for under Regulation 72 of the Public Contracts Regulations 2015.
- 24.3.2 In the case of contracts with a total value below the EU threshold, permissible grounds for amendment include the following:
 - (i) Any variations made to the contract in accordance with the terms of the contract.
 - (ii) Variations approved and authorised by the Contract Officer together with the appropriate Business Manager.
 - (iii) Major variations (which result in the value of the contract increasing by more than 20% of the original contract sum or £50,000, whichever is the lesser) shall require the prior approval of the Contract Officer, or if appropriate, the Policy & Finance Committee or Council
- 24.3.3 Concerning construction contracts, variations to the contract shall only be made on approved forms.
- 24.3.4 The Contract Officer shall inform the Section 151 Officer and the Policy & Finance Committee of substantial variations likely to result in over or under-spends.

24.4 Extensions of Time/ Contract Completion

- 24.4.1 The Contract Officer shall ensure that extensions of time concerning constructional contracts are considered in accordance with the terms of the Contract.

- 24.4.2 The Contract Officer shall take due regard to actual contract progress, all appropriate supporting documentation, and all other extenuating circumstances when considering an extension of time.
- 24.4.3 Extensions of time shall only be awarded on the issue of approved forms by the Contract Officer.
- 24.4.4 The Contract Officer shall ensure that the procedures for contract completion are in accordance with the terms of the contract.
- 24.4.5 Approved forms shall be used for indicating contract completion by the Contract Officer.

24.5 Price Fluctuations

- 24.5.1 The Contract Officer shall ensure that the basis of price fluctuations, where applicable, is appropriate and properly detailed in the tender/contract documentation and shall take advice from the Section 151 Officer or his nominee.
- 24.5.2 The Contract Officer shall ensure that any price fluctuations are valid, in accordance with the terms of the contract, and correctly included in interim valuations where appropriate.

24.6 Contractual Claims

- 24.6.1 The Contract Officer shall ensure that the calculation of sums due to the contractor for loss and/or expense claims is in accordance with the terms of the contract.
- 24.6.2 The Contract Officer shall take due regard to all appropriate supporting documentation when considering a contractor's contractual claim.

24.7 Cancellations (including Determinations)

- 24.7.1 The Contract Officer must refer any attempt to cancel a contract or any situation where the right to cancel a contract might arise, to the Legal Section for advice before any acknowledgement or notice is issued.
- 24.7.2 Cancellations shall only be made in accordance with the terms of the contract, or in conjunction with offences made under the Bribery Act 2010 or section 117(2) of the Local Government Act 1972

24.8 Liquidations and Bankruptcies

- 24.8.1 The Contract Officer shall ensure that all actions taken in the event of a contractor liquidation or bankruptcy are in accordance with the conditions of contract.
- 24.8.2 For construction contracts, the Contract Officer shall:
 - (a) Notify the Monitoring Officer immediately.
 - (b) Secure the site in question

- (c) Ensure that outstanding works are completed as soon as possible
- (d) Ensure that the remaining work is undertaken in the most economic, effective and efficient manner
- (e) Ensure that appropriate claims are lodged with the receiver/liquidator
- (f) Ensure that the appropriate bondsperson is notified
- (g) Ensure appropriate insurance is obtained

24.8.3 The Contract Officer shall take advice from the Monitoring Officer and Section 151 Officer of the procedures to be followed in the event of a liquidation or bankruptcy and ensure that such procedures are adhered to in the event of such a situation occurring.

24.9 Final Accounts

24.9.1 The Contract Officer shall ensure that final account and certificate procedures are in accordance with the terms of the contract.

24.9.2 The Contract Officer shall ensure that final accounts submitted by the contractor are complete and accurate.

24.9.3 The final payment shall not be made until the Section 151 Officer has given approval following consideration of the final account and supporting documents.

24.9.4 The Section 151 Officer (or his authorised representative) shall have right of access to, and examination of, sites and supporting documentation at various stages of work, in conjunction with such explanations as required. Such visits shall be undertaken, and documentation reviewed, with an appropriate Technical Officer or the Contract Officer.

25. POST CONTRACT PROCEDURES

25.1 Recovering Liquidated and Ascertained Damages

25.1.1 The Contract Officer shall ensure that liquidated and ascertained damages are calculated whenever unauthorised delay occurs on contracts.

25.1.2 Liquidated and ascertained damages shall be promptly deducted in accordance with the terms of the contract. The Section 151 Officer shall be promptly notified of the existence of liquidated damages.

25.2 Post Contract Reporting

25.2.1 The Contract Officer shall ensure that, where appropriate, accurate and timely management information is provided at the completion of the contract.

25.2.2 Where the total value of the contract exceeds the EU threshold, the Contract Officer must make a written report to the relevant Chief Officer considering:

- (i) If weaknesses in control procedures have occurred;
- (ii) That corrective action, where necessary, has been taken;

(iii) To what extent the original objectives of the contract have been achieved.

SECTION 6: DEFINITIONS

Agent: A person or organisation acting on behalf of the Council or on behalf of another organisation.

Award Criteria: The criteria by which the successful quotation or tender is to be selected (see further Rules 11 and 12.2f).

Award Procedure: The procedure for awarding a contract as specified in Rules 9, 11 and 16.

Best Value: The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by [Value for Money](#).

Bond: An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.

Candidate: Any person who asks or is invited to submit a quotation or tender.

Chief Executive: Relates to the Head of the Council's Paid Service

Chief Officer: Relates to the Chief Executive, Deputy Chief Executive and Directors.

Code of Conduct: The code regulating conduct of Officers as set out in the Council's Constitution.

Committee: A committee that has power to make decisions for the Council, including a joint committee with another local authority.

Constitution: The constitutional document approved by the Council which:

- Allocates powers and responsibility within the Council and between it and others
- Delegates authority to act to Committees and Officers
- Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

Contract: Any agreement between the Council and any other party, which is intended to be legally binding. The term therefore applies to all contracts, together with all orders placed on behalf of the Council.

Contractor: Any company, partnership, sole trader, individual, local or public utility used in connection with the supply of goods, materials, professional or technical services, or for the supply of works.

Consultant: Someone employed to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.

Contracting Decision: Any of the following decisions:

- Withdrawal of invitation to tender
- Whom to invite to submit a quotation or tender
- Shortlisting
- Award of contract
- Any decision to terminate a contract.

Contract Officer: The officer designated by the Chief Officer to deal with the contract in question.

Council: Deemed to include reference to Committees or an officer acting in accordance with delegated authority on behalf of the Council,

Deputy Section 151 Officer: Relates to the officer formally designated to act as deputy to the Section 151 Officer

EU Procedure: The procedure required by the EU where the total value exceeds the EU threshold

EU Threshold: The contract value at which the EU Public Procurement Directives apply at the time the contract is advertised.

Financial Regulations: The financial regulations specifying responsibilities for financial matters detailed in the Council's Constitution.

Framework Agreement: It is an agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Used in the case of repetitive purchases to choose suppliers who, when required will be able to meet the Council's purchasing needs. A framework does not include a commitment by the purchaser to guarantee a volume of work to a supplier. Framework agreements may be used in conjunction with any procedure. If the total value of all call offs over the life of the framework lifetime is estimated to be above the relevant EU threshold then the EU rules governing advertising and awarding the contract must be applied as if it were a contract.

Gateway Review: A formal evaluation of the project at the conclusion of a Key stage to determine whether or not the project should proceed to the next stage.

High Risk: A high-risk purchase is one that presents the potential for substantial exposure on the Council's part if it were to fail or go wrong, as determined by the Business Manager - Community Safety.

High Value: A high-value purchase is where the value exceeds the EU threshold values.

Invitation to Tender: Invitation to tender documents in the form required by these Contract Procedure Rules.

Line Manager: The Officer's immediate superior or the Officer designated by the Chief Officer to exercise the role reserved to the line manager by these Contract Procedure Rules.

Monitoring Officer: Relates to the Officer formally designated under Section 5 of the 1989 Act (destination and reports of Monitoring Officer) or, if that person is unable to act owing to absence or illness the person nominated as his/her deputy under Subsection 7 of that Act.

Nominated Officer: Relates to an officer given appropriate delegated authority by the Chief Officer.

Nominated Suppliers and Sub-contractors: Those persons specified in a main contract for the discharge of any part of that contract.

Non-Commercial Considerations:

- a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
- b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.
- c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.
- d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').
- e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.
- f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.
- g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withdraws support.
- h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.

Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be [non-commercial considerations](#) to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.

Parent Company Guarantee: A contract that binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.

Procurement Intranet Pages: The suite of guidance documents, together with a number of standard documents and forms, which support the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet.

Welland Procurement: The Officer charged with providing strategic direction and advice to secure [Value for Money](#) in the Council's procurement activities.

Quotation: A quotation of price and any other relevant matter (without the formal issue of an invitation to tender).

Relevant Contract: Contracts to which these Contract Procedure Rules apply (see Rule 5).

Section 151 Officer: Relates to the designated Responsible Financial Officer. This is a statutory post appointed by full Council to have responsibility for the financial affairs of the Council as required by Section 151 of the Local Government Act 1972.

Shortlisting: The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.

Standards: Set by professional bodies in respect of technical, engineering, environmental and quality issues.

Technical Officer: Relates to an appropriate officer with detailed technical knowledge of the contract in question

Tender: A Candidate's proposal submitted in response to an invitation to tender.

Tender Record Log: The log maintained by the Business Manager - Democratic Services to record details of Tenders

Total Value: Please refer to the Public Contracts Regulations 2015 Part 2 (6) Methods for calculating the estimated value of a procurement. When calculating the total value of a contract to appoint a consultant, ALL potential phases of work must be considered.

TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246): Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting-out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to

the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Unforeseeable emergency: Urgency in this instance is defined as circumstances beyond the Council's control, and not due to a lack of expeditious action being taken internally

Value for Money: Value for Money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

Whole Life Costing: Whole cost of ownership including acquisition costs, operational costs and end life costs.

HYPERLINK INFORMATION:

CONSTRUCTION CONTRACTS

- (i) The contract officer shall ensure that necessary action is taken to initiate appropriate contract details (such as drawings, costings etc).
- (ii) A brief, suitably authorised and approved by appropriate officers, shall be initiated, where appropriate, prior to the tender stage, which supports the project appraisal process.
- (iii) Where appropriate, a project team should be set up to ensure that all necessary processes relating to project appraisal have been considered and undertaken.

ASSIGNMENT

Every formal contract either for the execution of work, or the supply of goods or materials, or the provision of services, shall contain a provision that :

The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of this contract without the written permission of the Council. Sub-letting of any part(s) of the work, except to the extent permitted in writing by the Council, shall be prohibited.

NOMINATED SUB-CONTRACTORS AND NOMINATED SUPPLIERS

Tenders for sub-contracts to be performed, or services to be provided, or goods or materials to be supplied by nominated sub contractors or nominated suppliers, shall be invited in accordance with the methods prescribed in Rule 12.

Tenders shall be administered by the Contract officer in accordance with the arrangements prescribed in the Contract Procedure Rules

The Contract Officer shall consider the requirement for a method statement to be included in the contract, which considers the extent to which nominated sub-contractors or suppliers are used and how they are chosen.

LIQUIDATED DAMAGES

Contracts which are estimated to exceed £75,000 in value or amount and which are for the execution of works (or for the supply of goods, materials or services by a particular date or series of dates), or which are for a lesser value if appropriate, shall provide for liquidated damages.

Liquidated damages shall be assessed by the Contract Officer in conjunction with the appropriate Technical Officer if applicable. Such damages shall be determined on a relevant and suitable basis, which is properly substantiated by appropriate supporting documentation.

Where liquidated or ascertained damages are not considered to be appropriate within a contract by the Contract Officer, the approval of the appropriate Chief Officer and Section 151 Officer must be obtained.

The requirement for liquidated or ascertained damages for contracts estimated to be £75,000 or less is at the Contract Officer's discretion, bearing in mind the risk that delays in the completion of small value contracts could result in the delay of more important contracts.

INSURANCE (employers' liability, public liability insurance, professional liability/indemnity where appropriate)

In connection with the carrying out of all works, irrespective of value, the contractor shall indemnify the Council and provide such insurance as may be required under the conditions of the contract. This shall, as a minimum, indemnify the Authority against injury and damage to persons and property. The minimum value for any one occasion or series of occasions arising out of one event shall be based upon:

- (a) Circumstances relevant to the particular contract in question, or
- (b) A minimum value periodically determined by the Section 151 Officer

The Contract Officer shall ensure that the appropriate insurance documents have been submitted by the contractor in conjunction with the contract conditions.

The Contract Officer shall ensure that the adequacy of the submitted insurance documents is confirmed by the Council's Insurance Officer.

The Contract Officer shall ensure that insurance cover is maintained throughout both the period of the contract and the maintenance period (where appropriate).

HEALTH AND SAFETY

Contracts must include the requirements of work and safety management as per the guidance issued by the Risk and Resilience Section

The Contract Officer shall consider the Health and Safety aspects of all relevant contracts in conjunction with the Business Manager - Community Safety.

The Contract Officer shall refer to the Council's Health and Safety guidance for Officers regarding the Control of Contractors where appropriate.

The Contract Officer shall supply to the contractor all necessary Health and Safety information.

In connection with the carrying out of all works, irrespective of value, the contractor shall provide to the Council Health and Safety details as may be required by Statute and under the conditions of the contract.

The Contract Officer shall ensure that the appropriate Health and Safety details have been submitted by the contractor in conjunction with the contract conditions.

The Contract Officer shall ensure the adequacy of the submitted Health and Safety documents, in conjunction with the appropriate Technical Officer as appropriate.

WHISTLEBLOWING POLICY

The Contract Officer shall ensure that contract documents include the Council's [Whistleblowing Policy](#).

The contract documents shall state that the Contractor shall ensure that staff employed by the Contractor (including sub-contractor staff where appropriate) are aware of the Council's Whistleblowing Policy and the arrangements to be followed in the event of them having any concerns and wishing to make a disclosure.

CARTELS AND ANTI COLLUSION

The Contract Officer shall ensure that contract documents include a declaration of non-collusion, which is a fundamental term of the contract. This declaration should cover collusion with associated or affiliated companies or subsidiaries as well as unrelated competitors.

The Contract Officer shall ensure that the contractor is aware that it is a requirement that a list of all affiliates and subsidiaries is included as part of the tender return.

There shall be a clear statement within the contract documents that:

- While returned documents will be treated in the strictest confidence, they will be made available to Trading Standards Departments, the Office of Fair Trading and other appropriate regulators where appropriate;
- The Public Register of Restrictive Agreements will be consulted where appropriate.

The Contract Officer shall ensure that a signed declaration of non-collusion is received from each contractor invited to tender.

ENGAGEMENT OF CONSULTANTS

It shall be a condition of the engagement of any consultant (not being an officer of the Council) who is to be responsible to the Council for the supervision of a contract on its behalf (which may include aspects such as design and preparation of a specification), that in relation to that contract he shall:

- (i) Comply with these Contract Procedure Rules and the Council's Financial Regulations as though he were an officer, subject also to the proviso that any modification or changes to the Council's procedures (to be followed in inviting and opening tenders) be approved in advance by the responsible Contract Officer, through whom all liaison with the Council shall occur.
- (ii) At any time during the carrying out of the contract, produce to the Monitoring Officer, Section 151 Officer, or the Contract Officer, or their authorised representative(s), on request, all records maintained by him in relation to the contract.
- (iii) On completion of a contract, pass all such records to the appropriate Contract Officer; and;
- (iv) In connection with building construction or engineering schemes, appropriate "as built" drawings shall be handed over to the authority within six months of completion.

All consultants shall be engaged using, where appropriate, standard terms and conditions set by the appropriate professional body. Payment shall be in accordance with agreed schedules of service and scales of fees, or lump sum fees, modified as necessary to reflect individual circumstances.

The Contract Officer shall ensure that any consultants engaged hold appropriate professional indemnity [insurance](#), the extent of which shall be at the discretion of the Contract Officer dependent upon the complexity, scope and value of the scheme.

Ownership of intellectual property shall remain with the Authority at all times.

NEWARK & SHERWOOD DISTRICT COUNCIL

**CONSTITUTION
MAY 2021**

**Part Three
Page No: 117**

OFFICER EMPLOYMENT PROCEDURE RULES INDEX	PAGES
1 Purpose	118
2 Appointment, Dismissal and Disciplinary Action	118
3 Provisions Relating to Head of Paid Service, Chief Officers, Deputy Chief Officers and Assistants for Political Groups	118
4 Council Approval of Appointment of Head of Paid Service	118
5 Member Involvement in Appeals	119
6 Disciplinary Action Against Head of Paid Service, Monitoring Officer and Chief Finance Officer	119
7 Procedure for Recruitment and Appointment including:	120
(i) General Provisions Relating to Recruitment and Appointment	120
(ii) Recruitment of Head of Paid Service and Chief Officers	121
(iii) Appointment of Head of Paid Service	121
(iv) Appointment of Chief Officers	121
(v) Appointments below Chief Officer	121
(vi) Other Appointments	122
(vii) Disciplinary Action	122
(viii) Dismissal	122
8 Statement of Pay Policy	122

OFFICER EMPLOYMENT PROCEDURE RULES

1 Purpose

These Rules deal with the appointment and dismissal of staff.

2 Appointment, Dismissal and Disciplinary Action

Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act as the Head of Paid Service or by an officer nominated by him.

3 Provisions Relating to Head of Paid Service, Chief Officers, Deputy Chief Officers and Assistants for Political Groups

Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:-

- (a) the officer designated as the Head of Paid Service
- (b) A statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts)
- (c) A non-statutory chief officer within the meaning of section 2(7) of the 1989 Act
- (d) A deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) A person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4 Council Approval of Appointment of Head of Paid Service and Council Approval of Dismissal of Head of Paid Services, Chief Finance Officer and Monitoring Officer

Where a Committee, Sub-Committee or Officer is discharging, on behalf of the authority, the function of the appointment of an Officer designated as the head of the authority's paid service the authority must approve that appointment before an offer of appointment is made to him.

Where a Committee or Sub-Committee or Officer is discharging, on behalf of the authority the function of dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer or Monitoring Officer the authority must approve that dismissal before notice of dismissal is given to him.

5 Member Involvement in Appeals

Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:-

- (a) another person against any decision relating to the appointment of another person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of that member of staff.

6 Disciplinary Action Against Head of Paid Service, Monitoring Officer or Chief Finance Officer

1. In the following paragraphs:-

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

- 2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- 3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- 4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with 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.
6. An authority is not required to appoint more than two relevant independent person in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:-
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusion of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

7 Procedure for Recruitment and Appointment

(i) General Provisions Relating to Recruitment and Appointment

(a) Declarations:

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

(b) Seeking Support for Appointment:

- (i) the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) no Councillor will seek support for any person for any appointment with the Council.

(ii) Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as it is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph (I) to be sent to any person on request.

(iii) Appointment of Head of Paid Service

- (a) The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a panel of Members of the Council.

(iv) Appointment of Chief Officers

- (a) "Chief Officers" means those Officers specified in the Council's Constitution namely the Chief Executive, Deputy Chief Executive and Directors. Chief Officers will be appointed by a panel of Members. The panel has delegated authority to make such appointments other than in the case of the Head of Paid Service where the appointment must be approved by the Council.

(v) Appointments below Chief Officer

- (a) Appointments below Chief Officer shall be the responsibility of the Head of Paid Service or relevant Chief Officer
- (b) In the case of Deputy Chief Officers, Chief Officers may consult members on such appointments, but are not required to do so.

(vi) Other Appointments

- (a) **Officers below Deputy Chief Officer.** Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Chief Officer to whom the Officer will report or his/her nominee. Such appointments must not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

(vii) Disciplinary Action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer, Chief Finance Officer and other Chief Officer(s) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months, without a review of such suspension first taking place.
- (b) Councillors will not be involved in the disciplinary action against any officer other than a Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action resulting in dismissal only.
- (c) Deputy Chief Officers will be subject to the same disciplinary procedures as apply to other members of staff.

(viii) Dismissal

- (a) Councillors will not be involved in the dismissal of any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of dismissals.

8 Statement of Pay Policy

A statement of the Council's pay policy will be published annually.

NEWARK & SHERWOOD DISTRICT COUNCIL'S PETITION SCHEME

Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. A petition is defined as a communication in writing or using an electronic facility, which is signed by the appropriate number of qualifying people. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to the Chief Executive, Newark & Sherwood District Council, Castle House, Great North Road, Newark, Notts. NG24 1BY.

Petitions can be presented to a meeting of the full Council. These meetings take place within an annual cycle of meetings, details of which can be found at www.newark-sherwooddc.gov.uk. If you would like your petition to be presented to a full Council Meeting please contact your local Councillor asking them to present it on your behalf or contact Democratic Services on 01636 655243 or committees@newark-sherwooddc.gov.uk at least 10 working days before the Council meeting.

If your petition has received 1,000 signatures or more from people that live and/or work in the District then this will trigger a debate at full Council. If this is the case contact will be made with the lead petitioner to discuss options for enabling this to take place.

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. The subject should be relevant to some matter in relation to which the Council has functions or which affects the area or its inhabitants. It should also state what action the petitioners wish the Council to take; and
- the name and address (including postcode) and signature of any person supporting the petition.

Signatures are only valid for people who live, work or study within the District. In the case of an e-petition submitted via the Council's website or an alternative platform, a signature is not required but a valid email address, name, address and postcode must be supplied by each of the petitioners. Further details about e-petitions are given later in this petition scheme.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not

identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

If you want to submit a petition to a specific meeting of the Council then you need to ensure that we receive a completed petition with details of the petition subject matter, number of signatures and your contact details 10 working days before the meeting to enable it to be submitted and included on the summons for the meeting.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

The Council's Monitoring Officer will decide as to whether or not the guidelines referred to above have been met and therefore whether a petition should be accepted.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take. If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures will apply.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter

- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by a committee of the Council whose remit includes the matters referred to in the petition
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

If your petition is about something that a different Council is responsible for or over which the Council has no direct control (for example rail services or a hospital) we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other organisation, but could involve other steps. In any event we will always notify you of the action we have taken.

Full Council Debates

If a petition contains more than 1,000 signatures it will be scheduled for debate by the full Council. This means that the issue raised in the petition will be discussed at a meeting at which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser or the Councillor acting on their behalf will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors. If the petition organiser indicates they wish to present the petition at the meeting but they are unable to attend the meeting, the Council will continue to debate the petition without presentation. The Council may exercise their discretion to limit the debate to a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

The Council may consider there to be a more expedient way in which to deal with a petition which contains more than 1,000 signatures. If this is the case, the lead petitioner will be notified accordingly.

Presentation of Petitions at Full Council

Your petition may not have the requisite number of signatures to trigger a Council debate. However, your petition can still be presented to a meeting of the full Council. When you are satisfied that your petition meets all of the criteria you should contact your local Ward Councillor or appropriate Member to make arrangements for the submission of the petition to the next full Council Meeting. Democratic Services can also approach the relevant Councillor on your behalf.

The Member being asked and wishing to present the petition should satisfy themselves that the petition meets the guidelines for petitions as set out in this Scheme and notify the Chief Executive, prior to the full Council meeting that they intend to present the petition. They have a maximum of

3 minutes in which to present the petition to the full Council meeting. The petition organiser does not have a right to present the petition to the full Council meeting and there will be no debate.

E-Petitions

The Council welcomes e-petitions which are created through our website www.newark-sherwooddc.gov.uk/epetitions. For these the petition organiser must provide us with their name and address (including postcode) and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe up to a maximum of 12 months. When you create an e-petition it will take up to 5 working days before it is published on the website. This is because we have to check that the content of your petition before it is published online. If we feel that we cannot publish your petition for some reason we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the website.

When an e-petition has closed for signature it will automatically be submitted to Democratic Services. In the same way as a paper petition, you will receive an acknowledgment within 10 working days. You can see all the e-petitions currently available on the website www.newark-sherwooddc.gov.uk/epetitions. When you sign the e-petition you will be asked to provide your name, postcode and a valid email address.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request a review of the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The relevant committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

PART 4

CODES AND PROTOCOLS

NEWARK & SHERWOOD DISTRICT COUNCIL

**CONSTITUTION
JULY 2021**

**Part Four
Page No: 2**

CONTENTS	PAGES
Member Code of Conduct	3
Officers' Code of Conduct	16
Protocol on Member/Officer Relations	22
Protocol for Dealing with Ombudsman Matters	27
Protocol for Members on Hospitality and Gifts	28
Protocol for Members on Dealing with Planning Matters	32
Protocol to Guide Officers on the Procedure to Follow when a Member (past or present) Passes Away	45
Whistleblowing Policy	46
The Budget Process	54
Scheme for the Appointment of Honorary Aldermen and Honorary Freemen and Freewomen	61
Scheme for the Admission of Honorary Freemen and Freewomen	63
Guidelines on Appointments to Outside Bodies	64
Local Code of Corporate Governance	66
Protocol Relating to the Independent Person	78
Protocol Relating to the use of Social Media for Members	81
Protocol Relating to Remote Meetings	86

NEWARK & SHERWOOD DISTRICT COUNCIL

Code of Conduct for Members

Introduction

All councils are required to have a local Councillor Code of Conduct. Newark & Sherwood District Council has adopted this Code of Conduct pursuant to Section 27 of the Localism Act 2011 to promote and maintain high standards of behaviour by its Members and Co-Opted Members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. Conduct of individual councillors affects the reputation of the Council as a whole.

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

Importantly, councillors should be able to undertake their role without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code is designed to protect the democratic role of councillors, encourage good conduct and safeguard the public's trust in local government, it is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership ("The Nolan Principles").

Definitions

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

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

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

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.

General Principles of Councillor Conduct

Everyone in public office at all levels, all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers, should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

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

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

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

In undertaking your role you SHOULD:

- ✓ impartially exercise your responsibilities in the interests of the local community;
- ✓ exercise your independent judgement, taking decisions for good and substantial reasons;
- ✓ account for your actions, particularly by supporting the authority's scrutiny function;
- ✓ not improperly seek to confer an advantage, or disadvantage, on any person;
- ✓ avoid conflicts of interest;
- ✓ exercise reasonable care and diligence;
- ✓ ensure that public resources are used prudently in accordance with the Council's requirements and in the public interest; and
- ✓ ensure that the authority acts within the law.

Application of the Code of Conduct

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

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

- ✓ Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.
- ✓

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

- ✓ at face-to-face meetings
- ✓ at online or telephone meetings

STANDARDS OF COUNCILLOR CONDUCT

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

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

General Conduct

1. Respect

As a Councillor you should:

- 1.1** treat other councillors and members of the public with respect.
- 1.2** treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

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

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

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Council's councillor-officer protocol.

2. Bullying, Harassment and Discrimination

As a councillor you should:

- 2.1 not bully any person.
- 2.2 not harass any person.

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

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

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

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

3. Impartiality of Officers of the Council

As a councillor you should:

- 3.1 not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and Access to Information

As a councillor you should:

4.1 not disclose information:

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

4.2 not improperly use knowledge gained solely as a result of your role as a councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.

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

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

5. Disrepute

As a councillor you should:

5.1 not bring your role or the local authority into disrepute.

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

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

6. Use of Position

As a councillor you should:

- 6.1 not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

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

7. Use of Local Authority Resources and Facilities

As a Councillor you should:

- 7.1 not misuse council resources.
- 7.2 when using the resources of the local authority or authorising their use by others:
- a. act in accordance with the local authority's requirements; and
 - b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which you have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

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

8. Complying with the Code of Conduct

As a councillor you should:

- 8.1 undertake Code of Conduct training provided by the Council.
- 8.2 cooperate with any Code of Conduct investigation and/or determination.
- 8.3 not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 8.4 comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

Protecting your reputation and the reputation of the local authority

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

9. Interests

As a councillor you should:

- 9.1 register and disclose your interests.

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

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

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.

10. Gifts and Hospitality

As a councillor you should:

- 10.1 not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 10.3 register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.

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

APPENDICES

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B - Registering Interests

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

“**Disclosable pecuniary interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

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

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

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must make a verbal declaration of the existence and nature of the interest at or before the consideration of the item of business. You must not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Disclosure of Other Registerable Interests (*Personal Interests*)

5. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business as soon as the interest becomes apparent. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

7. Where a matter arises at a meeting which ***affects***:
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

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

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

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

Table 1: Disclosable Pecuniary Interests

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

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

Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	Any tenancy where (to the councillor's knowledge): <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where: <ul style="list-style-type: none"> (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either: <ul style="list-style-type: none"> (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

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

Table 2: Other Registerable Interest

You must register as an Other Registrable Interest:
<ul style="list-style-type: none"> a) any unpaid directorships; b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any body <ul style="list-style-type: none"> (i) exercising functions of a public nature (ii) any body directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) <p>of which you are a member or in a position of general control or management.</p>

EMPLOYEE CODE OF CONDUCT

1. Introduction

- 1.1 Local Government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.
- 1.2 This Code sets out the standards of behaviour expected from you as an employee of Newark & Sherwood District Council. The Code applies to all employees of the Council.
- 1.3 This Code should be read in conjunction with other policies, procedures and codes of practice adopted by the Council. The Council has also produced further guidance on the detailed interpretation of this Code.
- 1.4 This Code forms part of your Terms and Conditions of Employment. Any breach of the Code may be treated as a disciplinary offence including gross misconduct, which could lead to disciplinary action including dismissal in appropriate cases. For the avoidance of doubt, you should seek advice from your Business Manager or relevant Director on any queries or refer to the detailed guidance produced by the Council on the interpretation of this Code.
- 1.5 If you are aware of any breaches of this Code of Conduct, you should raise these with your Business Manager or Director. Please also refer to the section of this Code on Public Concern and Whistleblowing.

2. Public Funds

- 2.1 You must follow the Contract Procedure Rules and Financial Regulations in any financial transactions and other dealings on behalf of the Council.
- 2.2 It is a serious criminal offence for you to receive or give in a corrupt manner any gift, loan, fee, reward or advantage from or to another person to do, or not to do anything or show favour or disfavour. If an allegation is made, you must be able to prove that any such rewards have not been corruptly obtained.

3. Customers

- 3.1 The Council is a public body and you have a responsibility to the community you serve. You should provide courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the Council.

4. Equalities

- 4.1 You should at all times recognise the diverse needs of individuals and groups within the community and you should ensure that the Council policies relating to equalities and equal opportunities are complied with in addition to your legal obligations. You should recognise that all members of the local community, customers and other employees have a right to be treated with dignity, fairness and equity.

5. Health and Safety

5.2 You must adhere to the Council's Health and Safety Policies.

6. Standards of Dress and Appearance

6.1 You must ensure that your standard of dress, the type and style of clothes and personal ornamentation worn are appropriate to the nature of the duties and responsibilities you undertake.

7. Alcohol and Drugs

7.1 You are expected to attend work without being under the influence of alcohol or drugs or in a condition where your work performance may be adversely impaired by alcohol or drugs.

7.2 Where you are involved with illegal drugs or excessive consumption of alcohol outside normal working hours the Council will consider the impact this may have on your employment, including any impact on its reputation and/or public confidence. Disciplinary action up to and including summary dismissal **may be taken** against you.

8. Conflicts of Interest

8.1 You should not subordinate your public duty to your private interests or put yourself in a position where your public duty and your private interests conflict.

8.2 If you are involved in the determination of regulatory matters (e.g. planning, licensing, council tax and housing benefit) you must take no part, either directly or indirectly, in considering any application made by yourself, a relative, a friend, a close associate or a neighbour.

8.3 You should disclose any personal interest that could conflict with the Authority's interests. Membership of a secret society must be disclosed in confidence to your Director.

9. Declaration of Financial and Other Interests

9.1 You are required by Section 117 of the Local Government Act 1972 to declare any financial interest, whether direct or indirect, in any existing or proposed contract. The declaration should be made, in writing, to your Director who will inform the Council's Section 151 Officer of the contents of the declaration.

10. Secondary Employment

10.1 If you hold the position of Business Manager or are a member of the Senior Leadership Team, you shall devote your whole time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without express consent. You will not normally be given permission to undertake private work within the District.

10.2 Subject to 10.1 above, the Council recognises that you may undertake secondary employment including voluntary as well as paid employment.

- 10.3 If you undertake secondary employment, you should ensure that your total working time does not exceed an average of 48 hours per week in total. The Council may require you to disclose your total working hours and commitments from time to time.
- 10.4 If you do undertake secondary employment, it should not conflict with the Council's interests, nor bring it into disrepute. It must be undertaken outside your normal working hours. You should not undertake any private work on Council premises or use Council property or equipment without the express consent of your Business Manager which will only be given in exceptional circumstances.
- 10.5 You should notify your Business Manager of any secondary employment undertaken. This notification does not remove the right of the Council to take action against you where the secondary employment is deemed to be detrimental to the interests or reputation of the Council or where it may affect your work performance for the Council.

11. Probity of Records and Other Documents

- 11.1 You should not deliberately falsify any records or other documents for financial advantage or otherwise. Such action will be regarded as gross misconduct and may lead to dismissal as well as criminal sanctions.

12. Financial Inducements, Gifts and Hospitality

- 12.1 It is an offence under Section 117 of the Local Government Act 1972 for any employee to accept any fee or reward other than his or her proper remuneration in the course of his/her duties. It is important that you are able to recognise what is and what is not acceptable. You should have regard to the Council's policy on gifts and hospitality {hyperlink} and, where necessary, seek advice and guidance from your Business Manager or Director.

13. Contracts

- 13.1 If you engage or supervise contractors and you have previously had or currently have a relationship with an existing or potential contractor in a private or domestic capacity, you should declare that relationship to your Business Manager or Director.
- 13.2 You must ensure that no special favour is shown to current or former partners, close relatives or associates in awarding contacts to businesses run by them or employing them in a senior capacity.
- 13.3 If you are involved in the tendering process and dealing with contractors, you should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness. Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

- 13.4 If you have access to confidential information on tenders or costs for either internal or external contracts, you should not disclose that information to any party or organisation without express authority.
- 13.5 In the event of a possible management buy-out you should, as soon as you have formed a definite intent, inform the appropriate Director and withdraw from the contract awarding process.

14. Sponsorship

- 14.1 Where the Council sponsors an event or service, you, your partner, spouse, friend or relative should not benefit from that sponsorship.
- 14.2 Where the Council gives support in the community through sponsorship, financial or other means you should ensure that impartial advice is given and there is no conflict of interest.

15. Political Neutrality

- 15.1 You must serve the Council as a whole, serving all elected members and not just those of the controlling group. You should give advice which does not compromise your political neutrality.
- 15.2 You must follow the lawfully expressed policies of the Council and not allow your personal or political opinions to interfere with your work.
- 15.3 Where you are required to advise any political group, you should ensure that you have notified your Business Manager or Director and you should ensure that there are adequate safeguards to ensure your political neutrality. You should have regard to the protocol on Member / Officer Relations.
- 15.4 If you hold a politically restricted post under the Local Government and Housing Act 1989 you must comply with the requirements of the Act.

16. Relationships with Members

- 16.1 You should not place yourself in a position where close familiarity with a Member prejudices your work. You should have regard to the Council's protocol on Member / Officer Relations. Close familiarity should be avoided.
- 16.2 You should declare any relationship with a Councillor where the relationship could cause, or be perceived to cause, a conflict of interest.

17. The Media

- 17.1 You should not communicate with the media on matters relating to the activities of the Council without the prior approval of your Business Manager or Director. You should direct any media enquiries to your Business Manager or Customer Services and External Communications, or, in their absence, to your Director.

18. Relationships with Other Employees or Partner Organisations

- 18.1 You must declare any personal relationship with another Council employee or partner organisation where the relationship could cause, or be perceived to cause, a conflict of interest.
- 18.2 You should treat all colleagues and partners with courtesy and respect.

19. Appointments and Other Employment Decisions

- 19.1 Where you are involved in appointments you should ensure that these are made on merit. You should not be involved in an appointment, either on an Appointment Panel or as a referee, where you are related to the applicant or have a close personal relationship with them.
- 19.2 You should not be involved in decisions relating to discipline or other sanction or in decisions relating to pay where you are related to or have a close personal relationship with the employee who is subject to that decision.
- 19.3 You must not directly or indirectly seek the support of any Councillor for any appointment with the Council for yourself or for others.
- 19.4 You will be disqualified from appointment if you lobby Councillors indirectly or directly for appointment to a new post within the Council and such action may also constitute a disciplinary offence.

20. Use of Council Property, Facilities and Equipment

- 20.1 You should use Council property, facilities and equipment for Council purposes only. Limited personal use of telephones, etc, may be allowed with the express consent of your Business Manager or Director in exceptional circumstances only.
- 20.2 When using the Council's communication systems you should have regard to the Council's ICT policies, procedures and protocols.

21. Social Networking Sites

- 21.1 If you use social networking sites either in your work or private life, you should have regard to the Council's social media guidelines. Unless you have received written approval from your Business Manager or Director to do so in work, you should set up any personal web forums or blogs outside of work and should not use Council equipment to do so.

22. Disclosure of Information

- 22.1 The Council is committed to open Government. The law requires that certain types of information must be available to Members, auditors, Government Departments, service users and the public. The Council itself may decide to be open about other types of information. You should not communicate to the public the proceedings of any Committee meeting or the contents of any document relating to the Council or information relating to any individual where that information is confidential or exempt unless expressly authorised to do so.
- 22.2 You have a duty of confidentiality to your employer. You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.
- 22.3 Intellectual property (the generic term that includes inventions, creative writings, software and drawings) arising in the course of your employment is the property of the Council and you should not use that intellectual property for personal benefit.

23. Public Concern and Whistle Blowing

- 23.1 The Council does not tolerate any form of malpractice. As an employee of the Council you have an important part to play in reporting any concerns and you will be expected to co-operate with investigations. The Council recognises that it may be difficult for you to report legitimate concerns through fear of victimisation or reprisal. In such circumstances you should follow the Council's Whistle Blowing procedure.

NB – A full copy of the Code of Conduct Guidance Notes can be found on the Council's Intranet Pages.

PROTOCOL ON MEMBER/OFFICER RELATIONS

1.0 Introduction

- 1.1 The purpose of this protocol is to guide Councillors and officers of the Council in their relationships with one another. The third report on the Committee on “Standards in Public Life”, chaired by Lord Nolan, recommended that *“Every local authority should have its own written statement or protocol governing relations between members and officers”* (Rec 20).
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which can arise. In some instances the protocol may not refer to particular situations or be sufficient to resolve a particular situation and this should be dealt with under Section 7.0 “Unresolved Issues”. However, it is hoped that the general approach detailed in the protocol will serve as a guide to dealing with those issues. It is hoped however that the approach which it adopts to these issues will serve as a guide dealing with any issues not specifically referred to.
- 1.3 This protocol is to a large extent no more than a written down statement of current practice and convention. In some respects however, it seeks to promote greater clarity and certainty. If the advice is followed it should also ensure that Councillors receive objective and impartial advice and that Councillors and Officers are protected from accusations of bias and any undue influence.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- 1.5 Councillors and Officers have distinct roles with the Council. Councillors are responsible to the electorate and serve only so long as their term of office lasts, Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council’s work under the direction and control of the Council and its Committees. Mutual respect between Councillors and Officers, both personally and for the roles which each perform is essential to good local government. It is important that in all dealings between Councillors and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position.
- 1.6 In the Code of Conduct for Members adopted by the Council it is provided that Members have a general obligation “to treat others with respect and not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf, the authority”.

- 1.7 A breach of this protocol by a Councillor may constitute a code of conduct breach.
- 1.8 A breach of this protocol by an Officer may constitute a disciplinary offence and could result in dismissal.

2.0 Officer Advice to Party Groups

- 2.1 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to support and contribute to such deliberations by party groups.
- 2.2 The support provided by such Officers can take many forms, ranging from a briefing meeting with a chairman or spokesman prior to a committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group (if any) is for the time being in control of the Council, such support is available to all party groups.
- 2.3 Certain points must however be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:-
 - (a) Officer support in these circumstances must not extend beyond providing information and objective advice in relation to matters of *Council* business. Officers must not be involved in advising on matters of party business. Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
 - (b) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - (c) similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.
- 2.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Councillors of the Council. Such persons will not be bound by the Code of Conduct for Members adopted by the Council (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Councillors only meeting. The Senior Council Member at the Group meeting should inform the Officer(s) if any non-members of the Council are present.

- 2.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group without consent.
- 2.6 Officers providing advice to party groups shall notify the Chief Executive who shall maintain a register of such occurrences including the date the advice was provided, to which Group, the Officer involved and its general subject matter.
- 2.7 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

3.0 Officer/Councillor Relationships

- 3.1 It is important that there should be close working relationships between Councillors and Officers in certain instances, for example between the chairman of a committee or sub-committee and the relevant Director, Business Managers or statutory officer. It is clearly undesirable, however, that such relationships should be allowed to become so close or appear to be so close as to bring into question the Officer's ability to deal impartially with other Councillors and other parties.
- 3.2 Close personal familiarity between Officers and individual Councillors can damage the relationship and prove embarrassing to other Councillors and Officers. It is not enough to avoid actual impropriety. Councillors and Officers should at all times avoid occasion for suspicion and any appearance of improper conduct.
- 3.3 Whilst paragraphs 3.1 and 3.2 state or infer that close personal familiarity between individual Councillors and Officers should be avoided this is not an absolute bar an Officers having a close personal relationship with Councillors. "Relationship" for these purposes include any family business or close personal relationships. The Council recognises that there may be social or personal relationships between Councillors and Officers which commenced before or after a Councillor is elected to the Council or before or after an Officer became appointed by the Council. Irrespective of when the relationship commenced the effect on the operation of the Council of such relationships will of course depend upon the roles and responsibilities of the Member and Officer involved.
- 3.4 Where however a close personal relationship exists the Councillor concerned should disclose this to his/her group leader and the Chief Executive and the Officer to the Chief Executive. Where it is considered that such relationships are capable of causing a conflict of interest the Chief Executive will arrange for such relationships to be entered as declarations in the Register of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned and the Council such relationships should never be hidden. To do so can lead to suspicion and mistrust.
- 3.5 Where a close personal relationship is disclosed and registered then:-

- (a) group leaders and Chief Officers will endeavour so far as possible to ensure that neither the Councillor nor the Officer are placed in a position where such relationships between Councillor and Officer could be seen to conflict with other provisions of this protocol;
- (b) the Councillor and the Officer will also endeavour so far as possible to ensure that they do not place themselves in a position where their relationship could be seen to conflict with other provisions of this protocol; and
- (c) specifically Councillors must not sit on or participate in decisions by any Council committee or other body which directly affects an Officer with whom they have such a relationship.

4.0 Undue Pressure

- 4.1 In their dealings with Chief Officers and Officers (especially junior officers) Councillors need to be aware that it is easy for Officers to be overawed and feel at a disadvantage. Such feelings can be intensified where Councillors hold official and/or political office.
- 4.2 A Councillor should not apply undue pressure on an Officer either to do anything that he/she is not empowered to do or to undertake work outside normal duties or normal hours or to allow or aid the Councillor to do something which the Councillor is not authorised to do. Particular care needs to be taken in connection with the use of Council property and services.
- 4.3 Similarly, an Officer must neither seek to use undue influence on an individual Councillor to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other staff. Newark & Sherwood District Council has formal procedures for consultation whistleblowing grievance and discipline. As an exception to this provision an employee may raise issues (other than those relating to the employee's employment with the Council) relating to Council business where the Councillor is the local ward Councillor of the employee concerned.
- 4.4 Whilst the chairman of a committee or sub committee will routinely be consulted as part of the process for drawing up the agenda for a forthcoming meeting it must be recognised that in many situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any reports submitted in his or her name. Any issues which cannot be resolved as the result of discussion/negotiation between the Chairman and an Officer in this area should be referred to the Chief Executive for resolution. Where individual Councillors wish to place an item on an agenda they should notify the appropriate meeting Chairman or Chief Executive and comply with the timetable set out in the Council's Rules.

5.0 Correspondence

- 5.1 Correspondence between an individual Councillor and an Officer should not normally be copied by the Officer to any other Councillor. Where it is necessary to copy the correspondence to another Councillor this should be made clear to the original Councillor.
- 5.2 Official letters or electronic communications on behalf of the Council should normally be sent out in the name of the appropriate Officer rather than in the name of a Councillor. It may be appropriate in certain circumstances (for example representations to a Government Minister) for a letter or electronic communication to appear in the name of a Councillor but this should be the exception rather than the norm. Letters which for example create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

6.0 Venue of Meetings

- 6.1 Normally, meetings between Officers and Elected Members whilst acting in their official capacity should not take place in the home or business premises of the Elected Member or in a venue that the Officer otherwise considers to be inappropriate.
- 6.2 Where such a meeting does take place in the home or business premises of the Elected Member, the Officer shall notify the Chief Executive or the relevant Chief Officer of the date and time of the meeting and shall provide a summary of the issues discussed.

7.0 Unresolved Issues

- 7.1 Any breaches of this protocol or any issues remaining unresolved after consideration of the application of the protocol or any issues arising in respect of its interpretation shall be referred to the Leader of the Council and Chief Executive for resolution who, if they consider further action is required, shall refer the matter to the Council's Standards Committee for determination. In the case of an Officer, the Chief Executive or a Chief Officer, may institute disciplinary proceedings for breach of the protocol where he/she considers it appropriate to do so.

PROTOCOL FOR DEALING WITH OMBUDSMAN MATTERS

1. On receipt of an initial letter from the Ombudsman advising that a complaint has been received, the Chairman and the Vice-Chairman of the Planning Committee in the case of complaints relating to planning matters and the Chairman and the Vice-Chairman of the Policy & Finance Committee in respect of all other matters, excluding complaints relating to Standards issues will be informed, together (where appropriate) with the Leader of the Council and the local Members.
2. In respect of complaints relating to Standards issues, the Chairman and Vice-Chairman of the Standards Committee will be informed together with the Leader of the Council where appropriate. The Monitoring Officer will also be advised of the complaint and will inform the Independent Persons appointed by the Council and the member the subject of the complaint.
3. If after an initial investigation, the Ombudsman resolves not to pursue the matter, the Members specified above will be informed.
4. If the Ombudsman resolves to carry out further investigations, the Members specified above will be kept informed. Other Members who appear to have a particular interest in the matter may also be informed.
5. On receipt of the final draft report from the Ombudsman, the Members specified above will be informed, together with any other Member who had a personal involvement in the investigation.
6. Any formal reports issued by the Ombudsman will initially be considered by the Planning Committee in the case of Planning matters, the Standards Committee in respect of standards issues or the Policy & Finance Committee in respect of all other matters, with a recommendation to the Council as to whether or not to accept the Ombudsman's recommendation where maladministration is found causing injustice.
7. Local settlements will be considered by the Planning Committee, Standards Committee or Policy & Finance Committee, as appropriate. However, there are cases which relate to relatively minor matters or where it is in the interests of the Council to resolve the matter quickly. In such cases the appropriate Chief Officer has delegated authority to agree local settlements, in consultation with the Members specified at 1 or 2 above as appropriate, where he or she deems it in the interests of the Council to do so.
8. Complaints to the Ombudsman may be reviewed annually by the Policy & Finance Committee.

PROTOCOL FOR MEMBERS ON HOSPITALITY AND GIFTS

1.0 Introduction

- 1.1 This guidance is supplementary to the requirements of the Code of Conduct. The Code governs the ethical standards required of members. Specifically, it seeks to ensure that the public role of members is not prejudiced by inappropriate behaviour or association. Members may be offered gifts or hospitality and it is important that such offers are considered critically. This guidance is intended to assist in determining how to respond to such offers.

2.0 Principles

- 2.1 People or bodies may have ongoing contractual relationships with the Council. Equally, people or bodies may need planning permission or other consent from the Council to conduct their affairs. They could seek to secure a sympathetic response from Council Members by the making of gifts. Equally whether or not the intention to secure an advantage is present, an outsider might suspect that an improper advantage is being sought from a member. It is essential that members should give critical consideration to the offer of gifts or hospitality in that light.
- 2.2 There are few hard and fast rules governing the acceptance of gifts and hospitality. Clearly if the offer is corrupt, there are criminal implications. Moreover, the Code of Conduct requires any member receiving any gift or hospitality over the value of £100 in his or her capacity as a Member to notify the Monitoring Officer of the existence and nature of that gift or hospitality within twenty-eight days of receiving it. Details are entered in a register maintained by the Monitoring Officer, which is open to public inspection.
- 2.3 Members are personally responsible for all decisions connected with the acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the authority.
- 2.4 Members should therefore treat all offers of gifts or hospitality with caution, with a view to not only avoiding impropriety but also any suggestion of impropriety. Members should give the same consideration to offers made to members of their family or friends, which could be viewed as securing an indirect benefit to themselves.
- 2.5 Although all offers should be treated with caution, there will be occasions where not to accept reasonable gifts or hospitality would prejudice the regular conduct of the Council's business or give offence to persons or bodies of significance to the Council. This is most obviously seen in the context of overseas civic twinning arrangements and similar events where courtesies demand the exchange of reasonable gifts and hospitality and where special arrangements (detailed later) are in place. Equally, it is reasonable to expect business meetings to be accompanied by modest refreshment should the nature and duration of the meeting demand it. An example would be the provision of a working lunch.

- 2.6 It is important that the offer and receipt of gifts and hospitality takes place in an open manner. Such openness will serve to remove suspicion and provide accountability. It will also deter the making of inappropriate offers.

3.0 General Guidance

- 3.1 Whether to accept the offer of a gift or hospitality should be considered in the light of the above principles and the guidance issued pursuant to the Bribery Act 2010.
- 3.2 Members should never accept a gift or hospitality as an inducement or reward for taking any particular action or for refraining from taking any particular course of action.
- 3.3 Members should never accept a gift or hospitality if acceptance may be open to misinterpretation.
- 3.4 Members should never solicit a gift or hospitality in an individual capacity (however this shall not prevent them from seeking grants, sponsorship or other benefits on behalf of the district or the community of their ward area).
- 3.5 Receiving civic hospitality provided by another public authority is acceptable.
- 3.6 Receiving tickets for sporting, cultural and entertainment events sponsored by the authority would normally be acceptable but will be dependent on the precise nature of the event and the value of the ticket.
- 3.7 Members should declare the receipt of all significant offers of gifts and hospitality to the Monitoring Officer whether or not the offer has been accepted (for the avoidance of doubt, this does not require the declaration of modest gifts of no significant value such as a diary or calendar or modest refreshments such as tea, coffee and biscuits or a working lunch) but will include offers of gifts and hospitality such as bottles of wine, even where the value is substantially below the £100 limit set out in the Code. The Monitoring Officer will keep a separate register of the receipt of gifts and hospitality as required by the formal Code i.e. over £100.
- 3.8 Members should be particularly alert to any relationship that the person making the offer has to the Council, i.e. whether they have a contractual relationship with the Council or whether they are likely to require a favourable decision from the Council, e.g. a planning permission, a contract or a licence.
- 3.9 It is acceptable to receive modest gifts on significant occasions, e.g. at Christmas where not to do so would show a lack of courtesy. An example of such a gift might be a diary or a calendar. Receipt of gifts such as a bottle of wine etc would not normally be acceptable but may, in exceptional circumstances, be dealt with under paragraph 5 "Special Arrangements". Acceptance of a gift or hospitality is more likely to be acceptable where that offer either has been or is likely to be reciprocated by the Council.

- 3.10 Accepting modest refreshment such as a working lunch, or hospitality provided as part of an official opening ceremony or similar event would be acceptable.
- 3.11 It is the responsibility of each individual member to decide whether to accept offers of gifts and hospitality. If in doubt, advice should be sought from the Monitoring Officer or Head of Paid Service. In exercising their judgement Members should have regard both to the particular circumstances and as to whether a member of the public, with knowledge of the relevant facts, would reasonably consider its acceptance to be appropriate.
- 3.12 An important criterion in exercising judgement as to what is acceptable is what interpretation those in the community or the press might reasonably put upon acceptance having full knowledge of the relevant facts.
- 3.13 Repeated offers of gifts or hospitality from one person, firm or organisation may render unacceptable what would otherwise have been acceptable.
- 3.14 Particular care should be taken where a member has any involvement in making a decision for placement of a contract or for any decision carrying value for the person or organisation offering the gift or hospitality (for example, the granting of planning permission).

4.0 Civic Gifts and Hospitality

- 4.1 It is the responsibility of the Chief Executive to ensure that hospitality for civic events is proportionate to the occasion. A guiding principle in accepting or offering hospitality is whether it is reasonable to expect the hospitality to be reciprocated at a similar level.
- 4.2 The presumption is that any gifts given to the Chairman or Vice-Chairman are gifts to the office of the Chairman and so belong to the Council. The Chief Executive is the final arbiter of whether such gifts belong to the Council or to the individual occupying the office of Chairman. In exercising such judgement, the Chief Executive shall have particular regard as to whether the gifts were given to the office holder in a personal or in an official capacity and the value of such gifts.
- 4.3 The Chief Executive will maintain a record of all gifts to the office of Chairman. All gifts in excess of a value of £100 will be declared to the Monitoring Officer for entry in the register.
- 4.4 For the avoidance of doubt, the above provisions shall not apply to any gifts donated for the purpose of any raffle or similar fund-raising events organised by the Chairman for the purposes of the Chairman's charity.

5.0 Special Arrangements

- 5.1 If a Member receives a gift where the donor is unknown, where it is impracticable to return the gift to the person or organisation making the gift, or where the Member reasonably considers that to return it would cause undue offence, in circumstances where it would otherwise be inappropriate to accept the gift, the Member should deal with the gift in accordance with the procedure set out below.

- 5.2 The Member must, as soon as practicable after receipt of the gift pass it to the Chief Executive or Monitoring Officer to be donated to the Chairman's Charity. The Chief Executive or Monitoring Officer shall write to the person or organisation making the gift, if known, thanking them on behalf of the Member for the gift and informing them that it has been donated to the Chairman's Charity Fund.

PROTOCOL FOR MEMBERS ON DEALING WITH PLANNING MATTERS

1.0 Introduction

- 1.1 One of the key purposes of the planning system is to regulate the development and use of land in the public interest.
- 1.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. Planning necessarily affects land and property interests and as a consequence decisions can often be highly contentious.
- 1.3 The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless it is important that the decision making process is open and transparent.
- 1.4 The aim of this protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.5 This protocol applies at all times when Members are involved in the planning process. This includes meetings of the Planning Committee, meetings of the Council when exercising the functions of the Planning Authority and less formal occasions, such as meetings with officers or the public and consultative meetings. It applies to planning enforcement matters, to site specific policy issues and to the making of compulsory purchase orders on planning grounds.

IF YOU HAVE ANY QUERIES OR CONCERN ABOUT THE APPLICATION OF THIS PROTOCOL TO YOUR OWN CIRCUMSTANCES YOU SHOULD SEEK ADVICE EARLY FROM THE MONITORING OFFICER OR DEPUTY MONITORING OFFICER AND PREFERABLY WELL BEFORE ANY MEETING TAKES PLACE

2.0 Relationship to the Members Code of Conduct

- 2.1 The Council has adopted a local code of conduct which reflects the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 2.2 This protocol is intended to supplement the Members Code of Conduct where members are involved in the planning process.
- 2.3 The rules set out in the Members Code of Conduct must be applied first and must always be complied with.
- 2.4 Where a member does not abide by the Members Code of Conduct and/or this protocol when involved in the planning process it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.

- 2.5 The failure is also likely to be a breach of the Members Code of Conduct and may be the subject of a complaint to the Standards Committee.

MEMBERS SHOULD APPLY COMMON SENSE IN THE INTERPRETATION OF THIS PROTOCOL.

3.0 The General Role and Conduct of Councillors and Officers

- 3.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's position. The Council has adopted a protocol giving guidance on relationships between officers and members.
- 3.2 Both councillors and officers are guided by codes of conduct. The Members Code of Conduct and its relationship to this protocol are set out in section 2 above.
- 3.3 Planning Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct breaches of which may be subject to disciplinary action by the Institute. In addition the Council has adopted a Code of Conduct for employees.
- 3.4 In addition to these codes, the Council's Procedure Rules set down rules which govern the conduct of Council business.
- 3.5 Councillors and officers should view with extreme caution any offer of gifts or hospitality. The Council has adopted separate protocols for officers and for members giving guidance on gifts and hospitality.
- 3.6 Serving councillors who act as agents for people pursuing planning matters within their authority should not be members of the Planning Committee.
- 3.7 Councillors and particularly those serving on the Planning Committee should receive training on planning when first appointed to the Planning Committee and regularly thereafter.

4.0 Registration and Disclosure of Interests

- 4.1 The Member Code of Conduct sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation.

In addition, unless they have obtained a dispensation they should:-

- **NOT** participate or give the appearance of trying to participate in the making of any decision on the matter by the Council
- **NOT** get involved in the processing of the application
- **NOT** use their position to discuss the proposal with officers or members when other members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.

- 4.2 In addition, the Code requires members to consider whether they have a non disclosable interest or personal interest in any item. Such an interest will arise where the matter may reasonably be regarded as affecting the wellbeing or financial standing of the member concerned, a member of their family or a person with whom they have a close association to a greater extent than the majority of people in their ward. Such an interest will also arise where it would be a disclosable pecuniary interest but relates to a member of the councillor's family or to a close associate rather than to the member themselves or to their spouse or partner.
- 4.3 In the event that a member considers that they have a non disclosable pecuniary interest or personal interest in any matter they should disclose the existence and nature of the interest at or before the consideration of that item of business or as soon as the interest becomes apparent.
- 4.4 The member then needs to consider very carefully whether it would be appropriate to participate in discussion and voting on the matter. They should think about how a reasonable member of the public, with full knowledge of all the relevant facts would view the matter when considering whether their participation would be appropriate.

5.0 Predisposition, Predetermination or Bias

- 5.1 To protect the rights of planning applicants and to preserve the integrity of committee decisions, it is vital that members do not make up their minds before they have all relevant materials and arguments before them at the Planning Committee meeting. Members must retain an open mind at the time the decision is made and not make up their minds or appear to have made up their minds until they have heard the officer's presentation and evidence at the Planning Committee when the matter is considered. This is particularly important if a member is contacted by an external interest or lobby group. If a member has made up their mind prior to the meeting and is not able to reconsider their previously held view, they will not be able to participate in the determination of the matter by the Authority because if they did take part in the discussion or vote it would put the Authority at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Authority could be at risk of legal proceedings on a number of possible grounds:-

- That there was a danger of bias on the part of the member; and/or
- Predetermination; and/or
- A failure to take into account all of the factors which would enable the proposal to be considered on its merits

5.2 Members are entitled to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when members' minds are closed, or reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. This risks making the whole decision vulnerable to legal challenge. Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a councillor who states "wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee" has a closed mind. A councillor who states "many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area" does not have a closed mind although they are predisposed towards opposing such applications.

5.3 Members may take part in the debate on a proposal when acting as part of a consultee body (ie where they are also a member of the county or parish council as well as being a member of the Authority) provided that:-

- They make clear during discussion at the consultee body that:-
 - (i) Their views are expressed on the limited information before them only; and
 - (ii) They will reserve judgement and the independence to make up their own mind on each separate proposal when it comes before the District Council's Planning Committee and they have heard all the relevant information and
 - (iii) They will not in any way commit themselves as to how they or others may vote when the proposal comes before the District Council's Planning Committee.

In the interests of transparency, the member should, in such circumstances, disclose the personal interest regarding their membership of the consultee body when the District Council's Planning Committee comes to consider the proposal.

5.4 Where a member has already made up their mind ("fettered their discretion") and therefore declines to speak or vote on a proposal, they do not also have to withdraw (unless they have a disclosable pecuniary interest and have not obtained a dispensation) but they may prefer to do so for the sake of appearances.

5.5 If a member decides to stay in the meeting they should explain that they do not intend to speak and vote because they have (or could reasonably be perceived as having) judged the matter elsewhere, so that this may be recorded in the minutes.

5.6 Members who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making on individual applications for that reason.

6.0 Development Proposals Submitted by Councillors and Officers and Council Development

6.1 Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

6.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. In particular:-

- If a member or officer submits their own proposal to the Authority, they should play no part in its consideration
- The Council's Monitoring Officer should be informed of any proposal submitted by any member or any officer employed by the Authority on the grade of Business Manager or above or any officer who would otherwise have been involved in processing or determining the application
- Such proposals should be reported to the Planning Committee and not dealt with by officers under delegated powers

6.3 A member will have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer but the councillor, as applicant, should also not seek to improperly influence the decision.

6.4 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

7.0 Lobbying of and by Councillors

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the Planning Committee. The Nolan Committee's 1997 report stated: "it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

7.2 Lobbying can, however, lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

- 7.3 When being lobbied, councillors and members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- 7.4 In such circumstances, members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.
- 7.5 Members can raise issues which have been raised by their constituents with officers.
- 7.6 If a member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations at committee.
- 7.7 If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that members of the Committee may have been influenced by their continuing presence.
- 7.8 In no circumstances should planning decisions be made on a party political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 7.9 Planning Committee members and members of the Local Development Framework Task and Finish Group should in general avoid organising support for or against a planning application and should not lobby other councillors.
- 7.10 Members should not put pressure on officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the officer's impartiality or professional integrity.
- 7.11 Members should pass any lobbying correspondence received by them to the Business Manager – Development Control at the earliest opportunity.
- 7.12 Any offers made of planning gain or restraint of development, through a proposed S106 Agreement or otherwise should be referred to the Business Manager – Development Control.
- 7.13 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 7.14 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate officers to follow the matter up.

8.0 Requests to Refer Items to Committee

- 8.1 If a member requests that a matter be referred to committee for determination, where it would otherwise be dealt with by officers acting under delegated powers, they should give written reasons for that request and those reasons should relate solely to matters of material planning concern. The member should also observe any additional rules and requirements set out in the Council's Constitution.

9.0 Pre-Application Discussions

- 9.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are therefore encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 9.2 Councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors to lead on community issues and helps to ensure that issues do not come to light for the first time at committee. Officers should therefore consider involving the local ward Member(s) particularly in relation to major applications. However, in order to avoid perceptions that councillors might have fettered their discretions, such discussions should take place in accordance with the following guidelines:-

- (i) It should be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- (ii) It should be acknowledged that consistent advice should be given by officers based upon the development plan and material planning considerations.
- (iii) Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.
- (iv) Members should not become drawn into any negotiations which should be done by officers (keeping interested members up to date) to ensure that the Authority's position is co-ordinated.
- (v) A written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others who are not party to the discussion.
- (vi) Care should be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.

- 9.3 Although the term “pre-application discussions” has been used, the same consideration should apply to any discussions which occur before a decision is taken.
- 9.4 Common sense should be used by members in determining the scale of the proposals to which the guidelines set out in 8.2 ante will apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. Keeping a register of such conversations would be neither practical nor necessary. If for example a member is approached by an applicant or an objector in respect of what could reasonably be considered to be a minor application it would be more appropriate for the member concerned to give advice on process only and what can and cannot be taken into account (see paragraph 7.4 ante) and to refer the constituent to a planning officer if they need planning or technical advice.

10.0 Officer Reports to Committee

- 10.1 Officer reports to Committee should be comprehensive and should include the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations and any other material planning considerations.
- 10.2 Reports should have a written recommendation for a decision to be made.
- 10.3 Reports should contain technical appraisals which clearly justify the recommendation.
- 10.4 If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under S38A of the Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990.
- 10.5 Any oral updates or changes to the report should be recorded.

11.0 Public Speaking at Planning Committees

- 11.1 Members of the public, including any applicant or objector, are not entitled to speak at meetings of the Planning Committee and should accordingly submit any representations in writing.
- 11.2 All representations received will be reported to committee. Where they are received late, and after publication of the agenda for the Planning Committee they will be reported to the Committee by means of a late paper summarising any late representations received in respect of items on the agenda for the Committee.

- 11.3 References to Parish Councils shall include Town Councils. Parish Councils may appoint a representative to make representations on behalf of the Parish Council in respect of any planning application submitted within the area of the relevant parish, or where it can clearly be demonstrated to the satisfaction of the relevant Director in consultation with the Chairman and Vice Chairman of the Planning Committee that the application will have a material impact on the whole or part of the Parish Council's area.
- 11.4 The Parish Council should notify the Council's Democratic Services Team, in advance of the meeting, that they wish to make representations and the name of their nominated representative.
- 11.5 Such nominated representative should be the clerk or other officer or a member of the Parish Council. Any professional agent or other third party appointed by the Parish Council shall have no right to speak at Committee.
- 11.6 The nominated representative shall put forward views or representations which reflect the views of the Parish Council which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Parish Council which they represent.
- 11.7 A Parish Meeting shall have the same rights to appoint a representative to speak on their behalf as a Parish Council provided that they are able to evidence that they are reflecting the views of the Parish Meeting (for example as recorded in the minutes of the Parish Meeting) rather than their personal views.
- 11.8 The local ward member for the area in respect of which the planning application is situated shall have the right to make representations to the Committee. A member shall also have the right to make representations for applications outside their ward area in circumstances where it can clearly be demonstrated to the satisfaction of the relevant director in consultation with the Chairman and Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their ward area. Any member wishing to exercise their right to speak under this provision shall be required to first notify the Council's Democratic Services team in advance of the meeting that they wish to make representations and, if the application is outside their ward area, the reasons why they consider that the application will have a material impact on the whole or part of their ward area.
- 11.9 A member from a neighbouring district/borough council shall have the right to make representations on behalf of that council and reflecting the views of that council to the Planning Committee in circumstances where it can clearly be demonstrated to the satisfaction of the relevant director in consultation with the Chairman and Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their Council area. A member wishing to exercise their rights under this paragraph shall be required to first notify the Council's Democratic Services team in advance of the meeting that they wish to make representations on behalf of their Council and shall also provide evidence that these representations will reflect the views of that Council and evidence that the application will have a material impact on the whole or part of their Council area.

- 11.10 The right to make representations as set out in 11.3, 11.7, 11.8 and 11.9 ante, shall be limited to a maximum 5 minutes duration.
- 11.11 New documents should not be circulated to the Committee. Councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak. If, in exceptional circumstances and at the Chairman's discretion, new documents are accepted, the meeting may be adjourned for them to be properly considered.
- 11.12 Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

12.0 Decisions Which Differ From an Officer Recommendation

- 12.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (S38A Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990).
- 12.2 This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- 12.3 The courts have expressed the view that the Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- 12.4 Planning Committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- 12.5 The Planning Committee should take the following steps before taking a decision which differs from an officer recommendation:-
- (i) Record the detailed reasons as part of the mover's motion
 - (ii) If necessary, adjourn for a few minutes for those reasons to be discussed and then agreed by the Committee
 - (iii) Where there is concern about the validity of reasons and/or officer concern about a potential award of costs on appeal, consider deferring to another meeting to have the putative reasons tested and discussed.

- (iv) Ensure that a recorded vote is taken, recording the individual names of those voting for and voting against the motion and the names of those abstaining.
- 12.6 If the Planning Committee makes a decision contrary to the officer's recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the Committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to "go away and sort out the planning reasons".
- 12.7 The officer(s) should also be given an opportunity to explain the implications of the contrary decision should one be made.
- 12.8 All applications that are clearly contrary to the development plan and constitute notifiable departures must be advertised as such, and are known as "departure" applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- 12.9 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (S77 of the Town and Country Planning Act 1990). If the officer's report recommends approval of such a departure, the justification for this should be included, in full, in that report.

13.0 Committee Site Visits

- 13.1 Committee site visits do not constitute formal meetings of the Council but rather their purpose is to enable members to observe the site and to gain a better understanding of the issues. Accordingly attendance by members at Committee site visits is not essential and non-attendance will not preclude a member from discussing and voting on the relevant matter at the Planning Committee meeting. Notwithstanding this, members should make every effort to attend where it is considered that a site visit is necessary and appropriate. In addition, any relevant information which members have gained from the site visit will be reported back to the Committee so that all members have the same information.
- 13.2 Site visits should only be conducted where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already. A site visit should not take place unless:
- (i) There are particular site factors which are significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection; or
 - (ii) There are specific site factors and/or significant policy or precedent implications that need to be carefully addressed; or
 - (iii) The impact of the proposed development is difficult to visualise; or

- (iv) The comments of the applicant and/or objectors cannot be expressed adequately in writing; or
- (v) The proposal is particularly contentious

- 13.3 A record should be kept of the reasons why a site visit is called. It is important that the Council adopts a clear and consistent approach on when and why to hold a site visit and how to conduct it to avoid accusations that visits are arbitrary, unfair or a covert lobbying device.
- 13.4 Only members of the Planning Committee, the local ward member(s) and officers should participate in site meetings. A member who is not the local ward member but is able to demonstrate to the satisfaction of the Business Manager Development Control in consultation with the Chairman of the Planning Committee prior to the site meeting taking place that the application will have a significant impact on their ward may be permitted to attend the site meeting.
- 13.5 The applicant may be present on site but should be kept a discreet distance away from the Planning Committee members and officers so that they cannot be a party to any comments or questions raised. Upon the refusal of the applicant to respect this requirement, the Committee shall leave the site immediately.
- 13.6 Members should not express opinions or views at the site meeting but may ask officers present questions or seek clarification from them on matters which are relevant to the site investigation.
- 13.7 Under no circumstances should the site visit members hear representations from any party other than the local ward member. Observations of the ward member(s) should be confined to site factors and site issues. If any member present at a site visit is approached by the applicant or a third party, they should advise them that they should make representations in writing to the Authority and should direct them to or inform the officer present.
- 13.8 Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property.

14.0 Voting at Committee

- 14.1 Any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter.

15.0 Deferral

- 15.1 Members should not seek to defer consideration of any item put before the Planning Committee unless there are clear and demonstrable reasons for doing so such as a relevant planning issue arising for the first time not having been previously considered and needing further investigation.

- 15.2 Where a Member might otherwise be minded to seek deferral of an item by reason that they wish to seek clarification on a particular issue, consider that further material information is required on a particular matter or for any other substantial reason, they should seek to obtain such clarification or additional information from the relevant Business Manager or the relevant Case Officer at least two hours prior to the commencement of the Planning Committee meeting.

16.0 Annual Review of Decisions

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

17.0 Complaints

- 17.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.
- 17.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement and development plan matters.

**PROTOCOL TO GUIDE OFFICERS ON THE PROCEDURE TO FOLLOW
WHEN A MEMBER (PAST OR PRESENT) OR A SERVING OFFICER PASSES AWAY**

1.0 Introduction

- 1.1 The purpose of this protocol is to give guidance to council staff when they are advised that either a past or present Member of the Council has passed away or a serving officer of the Council who dies whilst in service.

2.0 Current/Ex-Council Members and Serving Officers

- 2.1 When notification is received advising that a Member or serving officer has died, after taking as many details as available, both the Chief Executive and the Chairman should be advised through their respective offices.
- 2.2 The Chief Executive's office will arrange for the flag to be lowered to half mast until the funeral takes place and will liaise with Building Services to this effect. The Chief Executive will also arrange for a letter of condolence to be sent to the Member's or Officer's family and ask to be notified of any funeral arrangements. (Subject to, in the case of serving officers, to respecting the wishes of the family if they wish to have a private service and do not wish the details to be notified).
- 2.3 In the case of Members, the Chairman's office will advise all Members of the Council with a further notification to all Members once the funeral arrangements are known. In the cases of serving officers any notification will be subject to the wishes of the officer's family.
- 2.4 The Chief Executive and Chairman will arrange for a one minute silence to be held at the meeting of Full Council following the date of death.
- 2.5 The protocol **only** applies to serving Members and past Chairmen of the Council and to serving officers of the Council and does not extend to their spouses/partners or families. The protocol does not apply to Officers who have retired or are no longer serving officers of the Council.

3.0 Spouse/Partners of Serving Members

- 3.1 If the Council are advised that a spouse/partner of a Member has passed away a letter to this effect will be forwarded to Members of the Council with funeral details, if they are known, to enable colleagues/friends to attend if they so wish.
- 3.2 A letter of condolence will be sent to the relevant Member by the Chief Executive. A one minute silence will not be held at any meetings of Full Council.
- 3.3 This part of the protocol does not apply to spouse or partners of Council officers.

NEWARK & SHERWOOD DISTRICT COUNCIL
WHISTLEBLOWING POLICY

1.0 Introduction

- 1.1 The Public Interest Disclosure Act became law in July, 1999 (PIDA – amended by the Enterprise and Regulatory Reform Act 2013). This Act, introduced for the protection of whistleblowers, removed the limit of financial liability to which an organisation could be exposed should a whistleblower receive unfair treatment. This policy document sets out the Council's response to the requirements of the Act.
- 1.2 A whistleblower is generally a person who works in or for an organisation and raises an honest and reasonable concern about a possible fraud, crime, danger or other serious risk that could threaten colleagues, service users, customers, members of the public or the success and reputation of the organisation. In doing so they are acting in the wider public interest, usually because it threatens others or impacts on public funds.

2.0 Detail

- 2.1 All of us at one time or another may have concerns about what is happening at work. Usually these concerns are easily resolved, however, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment (see Section 4.2 for particular types of concerns), it can be difficult to know what to do.
- 2.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling either that it's none of your business, or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 2.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it is expected that you, the Members and the employees of the Council, and others with whom the Council deals who have serious concerns about any aspect of the Council's work, which they consider to be wrong-doing and is in the public interest, will come forward and voice those concerns. It is recognised that most cases will be undertaken on a confidential basis.
- 2.4 Newark and Sherwood District Council has introduced this procedure to enable you, as a Member or an employee, to raise your concerns about such malpractice at an early stage and in the right way. The Council would rather that you raised the matter when it is just a concern rather than waiting for proof. The policy is based on the Local Government Management Board Model Confidential Reporting Policy and on, the Public Concern at Work Whistleblowing Policy and Code of Practice. Any amendments to this policy will be notified to Members and employees through the usual channels.

2.5 If something is troubling you, which you think should be known about or looked into, please use this procedure. If, however, you are aggrieved about your personal position, please use the Grievance Procedure (which can be obtained from the intranet, your immediate manager or the Business Manager - Human Resources, Organisational Development and Legal [HR, OD & Legal]). This Whistleblowing Procedure is primarily for concerns where the interests of others or of the organisation itself are at risk and you have a reasonable belief that raising the concern is in the public interest.

2.6 These procedures do not replace the following policies:

- Children and Adults Safeguarding Policy
- The Council's Complaints Procedures including:
 - Disciplinary and Dismissal Procedure
 - Grievance Procedure
 - Dignity at Work Policy

2.7 This policy applies to:

- (i) All Members of the Council;
- (ii) All employees of the Council;
- (iii) Contractors working for the Council on Council premises (for example agency workers);
- (iv) Suppliers and those providing services under a contract with the Council;
- (v) People working in partnership with the Council, and its employees and Members (e.g. volunteers, trustees etc).

If you are in any doubt as to whether the policy applies to you, please contact the Business Manager - HR, OD and Legal, for clarification.

2.8 **If in doubt - raise it!**

3.0 The Council's Assurances to You

3.1 Your Safety

The Members, the Management Team and Director of Resources (who is the Responsible Officer - see Section 9) are committed to this policy. You will not be at risk of losing your job or suffering any form of retribution or detriment as a result of raising your concerns, provided that you reasonably believe that you are acting in good faith and making the disclosure in the public interest. It does not matter if you are mistaken, so long as you reasonably believe there is a problem.

3.2 **Of course, the Council does not extend this assurance to someone who maliciously raises a matter that they know is untrue or makes an allegation for personal gain. This could be construed as Gross Misconduct and disciplinary action may be taken.**

3.3 Your Confidence

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this policy. If you ask that your identity is protected by keeping your confidence, it will not be disclosed without your consent. If the situation arises where the Council is not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court, or relates to child protection or adult safeguarding), it will be discussed with you to determine whether and how the matter can be progressed.

3.4 Remember that if you do not tell the Council who you are, it will be much more difficult to look into the matter, or to protect your position, or to give you feedback. Accordingly, while anonymous reports will be considered, this policy is not appropriate for concerns raised anonymously - concerns raised anonymously are much less powerful, but may be considered at the discretion of the Council. This discretion will be based on the:

- seriousness of the issues raised;
- credibility of the concern;
- likelihood of confirming the allegation from an attributable source;
- evidence base.

3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

4.0 Aims and Scope of the Policy

4.1 This policy aims to:

- (i) Encourage you to feel confident in raising serious concerns and to question and to act upon concerns about Council practice.
- (ii) Provide avenues for you to raise those concerns and receive feedback on any action taken.
- (iii) Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- (iv) Reassure you that you will be protected from any possible reprisals and victimisation if you have a reasonable belief that you have made the disclosure in the public interest.

4.2 There are already existing procedures in place within the Authority for disclosing certain concerns. These are:

- (i) The Authority's Grievance Procedure, which enables you to lodge a grievance/complaint relating to your own employment.

- (ii) The Authority's Anti-Fraud Strategy, which outlines how you can disclose potential fraud, corruption or theft.
- (iii) The Authority's Dignity at Work Policy, which enables you to disclose cases of potential harassment.
- (iv) The Authority's Children and Adult Safeguarding Policy, which outlines the procedure for reporting safeguarding concerns.

This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- The unauthorised use of public funds.
- Possible fraud or corruption.
- Sexual or physical abuse of both employees and clients.
- Health and Safety risks (including risks to the public as well as other employees).
- Conduct which is an offence or breach of law.
- Failure to comply with a legal or regulatory duty or obligation.
- Disclosures related to miscarriages of justice (ie where the Council has acted improperly or unfairly).
- Damage to the environment.
- Other unethical conduct including improper use of authority
- Concealment of any of the above.

N.B. This is not an exhaustive list

4.3 It is clear that any serious concerns that you may have about any aspect of service provision, or the conduct of officers or Members of the Council, or others acting on behalf of the Council, can be reported under this policy. This may be something that:

- makes you feel uncomfortable,
- is against any of the Council's existing Codes and policies, such as Standing Orders etc,
- is contrary to established standards of practice,
- amounts to improper conduct or
- involves child abuse

5.0 How to Raise a Concern

5.1 STEP 1

If you have a concern about malpractice and you have a reasonable belief that disclosing the information is in the public interest, it is hoped that you will be able to raise it first with your immediate manager or supervisor. This will obviously depend upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that a member of management is involved you should approach the officers identified in Step 2 below. We advise that you make it clear that you are raising your concerns under the Council's whistleblowing arrangements – this will help managers respond in line with this policy. You may, at any stage, feel the necessity to take independent advice (See Section 5.4).

5.2 STEP 2

If you feel unable to raise the matter with your manager, for whatever reason, you can raise the matter with:

Name: Business Manager – Financial Services
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655317

OR

Name: Business Manager - HR, OD and Legal
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655219

OR

Name: Karen White – Director Safety and Senior Named Manager for Safeguarding
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655240

5.3 STEP 3

If one, or all, of these channels have been followed, and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact the Director Resources:

Name: The Director Resources and Responsible Officer - See Section 9
Contact Details: Castle House, Great North Road, Newark, Notts, NG24 1BY
Tel: 01636 655303

5.4 INDEPENDENT ADVICE

If you are unsure whether in principle to use this procedure or you want independent advice at any stage, you may contact:

- The Business Manager - Human Resources, OD and Legal - See Step 2 above;
- your Union (if you are a member);
- The Council's External Auditors;
or
- The independent charity Public Concern at Work on 0207 404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

5.5 EXTERNAL CONTACTS

While it is hoped that this policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as the prescribed regulators, some of which are outlined below, or the police (Prescribed regulators, who will be appointed by the Government, are external bodies able to take and consider your concerns). Public Concern at Work, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Relevant Prescribed Regulators are as follows:

1. Health and Safety risks	Health and Safety Executive.
2. Environmental issues	The Environment Agency.
3. Financial Services	Financial Services Authority (and, pending its full operation, its predecessor bodies) and HM Treasury.
4. Fraud and Fiscal Irregularities	Serious Fraud Office, Inland Revenue and Customs and Excise.
5. Public Sector Finance	National Audit Office and Audit Commission.
6. Competition & Consumer Law	Office of Fair Trading
7. Others	Certification Officer (Trade Unions), Charity Commission, Data Protection Registrar.

There are additional regulators other than those outlined above. It is strongly recommended that if you consider taking this route, advice is taken as previously outlined.

- 5.6 You may wish to consider discussing your concern with a colleague first, and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 5.7 You may invite your Union representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

6.0 Information needed to raise a concern

- 6.1 When raising a concern under the procedure you should try to provide the following information:
- The background and reason behind the concern;
 - Whether you have already raised a concern with anyone and the response; and
 - Any relevant dates when actions relating to the concern took place.

This information should demonstrate that there are reasonable grounds for the concern to be acted upon. It is important that you do not attempt to investigate the concerns yourself.

7.0 How the Matter Will Be Handled

- 7.1 Any concerns raised will always receive a response. Once you have notified the Council of your concern, in order to protect individuals and those accused of possible malpractice, initial enquiries will be made in order to identify whether an investigation is appropriate and, if it is, what form it should take.

This may involve an internal enquiry or a more formal investigation by management or Internal Audit, following which, matters may be referred to an external agency (such as External Audit or the police).

The overriding principle here is the public interest.

- 7.2 When you raise the concern you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, it is vital that this is mentioned at the outset. If your concern more properly falls within another Council Policy, such as the Grievance Procedure or Dignity at Work Policy, you will be notified.
- 7.3 Before a final decision is taken on how to proceed, or as part of the investigation, you may be asked to meet with those investigating the concern.
- 7.4 If a meeting is arranged, you may wish to be accompanied by a trade union representative or work place colleague. The person who accompanies you should not be involved or have a direct interest in the area of work to which the concern relates. The meeting can be conducted over the telephone rather than face to face.
- 7.5 You will be notified who is handling the matter, how you can contact them, and whether your further assistance may be needed.
- 7.6 Within ten working days of a concern being raised, the Responsible Officer will write to you:
- (i) acknowledging that the concern has been received.
 - (ii) indicating how it is proposed to deal with the matter.
 - (iii) giving an estimate of how long it will take to complete investigations.
 - (iv) advised of the investigating officer (where appropriate).
 - (v) telling you whether any initial enquiries have been made.
 - (vi) telling you whether further investigation will be made, and if not, why not.
 - (vi) supplying you with information on how the Council will support you if you think this is necessary, whilst the matter is under consideration.
 - (vii) advise you of how we will inform you of progress.

- 7.7 The amount of contact between you and the officers considering the matter will depend on both the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 7.8 You will be notified when the matter is concluded and, if appropriate, the outcome of the investigation, maintaining security and confidentiality for all parties as far as possible.
- 7.9 Throughout any investigation, you will still be expected to continue your duties/role as normal unless deemed inappropriate.
- 7.10 While the purpose of this policy is to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as appropriate.
- 7.11 Rarely, a case might arise where it is the employee that has participated (or even continues to participate) in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Policy cannot undertake not to act against such an employee, but by virtue of coming forward there is a mitigating factor to be taken into account.
- 7.12 Steps will be taken to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure. The Council will take all reasonable steps to ensure that you do not suffer a detriment by a colleague because you have made a protected disclosure and if you believe that you have suffered a detriment for having raised a concern you should report this.

8.0 If You Are Dissatisfied

- 8.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned in Section 5.5. While it cannot be guaranteed that all matters will be addressed in the way that you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this.
- 8.2 If you do take the matter outside the Council, you must ensure that you do not disclose confidential information.

9.0 The Responsible Officer

- 9.1 The Director - Resources has overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the results of any investigations made (in a form that will not compromise your confidentiality).

THE BUDGET PROCESS

The role of setting the budget strategy and co-ordinating the budget process is undertaken by the Policy & Finance Committee.

The budget will be developed in accordance with the processes set out in section 2 herewith.

Monitoring and management of the budget during the financial year will be in accordance with section 3 herewith.

1.0 Introduction

- 1.1 This section sets out the process for development of the Council's annual budget and management of the budget once it has been set.
- 1.2 The Council's overall revenue budget and capital programme are approved by full Council and these lead to the setting of the Council Tax, which is required to be set by 11th March in each year.

2.0 Developing the Budget

- 2.1 The Policy & Finance Committee will determine the Council's budget strategy and co-ordinate the preparation of the budget.
- 2.2 The Council's budget strategy will be set in September each year. This gives sufficient time for the budget to be developed and agreed in time for the Council Tax to be set in March each year. The budget strategy needs to take account of the Council's objectives and the resources available to the Council, as far as these can be estimated at this stage. The budget strategy may change each year, and will include the following:
 - An assessment of the overall resources available to the Council;
 - Parameters to be used in developing the budget;
 - The methodology for setting budget targets;
 - Budget targets for each functional Committee and for Policy & Finance Committee budgets;
 - Priorities to be considered when developing the budget; and
 - Guidance on whether there is any scope for growth in the budget and/or setting out the savings requirement.
- 2.3 Policy & Finance Committee will consider progress on the budget at its meeting in December. This will incorporate consideration of any proposals made by Committees. Committees therefore will need to consider their budget and make any proposals between September and December. The December meeting of Policy & Finance Committee will also assess the budget proposals against the resources available, taking into account the local government finance settlement if that is available, and assess proposals against the Council's priorities. Policy & Finance Committee may refer items back to functional Committees and give further guidance if it appropriate.

- 2.4 The Policy & Finance Committee will consider the overall budget at its meeting in February and make a recommendation to Council on the final budget and proposed level of Council Tax. Functional Committees will be able to forward final budget proposals to the meeting of Policy & Finance Committee in February.
- 2.5 As part of developing the budget, it may be necessary to review aspects of the budget during the year. This will normally be initiated by Policy & Finance Committee as reviews are likely to be cross cutting. Examples could include areas such as Fees and Charges or Renewal and Repairs Funds. Whilst such reviews could be carried out at any time of year, it is anticipated that they will normally be initiated between April and September so that the results can be incorporated into the budget strategy.
- 2.6 It is important that the Council's budget strategy includes a co-ordinated approach to Fees and Charges. Guidance relating to fees and charges will be set out in the budget strategy and are ultimately set by full Council as part of the approval of the Council's overall budget. In order to ensure a strategic approach, the Policy & Finance Committee will make recommendations to Council about the levels of fees and charges and the process of developing fees and charges will therefore follow the process set out above.
- 2.7 The process set out above is applicable to the revenue budget. The process for the Capital Programme is set out below
- 2.7.1 A capital strategy will be considered by the Policy & Finance Committee in September of each year and will include the following:
- An assessment of the overall capital resources available to the Council
 - Consideration of existing commitments in the approved capital programme
 - Consideration of the capital requirements to deliver the Council's strategic objectives
 - Whether to invite proposals from Committees, if available resources allow
 - Approval of the methodology to evaluate capital proposals
- 2.7.2 If it is agreed that new capital bids can be considered, the timetable will follow that set out for the revenue budget, above.
- 2.8 The Policy & Finance Committee will have budgets relating to its own functions and so will need to be considered as a functional Committee when developing its proposals with regard to its own budgets.
- 2.9 The process for developing the budget set out in the above paragraphs is shown in table form in Appendix A.

3.0 Managing the Budget

- 3.1 Once the budget has been set, and the financial year has commenced, the budget will be monitored and managed during the financial year.
- 3.2 Each Committee, including Policy & Finance Committee will receive budget monitoring reports on a regular basis covering the services and budgets within the remit of the Committee. In addition, the Policy & Finance Committee will receive budget monitoring reports on performance against the Council's overall budget.
- 3.3 Whilst the purpose of the budget is to deliver the Council's objectives and policies, it may be appropriate during the year to transfer budget from one budget to another. This is termed budget "virement". It must be emphasised that this is the transfer of budget from one heading to another and this does not increase (or decrease) the overall budget. Virements are often minor in nature and are delegated to officers through the Council's financial regulations. Virements in excess of £25,000, will require the approval of & Finance Committee. Policy & Finance Committee will take recommendations from functional Committees where appropriate. In addition, any proposed virement involving a change in policy, such as service closure or withdrawal, requires the approval of Policy & Finance Committee.
- 3.4 As set out above, the level of fees and charges is set as part of the budget process. Fees and charges should not normally be varied during the financial year as this can impact on the achievement of the budget and could also affect the budget for future years (the Medium Term Financial Plan). Only Policy & Finance Committee can vary the level of fees and charges during the financial year. This includes consideration of any changes to the level of VAT, as it is necessary to have a consistent approach across the Council. Any statutorily prescribed charges, however, can be implemented in accordance with the relevant regulations without requiring Committee approval.
- 3.5 Long term commitments (longer than 1 year in this context) through contracts with external bodies can impact on the Council's Medium Term Financial Plan and so must be entered into through a strategic process. Where any long term commitment is considered that is not included in the approved budget, it will be necessary for approval to be given by Policy & Finance Committee to ensure that the impact on the Medium Term Financial Plan has been considered.
- 3.6 On occasion, there may be budget under-spends. It will be necessary for these to be considered as part of the budget process for future years. Functional committees will be able to spend savings in the year that they occur, provided that the saving is certain to be achieved, but will not be able to commit savings beyond the end of the financial year. This does not apply to the Capital Programme where all savings must be notified to Policy & Finance Committee for consideration as part of the Council's overall capital resources.

- 3.7 Management of the capital programme is set out in sections 6.2.3 and 6.2.4 of Financial Regulations which are set out as Appendix B.

APPENDIX A

April to August	Policy & Finance Committee initiate reviews of specific areas of the budget.
September	Policy & Finance Committee consider budget strategy and financial policies, set budget targets, and invite proposals from Committees.
September - December	Committees consider their budgets in the light of the proposals of the Policy & Finance Committee and submit proposals to Policy & Finance Committee.
December	Policy & Finance Committee considers the proposals of functional committees and collates these into a draft budget. Policy & Finance Committee considers the local government finance settlement, if available. Committees may be asked to consider their budget proposals further.
January - February	Committees may give further consideration to the budget and make further proposals to Policy & Finance Committee.
February	Policy & Finance Committee considers the overall budget for the Council and makes recommendations to Council on the budget and Council Tax.
March	Budget, Capital Programme and Council Tax set by Council.

APPENDIX B

Extract from Financial Regulations

6.2.3 Capital Estimates

- (i) New schemes must be accompanied by the appropriate Appraisal forms, and will normally be added to the uncommitted scheme list before proceeding to the committed Capital Programme.
- (ii) Each Committee may recommend capital schemes to Policy & Finance Committee for inclusion within the Council's Capital Programme.
- (iii) Prior to February of each year the Policy & Finance Committee shall consider the comprehensive capital estimates together with capital financing proposals and shall consult as appropriate with other Committees in accordance with the Council's Constitution.
- (iv) The Policy & Finance Committee shall consider any recommendations arising from consultation with members and will submit recommendations to the Council for the approved Capital Programme for the following five years, or such other period as the Section 151 Officer advises.
- (v) The Council shall in March of each year, by simple majority, determine the Council's Capital Programme, having considered the proposals of the Policy & Finance Committee.
- (vi) Following approval of the Council's committed Capital Programme the appropriate Chief Officers are authorised to incur expenditure in respect of all schemes included in the committed Capital Programme unless otherwise directed by the Policy & Finance Committee or Section 151 Officer.
- (vii) The Section 151 Officer is authorised to arrange the financing of the Capital Programme so as to maximise the resources available to the Council, having regard to the provisions of the Local Government and Housing Act 1989 or subsequent relevant legislation.
- (viii) The Section 151 Officer is authorised to make any necessary adjustments to the capital programme that arise at year-end due to slippage and report these retrospectively to the Policy & Finance Committee.
- (ix) Any underspending identified within the approved committed Capital Programme revert to the centre and must be reported to the Policy & Finance Committee for consideration.
- (x) Any scheme involving matched funding that does not proceed will have any funding which has already been released, returned to the central pot and must be reported to the Policy & Finance Committee for consideration.
- (xi) The Section 151 Officer will report periodically to the Policy & Finance Committee on any variations to the Capital Programme which have been identified.
- (xii) The Section 151 Officer is required to take all necessary steps to implement the committed capital programme and is authorised, in the event of slippage, to bring forward schemes from the following year provided that this does not increase the total commitment and that such changes are reported to the Policy & Finance Committee.

- (xiii) In the event of the Section 151 Officer or the Deputy Section 151 Officer not being available, the Chief Executive will determine how the delegated authority to bring schemes forward will be exercised.
- (xiv) No third party funding or grant aid may be accepted where matched funding is required until the source of the matched funding has been identified and approved by the Policy & Finance Committee.

6.2.4 Capital Programme Monitoring

6.2.4.1 The Policy & Finance Committee shall consider details of proposed Capital Expenditure.

6.2.4.2 The monitoring of the overall Capital Programme, with regard to the monitoring of funding, progress, variations, amendments etc is the responsibility of the Section 151 Officer who can delegate to an appropriate working group.

6.2.4.3 A quarterly report is to be made to the Policy & Finance Committee on the overall progress of the capital programme.

6.2.4.4 It is the individual Chief Officers responsibility to exercise control over any capital schemes within their remit and to report any possible significant variations, which may arise, to the Section 151 Officer.

**SCHEME FOR THE APPOINTMENT OF
HONORARY ALDERMEN, HONORARY FREEMEN AND FREEWOMEN**

SCHEME FOR THE CONFERRING THE TITLE OF HONORARY ALDERMEN

1.0 Procedure for Nominations

- 1.1 Nominations for conferring the title of Honorary Aldermen may be submitted by any Member of the Council to the Chief Executive. Normally nominations will only be considered in the year of ordinary district elections but may be considered at other times in exceptional circumstances. Nominations should be submitted not later than 1st May in any year.
- 1.2 Nominations will be considered by a meeting of the Councillors Commission (or such other body succeeding it whose remit shall include the consideration of such nominations). Where there is agreement to support the nomination, the person nominated will be asked if he/she is willing to accept their name going forward.
- 1.3 A meeting of the Council will be specifically convened for the purpose of considering any recommendations from the Councillors Commission. The same meeting may consider nominations for the admission of Honorary Freemen/Women.
- 1.4 The resolution to confer the title Honorary Aldermen must be passed by not less than two thirds of the Members voting on the said resolution.
- 1.5 The resolution will normally be put to a special meeting of the Council convened as close as practicable to the date of the meeting immediately after the Annual Meeting following ordinary district elections.

2.0 Criteria

- 2.1 A nomination will not normally be considered unless the person being nominated has served at least 3 terms as a District Councillor at Newark & Sherwood District Council [or a predecessor authority].
- 2.2 Notwithstanding 2.1 above, nominations may be considered in exceptional circumstances in respect of persons not satisfying the above criteria where it can be demonstrated that they have rendered eminent service to the Council.
- 2.3 Nominations may be considered where the person so nominated is a serving Member at the time of the nomination provided that they are not a serving Member at the time the appropriate resolution is passed to confer the title.

3.0 Privileges

3.1 Honorary Aldermen shall be entitled to the following rights and privileges:-

- to enjoy the courtesy title of Aldermen and to be so addressed;
- to receive invitations to all civic events to which Members of the Council are invited.

4.0 Suspension of Title

4.1 In the event of the Honorary Aldermen resuming membership of the Council, he/she will cease to hold the position of Honorary Aldermen and will cease to hold the privileges attaching to that position for such time as he/she is a serving Member of the Council.

5.0 Withdrawal of the Title

5.1 The Council may, in any case, withdraw the title of Honorary Aldermen and the attached rights and privileges. Such withdrawal of the title shall be by resolution of the Council passed by not less than two thirds of the Members voting thereon at a meeting of the Council, the summons to which contains special notice that such withdrawal is proposed.

SCHEME FOR THE ADMISSION OF HONORARY FREEMEN AND FREEWOMEN

1.0 Purpose

- 1.1 The purpose of this Scheme is to recognise individuals who have contributed significantly to the District and its communities.

2.0 Procedure for Nominations

- 2.1 Nominations for the admission of Honorary Freemen and Freewomen may be submitted by any Member of the Council to the Chief Executive.
- 2.2 Nominations will be considered by a meeting of the Councillors Commission (or such other body succeeding it whose remit shall include the consideration of such nominations) formally convened for that purpose. Where there is agreement to support the nomination, the person nominated will be asked if he/she is willing to accept their name going forward.
- 2.3 Nominations will be considered on an annual basis with nominations being received not later than 1st May in any calendar year.
- 2.4 A meeting of the Council will be specifically convened for the purpose of considering any recommendations from the Councillors Commission. The same meeting may consider nominations for conferring the title of Honorary Aldermen.
- 2.5 The resolution to admit any person as an Honorary Freeman/Freewomen must be passed by not less than two thirds of the Members voting on the said resolution.
- 2.6 The resolution will normally be put to a special meeting of the Council convened as close as practicable to the date of the meeting immediately after the Annual Meeting of the Council.

3.0 Criteria for Admission

- 3.1 Persons shall not be admitted as Honorary Freemen/Women unless the Council is satisfied that they are a person of distinction and a person who has, in the opinion of the Authority, rendered eminent service to the District.
- 3.2 In submitting a nomination, the person putting forward that nomination shall be required to demonstrate how the above criteria have been met.

4.0 Privileges

- 4.1 Persons admitted as Honorary Freemen/Women will be invited as distinguished guests to the Council's civic and ceremonial events.

GUIDELINES ON APPOINTMENTS TO OUTSIDE BODIES

1. Other than in exceptional circumstances appointments to outside bodies will be made by the Council, normally annually at the Annual Meeting of the Council. There is no requirement for appointments to outside bodies to reflect political balance and appointments will therefore be made as the Council determines and having regard to these guidelines.
2. When appointing a representative to an outside body the Council will seek to avoid any appointment where a conflict of interest is likely to arise or may be perceived to arise.
3. Where the outside body appointment has particular local connection there will be a presumption that one of the local members for the ward or area to which the appointment relates will be appointed to the role.
4. Where the work of the outside body is relevant to the remit of a particular committee, there will be a presumption that a member of that committee will be appointed to the position.
5. Outside body appointments made by the Council will normally be to elected members of the Newark and Sherwood District Council other than in exceptional circumstances.
6. Any person appointed as the Council's representative on an outside body should be required to report back regularly to the council through the appropriate committee and this should be made clear as a term of their appointment.
7. Appointments will be for a maximum of one year term and will be reviewed annually at the Annual Meeting of the Council.
8. The appointment will cease immediately if the member is disqualified or otherwise ceases to hold office.
9. No payment of expenses shall be made to any person appointed as the Council's representative on an outside body unless they are an Officer or elected member of the Council.
10. Members of the Council appointed to outside bodies will be expected to report back to the Council, as appropriate, on the activities of the outside body but with due regard being had in such reporting to the need to preserve confidentiality as to any information obtained from that outside body where necessary and appropriate.
11. Other than in exceptional circumstances, should they fail to attend 3 consecutive meetings of the outside body they shall automatically cease to be the Council's nominated representative on that outside body unless the Council had expressly authorised their absence. Where there are, in the opinion of the Proper Officer, exceptional circumstances these shall be reported to the next available meeting of the Council for information and Council shall determine whether to approve any further absence.

12. Representatives on outside bodies do not hold any executive authority on behalf of the council and shall not therefore bind the Council without being expressly authorised by the Council to do so.
13. Where the outside body appointment is of strategic importance to the Council, there will be a presumption that a member of the Policy & Finance Committee will be appointed to the role.

LOCAL CODE OF CORPORATE GOVERNANCE

Introduction

Corporate Governance is a term used to describe the way that organisations direct and control what they do. For local authorities, it includes the systems, policies and processes, as well as the culture and values that underpin a Council's arrangements for effective:

- Leadership
- Management
- Performance
- Delivery of positive customer outcomes
- Community engagement
- Stewardship of public money

Good Corporate Governance

Newark & Sherwood District Council is committed to achieving good corporate governance and this local Code describes how the Council intends to achieve this in an open and explicit way. In developing this Code the Council has considered best practice and guidance, particularly the CIPFA/SOLACE framework "Delivering Good Governance in Local Government".

However, this Code is purposefully written in a way that best reflects the Council's own structure, functions, size and governance arrangements.

The Code is based on the following key principles:-

A. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.

Good governance means acting in the public interest with members and officers demonstrating integrity, putting ethical values into practice, leading by example and demonstrating commitment to upholding the law.

B. Ensuring openness and comprehensive stakeholder engagement

Good governance means developing an open culture, consulting, seeking views, evidence and experiences, encouraging feedback, being a trustworthy partner and accepting challenge.

C. Defining outcomes in terms of sustainable economic, social and environmental benefits

Good governance means developing a vision, specifying desired impacts, managing competing priorities and expectations, identifying risks, balancing impacts of policies and decisions, taking the longer term view and working within resource restraints.

D. Determining the interventions of the intended outcomes

Good governance means analysing options, understanding risks, planning, controlling and monitoring quality, performance, impact and effectiveness and remaining responsive.

E. Developing the entity's capacity, including the capacity of its leadership and the individuals within it

Good governance means reviewing the use of assets, benchmarking, workforce planning, ensuring clarity of roles, leadership development, supporting training and development of skills, feeding back and reviewing performance and supporting health and wellbeing.

F. Managing risks and performance through robust internal control and strong public financial management

Good governance means managing risks, using scrutiny to support better decision making, aligning controls to objectives, providing internal audit assurance, Audit and Accounts Committee assurance and recommendations, effective counter fraud and anti-corruption, managing and sharing data, ensuring data quality, integrating financial management with planning and control and supporting operational performance.

G. Implementing good practices in transparency, reporting and audit to deliver effective accountability

Good governance means supporting transparency, understandable and timely reporting, assessing the Council's performance, supporting public comparisons, being responsive to recommendations from external audit, internal audit, regulators and inspectors and peer reviews and maintaining accountability when working collaboratively.

The following schedule details how the Council meets these core principles and the systems, policies and procedures it has in place to support this. This schedule is reviewed and updated annually.

Schedule to the Code of Corporate Governance**Core Principle A: Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law**

Good governance is about:	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Behaving with integrity • Demonstrating strong commitment to ethical values • Respecting the rule of law 	<p>(i) Published a Local Code of Corporate Governance to be approved by Council on 9th March 2017 that demonstrates its commitment to the principles of good governance and the importance of operating in an open and accountable manner and demonstrating high standards of conduct.</p> <p>(ii) Developed and promotes a culture of behaviour based on shared values, high ethical principles and good conduct that include the following:-</p> <ul style="list-style-type: none"> • Member code of conduct • Officers code of conduct • Protocol on member/officer relations • Protocol for dealing with Ombudsman matters • Protocol for members on hospitality and gifts • Policy for officers on hospitality and gifts • Protocol for members on dealing with planning matters • Whistleblowing policy • Protocol relating to the Independent Person <p>(iii) Established a local complaints procedure for considering any complaint that a councillor has breached the Code of Conduct with the Policy and Finance Committee having responsibility for standards and probity issues to reflect the importance which the Council attaches to ethical governance issues.</p> <p>(iv) Provides regular training to district and town and parish councillors on ethical governance</p> <p>(v) Provides an advice service to district and town and parish councillors on code of conduct issues through its Democratic Services team.</p> <p>(vi) Provides training on codes and protocols</p> <p>(vii) Is able to monitor and investigate officer and member behaviour through its customer complaints procedure</p>

	<ul style="list-style-type: none"> (viii) Regularly reviews the completion and updating by members of their Register of Interest forms for staff as well as Members (including those of town and parish councillors) (ix) Maintains a register of gifts and hospitality for staff as well as Members (x) Has adopted a whistleblowing policy which is accessible to officers, Members and the public on the Council's website. The policy provides guidance around how to raise concerns and to whom these should be addressed. (xi) Anti-fraud and corruption policies are up to date and working effectively. A counter fraud policy is in place and is available to all staff and on the Council's website. A comprehensive programme of counter fraud training has been delivered to all staff. An annual fraud risk assessment is carried out, leading to an action plan to address any identified risks and to proactively work on fraud prevention. (xii) Has appropriate governance arrangements in place in respect of its significant partnerships including the Community Safety Partnership, its relationship with Newark and Sherwood Homes and Active4Today, the GNSR collaboration agreement and East Midlands Building Control Services. (xiii) Publishes an Annual Report which is presented to Council on ethical governance and code of conduct issues. (xiv) Has clear role specifications within the constitution in respect of the Statutory Officer roles (see post). (xv) The effectiveness of the Council's Constitution and Protocols is regularly reviewed through the Councillors Commission.
--	---

Core Principle B: Ensuring Openness and Comprehensive Stakeholder Engagement

Good governance is about:	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council:
<ul style="list-style-type: none"> • Openness • Engaging comprehensively with institutional stakeholders 	<ul style="list-style-type: none"> (i) Has developed an informative, user friendly website to share information with the community. (ii) Proactively provides information and interacts with the community through social media and in particular Twitter and Facebook in a corporate capacity. (iii) Has arrangements in place to seek and respond to the views of stakeholders and the community by: <ul style="list-style-type: none"> • Consulting residents about Council services and priorities

<ul style="list-style-type: none">• Engaging with individual citizens and services users effectively	<ul style="list-style-type: none">• Having a Petition Scheme so that the community can have their say about any issues that concern them• Holds meetings in public wherever possible• Documents and publishes agendas, minutes and decisions as well as the criteria, rationale and considerations on which decisions are based.• Makes provision in its Council Procedure Rules for the public to ask questions at Council meetings• Has developed effective relationships with other public sector agencies and the private and voluntary sectors <p>(iv) Has a Communications and an Engagement Strategy which are published on the Council's website. These are currently being reviewed and updated – research work is undertaken using a range of techniques appropriate to the relevant stakeholders including face to face interviews, household postal surveys, internet surveys, workshops and focus groups.</p> <p>(v) Undertakes Equality Impact Assessments to identify how the needs of particular communities have been considered to inform decision making.</p> <p>(vi) The LDF has a statement of Community Involvement that has been subject to external validation.</p> <p>(vii) The Council's committees undertake reviews of the work of other public service providers and hold those representatives to account.</p> <p>(viii) The Council proactively engages in the health agenda through officer and member involvement in the district's two clinical commissioning groups and Nottinghamshire Health and Wellbeing Board.</p> <p>(ix) The Council communicates with all sections of the community through the VOICE newsletter which is currently issued twice a year. This is done in conjunction with the Clinical Commissioning Group who share the cost.</p> <p>(x) Safer neighbourhood groups have been established under the umbrella of the Community Safety Partnership.</p> <p>(xi) The Council works proactively with local communities in establishing resilience in emergencies, for example flooding where flood wardens have been identified and local flood forums established.</p> <p>(xii) Has a Freedom of Information Act Publication Scheme on the Council's website.</p>
--	--

	<ul style="list-style-type: none"> (xiii) Issues a council tax leaflet. (xiv) Calendar of dates for submitting, publishing and distributing timely reports is adhered to. (xv) Has developed a Partnership toolkit and a Partnership register. This identifies significant partnerships and potential impacts on the Council.
--	--

Core Principle C: Defining outcomes in terms of sustainable economic, social and environmental benefits

Good governance is about:	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Developing a vision • Managing competing priorities and expectations • Identifying risks • Balancing impacts of policies and decisions • Taking the longer term view • Working within resource constraints 	<ul style="list-style-type: none"> (i) Agreed its vision and priorities – the Council's priorities were reviewed in July 2016 and reaffirmed four strategic themes which should be of equal weight namely prosperity, people, place and public service and has developed detailed delivery plans in relation to those strategic priorities. (ii) Has developed and maintains proper financial management arrangements. These include a Medium Term Financial Strategy designed to set a sound financial planning framework for the Council which reflects its vision and priorities; agrees a balanced budget before the start of each financial year together with a Medium Term Financial Plan which looks ahead four years; and an annual Accounting Statement that details the Council's financial position in the previous year. (iii) Regularly reviews risks at a Strategic, Corporate, Project and Operational level and ensures that appropriate plans are in place to mitigate risks. (iv) Has arrangements in place to publish the annual external auditor's report which includes a formal conclusion on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. (v) Has developed and recently reviewed its Contract Procedure Rules. (vi) Undertakes regular monitoring and review of strategic and operational risks and risk owners are clearly identified. (vii) Internal Audit regularly reviews the risk and control framework and produces a Combined Assurance Report in conjunction with Business Managers and the Corporate Management Team.

	<ul style="list-style-type: none"> (viii) Communicates its vision and priorities to employees through staff roadshows, briefings and “drop in” sessions for staff. Most recently this has taken the format of themed workshops as the Council develops its “Moving Ahead” strategies. (ix) Reflects the Council’s strategic priorities through individual business unit plans. These are captured and monitored in the Council’s performance management system, Covalent.
--	---

Core Principle D: Determining the interventions necessary to optimise the achievement of the intended outcomes

Good governance is about	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Analysing options, understanding risks, planning, controlling and monitoring quality, performance, impact and effectiveness in order to: • Determine interventions • Plan interventions • Optimistic achievement of intended outcomes • Remain responsive 	<ul style="list-style-type: none"> (i) The Council has established a Councillors Commission comprising a working group of members including all political group leaders which provides a forum for discussion between members and officers on the information needs of members to support decision making. A further vehicle for such dialogue is through the holding of agenda meetings prior to the publication of formal agendas. (ii) Reports to committee include an analysis of options together with the reasons for the recommendation contained within the report. (iii) Business Plans/Performance indicators aligned to Council priorities have been determined for each service area and are regularly monitored and reviewed. Members can access performance data on Covalent through the members extranet. Performance Management arrangements are embedded within the Council and a team of dedicated officers’ work with Business Managers to monitor/analyse performance and develop action plans as appropriate. Members of the Corporate Management Team/Members receive quarterly updates on how the Council is performing. (iv) The Council’s budget is developed to reflect the Council’s priorities and the Council has a clear financial strategy including a Medium Term Financial Plan (see (ii ante) – budgets, plans and objectives are aligned.

Core Principle E: Developing the entity's capacity, including the capability of its leadership and the individuals within it

Good governance is about:	To demonstrate its commitment to achieving good governance, Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Reviewing use of assets • Benchmarking • Workforce planning • Working with others • Ensuring clarity of roles • Leadership development • Supporting training and development of skills • Feeding back and reviewing performance • Supporting health and wellbeing 	<p>(i) The Council has robust mechanisms in place to identify the development needs of members and senior officers in relation to their strategic roles which it supports with appropriate training, in particular:-</p> <ul style="list-style-type: none"> • The Council has a Member Induction Plan and Member Training and Development Plan which is regularly reviewed and updated through a member working party which includes all political group leaders. There is a dedicated budget for member training and development. • The Council has a corporate training and development plan which is reviewed annually against Council priorities. There is a dedicated corporate employee training budget. • The Council, in conjunction with Rushcliffe and Gedling Borough Councils (GNSR) and in partnership with the University of Birmingham has developed an in-house MPA Programme for senior managers to provide them with the opportunity to work together/share best practice whilst increasing their knowledge/skills. • The Council employ two National Management Trainees on behalf of GNSR and co-ordinate placements across the three organisations providing each NMT with 8 months in each authority as a means of growing talent for succession management purposes. • Staff appraisals are undertaken for all members of staff at least annually. The appraisal process offers the opportunity to provide feedback on performance and to identify any training and development needs. Any training needs are notified to the Human Resources team so that they can inform the corporate training plan. <p>(ii) The HR team work with service areas to complete an annual workforce planning exercise to feed into the budget planning process.</p> <p>(iii) Members of the HR team work closely with service areas to ensure that team structures are fit for purpose and staffing resources are used to best effect to deliver Council priorities.</p>

	<ul style="list-style-type: none">(iv) The Council operates robust recruitment and selection process. The Council is an accredited mindful employer adhering to a policy which reflects best practice standards in the recruitment of staff. All recruitment advertisements carry the “Two Ticks” symbol (Positive about Disabled People) and managers cannot attend interview panels until they have attended internal recruitment training.(v) The Council has a raft of HR Policies and Procedures which are reviewed regularly to ensure that they remain fit for purpose.(vi) The Council adopts and publishes an annual Pay Policy Statement that sets out the Council’s approach to pay and provides links to relevant policies and procedures.(vii) Recently undertaken a Corporate Peer Review and has developed an action plan to address the key recommendations contained in that review.(viii) Uses systems and technology effectively – for example as a training tool and to enable members to scrutinise and challenge – a members extranet has been developed to assist members in undertaking their roles.(ix) The Council has adopted an agile working strategy to facilitate flexible and home working.(x) The Council is currently working with partner organisations across Nottinghamshire to facilitate the introduction of Timewise as a means of maximising the opportunity for current and prospective employees to work in a more agile manner and in doing so encourage a wider pool of applicants to vacant posts.(xi) The Council provide access to occupational health arrangements, counselling and therapy services to help improve employee well-being and ensure that sickness absence is kept to a minimum.(xii) The Wellbeing at Work Team led by the Health Improvement Officer provide regular updates around health related matters as well as running a calendar of events to encourage staff to become more active. The work of the team was recently recognised through receipt of the Well-being at Work Bronze Award and nominations for the recent Pride Awards resulting in the lead and members of the team receiving highly commended awards.
--	---

Core Principle F: Managing risks and performance through robust internal control and strong public financial management

Good governance is about:	To demonstrate its commitment to achieving good governance Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Managing risk • Managing performance • Robust internal control • Managing data • Strong public financial management 	<p>(i) Put in place assurance arrangements which conform with CIPFA's requirements:</p> <ul style="list-style-type: none"> • The Council has appointed an Audit and Accounts Committee which can report to full Council if it considers this necessary. • The Risk Management Strategy is reviewed by the Committee along with the strategic and operational Risk Registers • The Council has contracted with Assurance Lincolnshire to provide an internal audit service. Internal auditors are independent and have access to all people, premises and systems. An annual report from the Head of Internal Audit is presented to the Committee. • The Annual Audit Plan is shaped through an assessment of the Council's key strategic risk areas and critical services • All audit reports are considered by the Corporate Management Team. • Results of audit reviews are reported to the Audit and Accounts Committee along with follow up work to ensure that the recommendations have been implemented. • Financial systems are reviewed annually to ensure appropriate, effective controls are in place. • External audit report to the Committee annually on the results of the audit of the financial statements • The Annual Governance Statement considers the internal control framework, and is presented to the Committee annually with the Statement of Accounts. It is also reviewed halfway through the year, to ensure that significant control issues are monitored and reported on. <p>(ii) Ensured that effective arrangements are in place for the discharge of statutory officer roles by:</p> <ul style="list-style-type: none"> • Defining roles and responsibilities in the constitution • A meeting of the statutory officers not less than once a year to review governance issues <p>(iii) Ensuring compliance with relevant laws and regulations, internal policies and procedures and that expenditure is lawful by:-</p>

	<ul style="list-style-type: none">• Incorporating legal and financial comments in reports to members where necessary and appropriate• Ensuring that senior managers are briefed on significant legislative changes or changes in policies and procedures – there is a regular dialogue with the Corporate Management Team through monthly business managers meetings. <p>(iv) The Council's financial management arrangements conform with the requirements of the CIPFA statement on the role of chief financial officer in local government and with statutory provisions in the Local Government Act 1972, the Local Government Act 1988 and the Accounts and Audit Regulations 2011.</p> <p>(v) Regulations covering all aspects of financial management including contract procedure rules are in place and reviewed regularly. Training on Financial Regulations has been provided to all relevant staff.</p> <p>(vi) Financial performance reports are sent to business managers monthly and members are also able to monitor financial performance through the member extranet and by exceptions reporting to committee.</p> <p>(vii) Clear performance management arrangements are set out within management agreements for the Council's companies, Newark & Sherwood Homes and Active4Today Ltd.</p> <p>(viii) Members of the corporate management team carry out an annual review of strategic, corporate and project related risks to ensure that they are relevant, whilst at the same time reviewing risk appetite. Quarterly reports are submitted to CMT to allow for effective monitoring. Following a recent review members of CMT have requested more regular updates in relation to high risks to ensure that these are being mitigated effectively. Members of the performance team work closely with business managers to ensure that they regularly review operational based risks and provide assurance to CMT in this regard.</p> <p>(ix) An annual review of fraud risks is carried out to ensure controls are in place and are effective. The results of the review are reported to the Audit & Accounts Committee.</p> <p>(x) Biannual reports on counter-fraud activity are taken to the Accounts & Audit Committee.</p>
--	---

Core Principle G: Implementing good practices in transparency, reporting and audit to deliver effective accountability

Good governance is about:	To demonstrate its commitment to achieving good governance Newark & Sherwood District Council has:
<ul style="list-style-type: none"> • Implementing good practice in transparency • Implementing good practices in reporting • Assurance and effective accountability 	<p>(i) Moved to a committee style of governance (May 2013) where overview and scrutiny principles are embedded within committee remits.</p> <p>(ii) Appointed a dedicated Information Governance Officer who monitors compliance with the Freedom of Information Act and Access to Information Act and deals with FOI requests.</p> <p>(iii) The Council has a presumption of openness and transparency and publishes key information on its website. The Council adheres to the Government's Transparency Initiative.</p> <p>(iv) The Authority's assurance arrangements conform with CIPFA's requirements (see F(i) ante) with a dedicated Audit and Accounts Committee and regular training provided to members of that Committee.</p> <p>(v) Publishes an Annual Report summarising the Council's key achievements over the last 12 months and highlighting future goals. The Council also includes a review of the past year within the explanatory foreword in the Annual Statement of Accounts.</p> <p>(vi) Through reviews by external auditors, external agencies, internal audit and its performance team the Council constantly seeks ways of ensuring that value for money is achieved and for securing continuous improvement in the way in which its functions are exercised.</p> <p>(vii) Introduced an effective complaints system which is managed through the customer services team. All complaints are monitored and evaluated. The complaints procedure includes a senior management review. There are clearly set targets for responses.</p>

PROTOCOL RELATING TO THE INDEPENDENT PERSON

Introduction

The Localism Act 2011 introduced a system of members' standards in local government. This included the duty under Section 27 of the Act to appoint an Independent Person or Persons. The Council has adopted a Role Description for the post holders. This role requires the persons appointed to relate to the Council's Standards Committee and also to the Monitoring Officer. The Independent Persons also have a role in the consideration of disciplinary matters relating to statutory officers which may result in their dismissal. However, the purpose of this protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Persons will interact within the new Member Standards System. The protocol is not seeking to be prescriptive but rather to set out the general principles which all parties will use their best endeavours to comply with.

The Council has appointed 2 Independent Persons to act in this role. Either may act independently of the other in a particular matter.

1. Contact with the Independent Person

- (i) A Member of the District Council or of a Town or Parish Council who is the subject of a complaint should only contact the Independent Person if a formal complaint has been made in writing to the Council. The Monitoring Officer will notify the Independent Person of all formal complaints. If a Member contacts the Independent Person prior to a formal complaint being lodged, the Independent Person will refer them to the Monitoring Officer.
- (ii) The Independent Person should not discuss a potential or actual complaint directly with the potential complainant or complainant and shall refer the complainant to the Monitoring Officer to speak directly to any complainant.

2. Considering Written Allegations

- (i) Where the Monitoring Officer is acting under delegated powers in considering written allegations, the Monitoring Officer will seek the views of the Independent Person before reaching a decision on whether any further action should be taken on a written complaint.
- (ii) When issuing the decision letter, the Monitoring Officer will record that the Independent Person has been consulted and that their views have been taken into account.
- (iii) Where the Monitoring Officer refers a written allegation to an Assessment Sub-Committee rather than determining whether any further action should be taken acting under delegated powers, the Assessment Sub-Committee shall have discretion as to whether or not to consult the Independent Person on the matter before reaching their decision.

- (iv) The Monitoring Officer may ask the Independent Persons to support her in efforts to try to resolve complaints informally where the basis of the complaint appears insubstantial or otherwise does not appear to warrant a formal investigation or where an alternative route to formal investigation would appear to offer a better means of resolving the matter e.g. where it appears that complaints have been made on a tit for tat basis or where a town or parish council appears to have become dysfunctional.

3. Relationship with the Standards Committee

- (i) The Monitoring Officer may consult the Independent Persons where appropriate on recommendations to the Standards Committee particularly where these relate to the procedures for handling complaints.
- (ii) The Independent Persons shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend the Committee as observers.
- (iii) Where a matter has been referred to a Hearing Sub-Committee of the Standards Committee for determination, the Sub-Committee must seek the views of either of the Independent Persons before reaching its conclusions. The Independent Person may attend the Sub-Committee to convey their views or may alternatively submit their views in writing to the Sub-Committee through the Monitoring Officer

4. Right of Access to Documentation

The Independent Persons shall have a right of access to such files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. The Independent Persons shall not have a right to undertake a roving commission. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

5. Confidentiality

- (i) The Independent Persons shall respect the confidentiality of any documents provided to them and shall be responsible for their safe custody.
- (ii) The Independent Persons should respect the general confidentiality of the Council's Standards process and should not proactively make any comments to the media on any matter relating to the Council's Standards business. Any requests for comments from the media should be referred in the first instance to the Monitoring Officer who may refer these to the Chairman of the Standards Committee as appropriate.

6. Role of Independent Person

Where one of the Independent Persons is not available to deal a particular matter or where that Independent Person has a potential conflict of interest the other Independent Person shall act in the particular matter.

SOCIAL MEDIA PROTOCOL FOR MEMBERS

Purpose of this Protocol

The Council welcomes Members' use of social media and would like to support this by giving guidance so that Members have greater clarity as to what is and is not acceptable usage of social media. This protocol is intended to provide such guidance and complements the general rules under the Code of Conduct for Members.

What is Social Media?

Social media is the term to describe websites and online tools which allow people to interact with each other. This could, for example, be blogs, and postings on a wide range of social media platforms including (but not limited to) Facebook, Twitter, LinkedIn, Snap-chat, Instagram etc.

On many social media sites users share information, give opinions and may create interest groups or pages leading to longer exchanges. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

Social Media and Members

It is not a requirement for Members to have a Facebook or Twitter account or to use other forms of social media to fulfil their job as a Member. However, if you are using or planning to use social media in connection with your work as a Councillor, or are already using such media in your private capacity, these guidelines will be relevant. Remember that, whenever you act or appear to act in your official capacity, you must comply with the Code of Conduct.

Social Media can be used:

- To support councillors in performing their community leadership role.
- To keep in touch with or obtain local views and opinions.
- For political campaigning.
- For campaigning on local issues.

Types of Social Media:

- Blogging and micro blogging – online journals – Twitter is an example of micro blogging, where entries are limited to 280 characters.
- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example.
- Social networking sites – these facilitate connections between those who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example.
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example.

Things to Bear in Mind

- Any communication is capable of being misinterpreted. While the use of social media should not be more susceptible to this problem than any other form of communication, something about the immediacy of social media seems to magnify the problem.
- By the nature of such media, misinterpretation or misrepresentation, particularly with regard to something that is perceived as being more controversial than it was expected to be, is likely to lead to rapid and wide broadcasting of that apparently “controversial” item.
- There are no special, additional legal or ethical burdens relating to the use of social media. The same rules apply here that govern the rest of your behaviour as a councillor – you just need to think about them in this new context – their immediacy and ease of dissemination.
- Although the best use of social media is conversational in tone, publishing to the internet is still publishing. What you’ve said online is recorded and it is permanent. Most pitfalls will be avoided if your online content is accurate, informative and thought through. Think of it as speaking in public. Think before you commit each word.
- This doesn’t mean that members cannot, in the appropriate context, communicate politically. This is expected of a councillor, but you should be careful not to say anything that you wouldn’t be comfortable repeating or justifying, for example, at a public meeting.

Some Legal Issues:

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may consider it as defamatory and consider legal action. The same thing may happen if, for example, someone else publishes something defamatory on your website; you know about it and don’t take swift action to remove it. A successful legal claim could result in the award of damages against you.
- **Defamation** – the Communications Team endeavour to monitor local social media channels. However, it cannot police every single comment that is made about the council or councillors. The Communications Team can directly remove postings on social media channels which it owns but not those on third party sites. Some sites are private or closed for which the team has no access to comment or report offending postings. Comments can be reported to some sites, for example to Facebook, if they are distasteful, illustrates use of drugs, guns or products of harm or is a comment based on race, gender, sexual orientation or disability. It is then in the hands of the social media channel to decide on the removal of the comment. Regarding defamation and social media, a complainant would need to prove that comments actually caused damage to a member’s reputation. This may be very difficult to quantify, and generally, the council is unable to commit resources to an action for defamation by an individual or group of members but would provide supporting evidence to those wishing to take such action.
- **Copyright** – Placing images or text on your site / channel from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don’t publish anything you are unsure about, or obtain prior permission. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against you.

- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission. Personal information in an email or personal exchange should not be presumed to imply any consent to pass it on to others. If you place personal information on a public forum you should expect it to be published by others.
- **Bias and Predetermination** – if you are involved in making planning, licensing or other quasi-judicial decisions, do not say anything through social media (or indeed anywhere) that suggests you have made your mind up on an issue that is due to be formally decided. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence, and were genuinely persuadable to a different view, otherwise, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Electoral periods** – be mindful that when you are using social media for campaigning during election periods you will need to provide a return of expenditure on any advertising or campaign literature, including web advertising and the design and website costs of downloadable material.

Social Media and the Code of Conduct for Members Generally:

- Aspects of the Code of Conduct for Members will apply to your online activity in the same way as they do to any other communication you may use. The key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a councillor rather than as a private individual. If you have a Facebook or Twitter account which includes your role as a councillor, you should keep this separate from your personal accounts or you risk being subject to the code of conduct.
- It can be presumed by others that you are speaking as a councillor. This can happen where you have a social media account where you comment both as a councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case.
- The presumption can arise simply because you are commenting on council business, because you are known to be a councillor or make reference to this, use party political symbols or references in the text.
- One way of avoiding this, and avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a councillor separate from those where you communicate in a personal capacity. Another is to spell it out in the text (e.g. "speaking entirely personally..."). This is a decision for each member and some Members may find the convenience of having one account outweighs the advantages of separate accounts. The council's Communications Team can help you with more specific advice if needed.

Relevant Elements of the Members' Code of Conduct:

- **You must treat others with respect** - do not use social media to make personal attacks or indulge in rude, disrespectful or offensive comments.

- **You must comply with equality laws** – do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti-faith.
- **You must not bully or harass anyone** – do not say anything, particularly if it is part of a series of similar comments about a person or on a theme that might be construed as bullying or intimidation.
- **You must not bring the council into disrepute** – you should not publish anything that could reasonably be perceived as reflecting badly upon or lowering the reputation of you or the Council.
- **You must not disclose confidential information** - you must not, in your use of social media, just as in any other circumstances, disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature. Inadvertent leaks of the council's confidential information are more likely to take place when a councillor is using social media, rather than, say, when they are carefully drafting a letter for publication in the local paper. This may be because of the more immediate, conversational, off- the cuff nature of much social media communication. Members must be careful to apply exactly the same standards to their social media communications as they would to statements made in a more formal context.

Staying out of Trouble - Some Do's and Don'ts

Some Do's

- set appropriate privacy and security settings for your blog or networking site –especially if you have a private, non-political blog.
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views. Be aware that the higher your profile as an elected member, the more likely it is you will be seen as acting in your official capacity when you blog or network.
- Consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
- ensure you use council facilities appropriately; if you use a council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity.
- be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.
- feel able to make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or comments on policy are less likely to be viewed as disrespect.

Some Don'ts

- Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you are tired or have consumed alcohol.
- post comments that you would not be prepared to make on paper or face to face.

- request or accept a Council employee or contractor providing services to the council as a “friend” on a social networking site where this suggests close personal association. For the avoidance of doubt, this does not apply to sites which are intended as a neutral, professional connections registry (such as LinkedIn.)
- use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about council staff, service users, their family or friends, colleagues, other professionals, other organisations, or the council.
- publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, council staff as well as council related information.
- represent your personal views, or those of any political party or interest group you belong to, as being those of the council, on any social medium.
- browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory.
- make conspicuous or excessive use of social media technology during the course of a Council or committee meeting so that you give the impression to the public of not being respectful of the proceedings and, more seriously, taking decisions that are not based on full engagement with the facts and arguments.

General

The Council wishes to encourage Members' use of new technology, including social media. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk.

The Monitoring Officer and the Communications Team are happy to help Members by providing addition advice and guidance as appropriate.

Further Information

Local Government Association - Digital Councils
<http://www.local.gov.uk/digital-councils/get-started>

NEWARK & SHERWOOD DISTRICT COUNCIL

Remote Meeting Protocol
May 2020

Introduction

This document has been prepared to assist Members when attending remote or virtual committee or council meetings.

These meetings are held in accordance with ‘The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020’ or ‘Coronavirus Act 2020’.

Members should refer to *Council Procedure Rule No. 38 of the Constitution – Remote Meetings Held by Virtue of the Coronavirus Act 2020* when reading this protocol.

Remote Meeting Software

Remote meetings will be undertaken using Microsoft Teams. The ICT or Democratic Services Business Units are available to give advice on using Microsoft Teams. You must ensure for a remote meeting, that your camera is switched on and you know how to mute and unmute your microphone.

ICT and Democratic Services will be able to offer assistance at any time prior to the meeting so please ensure you have understood how to access the meeting before the day of the scheduled event.

ICT will ‘open’ the remote meeting at least 30 minutes before the formal start time of the meeting, to ensure that everyone is logged into the meeting and are confident in using the software.

The Chairman of the meeting will give Members a one minute warning prior to the start of the meeting, which for public meetings will be streamed live on the Council’s social media channels.

Identity Presentation

You must ensure that your ‘identity presentation’ on Microsoft Teams clearly identifies you as a Councillor, for example Councillor Brian Smith, as you will be taking part in the formal decision making process. Consistent identification helps the general public, who may be watching the webcast of the meeting, identify you as a Councillor.

When you ‘join’ the meeting and are prompted to enter your name please record in this manner, as per the example above, i.e. Councillor *followed by your name*.

Surroundings

Consider where you are planning to ‘access’ the meeting from. The environment should be quiet with no interruptions, for example by other people in your household. There should be a plain background free from any political artwork or slogans. We recommend setting the background to a blurred effect, which ICT and Democratic Services can provide instruction on. Do not use any pre-set virtual backgrounds that are available on Teams as this can affect the quality of the overall image.

You may wish to use headphones to reduce the background noise from within your household. Headphones can also improve the sound quality. If you are not able to use headphones please familiarise yourself with how to adjust the volume levels on your device.

Appearance

You will be able to see yourself as you appear to others in the meeting or to those viewing the live stream. You should ensure that you can be seen clearly without glare from windows etc. Please remember that public meetings will be livestreamed as required by the legislation so wear appropriate clothing.

Eating and Drinking

It would not be appropriate to eat during a traditional Committee meeting so this convention should be observed for a remote meeting. However, please ensure that you have a drink available during the meeting.

If you need to take a short break from the remote meeting please remember to switch your camera off and ensure your microphone is muted. Switch your camera back on when you return. For meetings of the Planning Committee, Members will need to be mindful of the provision of Paragraph 14 of the Protocol for Members on Dealing with Planning Matters which requires that any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter.

Behaviour

As a councillor you are bound by the Member Code of Conduct, and this form of meeting doesn’t change that requirement. Your actions, as a representative of the Council, could be observed by a public audience who are not visible to you and may be recorded by some, so please maintain the standards of behaviour required by the Code of Conduct at all times. The Council will also maintain a formal recording of the meeting, which will be available following the meeting.

Speaking During a Remote Meeting

Please indicate your wish to speak at a meeting, but wait until the Chairman has indicated that you may speak. It is very difficult for the public, and other Members and Officers listening, to hear what is being said when people talk over each other. The meeting should not be interrupted unless it is your turn to engage in the process when invited by the Chairman.

To reduce background noise and feedback, you should mute your microphone, and only unmute when you wish to speak or vote.

Disclosable Pecuniary Interests

If you have a disclosable pecuniary interest in an item which prevents you from participating in the debate and the voting, Members are requested to turn off their cameras and mute their microphones while the particular item is being discussed.

Voting

Voting in a remote meeting will be managed by the Chairman or the Democratic Services Officer in attendance, usually by taking the vote from each Member on the Committee in alphabetical order.

Exclusion of the Press and Public

When a Committee resolves to exclude the press and public by virtue of Schedule 12A of the Local Government Act 1972, Members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.

What Happens if Something Goes Wrong?

If your connection drops away from the event, you can resume by going back to the original invitation to the meeting and click to re-join. All remote meetings will also have the option to 'dial in' if for any reason you cannot access through Microsoft Teams. Please keep the meeting link and the dial-in instructions readily available in case you need to refer back to these.

Please do not attend Castle House in person. Facilities are not currently available for you to join a remote meeting from Castle House.

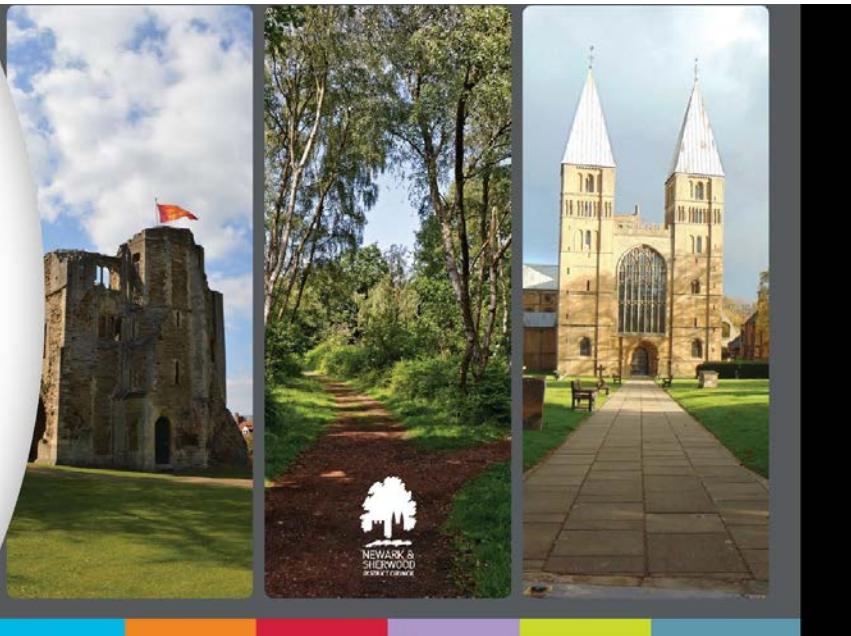
For meetings of the Planning Committee, Members will need to be mindful of the provision of Paragraph 14 of the Protocol for Members on Dealing with Planning Matters which requires that any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter. This will apply if a Member does temporarily lose connection to the meeting.

If you have issues with your laptop/iPad please contact ICT before the day of the meeting where possible.

Appropriate images will be presented on the livestream broadcast should a remote meeting need to be adjourned for any reason such as a failure in the technology. Members of the public viewing the livestream will be given suitable messages such as the ones pictured in the screenshots below.

Planning Committee

The meeting is about to start



Planning Committee

The meeting is temporarily adjourned and will recommence soon



PART 5

MEMBERS' ALLOWANCES SCHEME

MEMBERS ALLOWANCE SCHEME 2020/21

1. The basic Members' allowance is £5,124
2. Special Responsibility Allowances are as follows:

Leader of the Council/Chairman of Policy & Finance Committee	14,175.00
Deputy Leader of the Council	2,834.00
Leader of Main Opposition Group & Opposition Spokesperson on Policy & Finance Committee	4,906.00
Leader of Other Opposition Groups	839.00
Opposition Spokespersons on Functional Committees	1,065.00
Chairmen of Functional Committees	5,777.00
Vice-Chairman of Policy & Finance Committee	1,065.00
Vice-Chairmen of Functional Committees	1,065.00
Chairman Planning Committee	5,777.00
Vice-Chairman Planning Committee	1,065.00
Chairman of Licensing & General Purposes Committees	3,411.00
Vice-Chairman of Licensing & General Purposes Committees	501.00
Chairman of Audit & Accounts Committee	1,956.00

3. There is no limit as to the number of special responsibility allowances paid to individual Members.
4. For the purposes of qualifying for a special responsibility allowance a political group on the Council needs to comprise of at least four Members.
5. A childcare and dependent carers' allowance of up to £10 per hour will be payable for costs actually incurred, or more in exceptional circumstances at the discretion of the Section 151 Officer and provided that it is evidenced based.
6. In the event of any part year entitlement due to elections, suspension or changes in special responsibility, payments will be subject to a daily calculation of entitlement.
7. The travel and subsistence expenses for Members be the same as the casual user rate and subsistence scheme for officers.
8. Any Member may, by way of notice in writing, forgo all or part of any allowances.
9. The Basic Allowance and Special Responsibility Allowances are indexed to the annual percentage salary increase for local government staff (at spinal column 49) to be implemented from the start of the municipal year for which it is applicable.
10. This scheme comes into effect on 1 April 2020.

Notes: The following annual payments are made outside of the Members' Allowances Scheme:

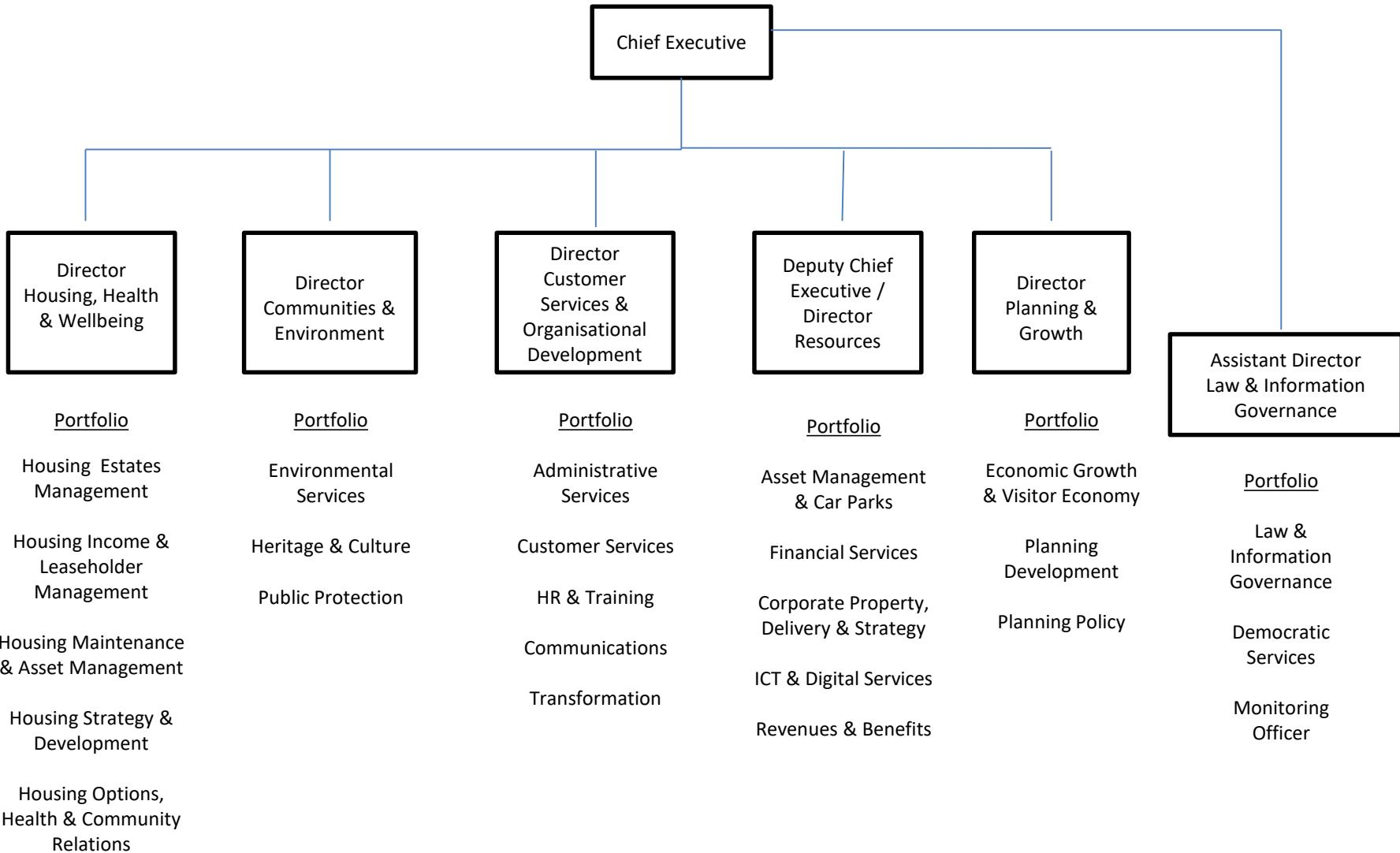
Council's Appointed Independent Persons	1,500.00
Chairman of the Council	3,360.00
Vice-Chairman of the Council	670.00

Allowance for Members of Planning Committee When Attending Site Visits

- (a) On the basis that such attendance constitutes an exceptional circumstance, a payment of £8.00 per day will be made by way of a subsistence payment without the production of receipts, subject to the following conditions:
- (i) the Member claiming the subsistence payment is present for the whole of the site tour and the subsequent Planning Committee meeting;
 - (ii) the site tour and Planning Committee meeting take place on the same day;
 - (iii) there should be no provision of retrospective claims prior to the introduction of the new Members' Allowance Scheme; and
 - (iv) the effective implementation date be 1 March 2016 when the new Members' Allowance Scheme came into effect.
- (b) Any claims submitted should also be subject to the following conditions:
- (i) any claims submitted should be made within 1 month of the site tour/Planning Committee taking place;
 - (ii) any claim submitted later than 1 month after the expenditure being incurred will only be paid in exceptional circumstances;
 - (iii) any claim made more than 3 months after the expenditure was incurred will be disallowed; and
 - (iv) notwithstanding the above all claims must be submitted within 1 month of the end of the financial year to which they relate or will otherwise be disallowed (in other words there will be no discretion to consider exceptional circumstances for any claim submitted at the year-end).

PART 6

MANAGEMENT STRUCTURE



PART 7

INDEX

	PAGE NOS
PART 1 <u>SUMMARY AND EXPLANATION</u>	
The Council's Constitution	2
What's in the Constitution	2
How the Council Operates	2 – 4
Chairmen of Committees	4 – 5
Leader of the Council	5
Deputy Leader of the Council	5
The Council's Staff	5 – 6
Citizens' Rights	7
Citizens' Responsibilities	7 - 8
Area Committees and Forums	8
Joint Committees	8
Finance, Contracts and Legal Matters	8
Authentication of Documents	8
Review and Revision of the Constitution	9
PART 2 <u>RESPONSIBILITY FOR FUNCTIONS</u>	
Committee Structure	2
Responsibility for Council Functions	3 – 4
Policy & Finance Committee	5 – 9
Economic Development Committee	9 – 11
Leisure & Environment Committee	11 – 13
Homes & Communities Committee	13 – 15
General Purposes Committee	15 – 16
Hackney Carriage/Private Hire Vehicle Sub-Committee	16
Appeal Panel	17
Licensing Committee	17 – 18
Planning Committee	18 – 23
Shareholder Committee	23
Audit & Accounts Committee	23 – 24
Chief Officers Appointments Panel	24 – 25
Investigating and Disciplinary Sub-Committee	25 – 26
Chief Officers Appeals Sub-Committee	26 – 27
Independent Panel	27 – 28
Board of Trustees of the Gilstrap Charity and W.E. Knight Trust	28
Mansfield & District Crematorium Joint Committee	28 – 39
Overview & Scrutiny Arrangements	39 – 40
Scheme of Delegation to Officers	40 – 43
Powers & Functions Delegated to the Chief Executive and Head of Paid Service	43 – 46
Powers & Functions Delegated to the Chief Executive and Chief Officers	47 – 56
Powers & Functions Delegated to the Section 151 Officer	57 – 58
Powers & Functions Delegated to the Monitoring Officer	59

PART 3	<u>RULES OF PROCEDURE</u>	PAGE NOs
<u>Council Procedure Rules</u>		
Rule No.		
1	Definitions and Interpretation	4
2	Council Procedure Rules	6
3	Meetings of the Council	7
4	Extraordinary Meeting of the Council	7
5	Person Presiding at Meetings of the Council	8
6	Quorum of Meetings	8
7	Order of Business at Meetings of the Council	9
8	Opposition Priority Business	11
9	Communications	12
10	Presentation of Petitions	12
11	Consideration of Items referred direct to the Council by Officers	13
12	Consideration of Reserved Decisions from Committees, recommendations and Items referred from Committees and Sub- Committees	13
13	Notice of Motions	14
14	Questions by Members of the Council	15
15	Questions by the Public	16
16	Presentation of Minutes for Noting	18
17	Appointment of Committees and Sub-Committees and Allocation of Seats on Committees and Sub-Committees to Political Groups	18
18	Meetings of Committees, Sub-Committees and Working Parties	20
19	Persons Presiding in Committees, Sub-Committees and Working Parties	21
20	Order of Business in Committees and Sub-Committees	21
21	Reference of Items of Business by Officers to Council and Committees	22
22	Reservation of Decisions of Committees and Sub-Committees	23
23	Minutes	25
24	Motions and Amendments	25
25	Rules of Debate (General)	27
26	Additional Rules of Debate for Council Meetings	30
27	Prevention of Disorderly Conduct	31
28	Voting	31
28a	Recorded Vote at Budget Meeting	32
29	Attendance	33
30	Duration of Meeting	33
31	Disclosable Pecuniary Interests	33
32	Protocol for Cancellation of Meetings	33
33	Substitution of Members at Meetings	34
34	Amendments to the Constitution	35
35	Sub-Committees	35
36	Working Parties and Task & Finish Group	35
37	Application of these Rules to Committees and Sub-Committees	36
38	Remote Meetings Held by Virtue of the Coronavirus Act 2020	36

NEWARK & SHERWOOD DISTRICT COUNCIL

CONSTITUTION
JULY 2021

Page No. Page 4

	PAGE NOs
<u>Access to Information Procedure Rules</u>	
Rule No.	
1 Scope and Definitions	40
2 Additional Rights to Information	40
3 Rights to Attend Meetings	40
4 Notice of Meetings	40
5 Access to Agendas and Reports before the Meeting	40
6 Supply of Copies	41
7 Access to Minutes etc. after the Meeting	41
8 Background Papers	41
9 Summary of Publics Rights	42
10 Exclusion of Access by the Public to Meetings	42
11 Exclusion of Access by the Public to Reports	44
12 Disorderly Conduct etc.	44
13 Record of Decisions	44
14 Additional Rights of Access for Members	44
15 General Rights	45
16 Nature of Rights	47
17 Access to meetings by Members	47
18 Right of Members to Request a Review of Exempt Information	48
<u>Financial Regulations</u>	
General	52
Introduction	52
Definitions	53
Legal Responsibilities	54
Responsibilities/Regulatory Roles	56
Financial Management	59
Expenditure Related Regulations	66
Income Related Regulations	72
Protection of Assets	75
External Arrangements	80
Director/Officer Delegations	82
Contract and Windfall Savings	82
Failure to Comply with Financial Procedure Rules	82

<u>Contract Procedure Rules</u>	PAGE NOs
Brief Guide to Contract Procedure Rules	84
<u>Section 1 – Scope of Contract Procedure Rules</u>	
1 Basic Principles	85
2 Officer Responsibilities	85
3 Procurement Options	86
4 Exemptions	88
5 Relevant Contracts	89
<u>Section 2 – Common Requirements</u>	
6 Steps Prior to Purchase	90
7 Records	90
8 Advertising	91
<u>Section 3 – Conducting, Purchase and Disposal</u>	
9 Competition Requirements for Purchase, Disposal and Partnership Arrangements	92
10 Pre-Tender Market Research and Consultation	95
11 Contracts Award Criteria	95
12 Invitations to Tender/Quotations	96
13 Shortlisting	97
14 Submission, Receipt and Opening of Tenders/Quotations	97
15 Clarification Procedures and Post-Tender Negotiation	99
16 Evaluation, Award of Contract and Debriefing Candidates	99
17 Income Generating Contracts	100
<u>Section 4 – Contract and Other Formalities</u>	
18 Contract Documents	100
19 Bonds and Parent Company Guarantees	102
20 Prevention of Corruption and Collusion	103
21 Declaration of Interests	104
<u>Section 5 – Contract Management</u>	
22 Managing Contracts	104
23 Risk Assessment	104
24 Currency of Contract Procedures	105
25 Post Contract Procedures	108
<u>Section 6 – Definitions</u>	109

<u>Officer Employment Procedure Rules</u>		PAGE Nos
1	Purpose	118
2	Appointment, Dismissal and Disciplinary Action	118
3	Provisions Relating to Head of Paid Service, Chief Officers, Deputy Chief Officers and Assistants for Political Groups	118
4	Council Approval of Appointment of Head of Paid Service	118
5	Member Involvement in Appeals	119
6	Disciplinary Action Against Head of Paid Service, Monitoring Officer and Chief Finance Officer	119
7	Procedure for Recruitment and Appointment including:	120
(i)	General Provisions Relating to Recruitment and Appointment	120
(ii)	Recruitment of Head of Paid Service and Chief Officers	121
(iii)	Appointment of Head of Paid Service	121
(iv)	Appointment of Chief Officers	121
(v)	Appointments below Chief Officer	121
(vi)	Other Appointments	122
(vii)	Disciplinary Action	122
(viii)	Dismissal	122
8	Statement of Pay Policy	122

Petitions Scheme

Introduction	123
What are the guidelines for submitting a petition?	123
What will the Council do when it receives my petition?	124
How will the Council respond to petitions?	124
Full Council Debates	125
Presentation of Petitions at Full Council	125
E-Petitions	126
What can I do if I feel my Petition has not been dealt with properly	126

PART 4 CODES AND PROTOCOLS

Member Code of Conduct	3
Officers' Code of Conduct	16
Protocol on Member/Officer Relations	22
Protocol for Dealing with Ombudsman Matters	27
Protocol for Members on Hospitality and Gifts	28
Protocol for Members on Dealing with Planning Matters	32
Protocol to Guide Officers on the Procedure to Follow when a Member (past or present) Passes Away	45

NEWARK & SHERWOOD DISTRICT COUNCIL

CONSTITUTION

JULY 2021

Page No. **Page 7**

	PAGE Nos
Whistleblowing Policy	46
The Budget Process	54
Scheme for the Appointment of Honorary Aldermen and Honorary Freemen and Freewomen	61
Scheme for the Admission of Honorary Freemen and Freewomen	63
Guidelines on Appointments to Outside Bodies	64
Code of Corporate Governance	66
Protocol Relating to the Independent Person	78
Protocol Relating to the use of Social Media for Members	81
Protocol Relating to Remote Meetings	86
PART 5 <u>MEMBERS' ALLOWANCES SCHEME</u>	2
PART 6 <u>MANAGEMENT STRUCTURE</u>	1