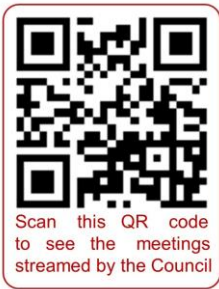


Public Document Pack



**North East
Derbyshire**
District Council

Our Ref: AB/AJD
Contact: Asher Bond
Tel: 01246 217375
Email: asher.bond@ne-derbyshire.gov.uk
Date: Monday, 28 November 2022

To: **Members of the Standards Committee**

Please attend a meeting of the Standards Committee to be held on **Tuesday, 6 December 2022 at 2.00 pm in the Council Chamber, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG**

Yours sincerely

A handwritten signature in black ink that reads "Sarah Skeneberg".

Assistant Director of Governance and Monitoring Officer

Members of the Committee

Councillor P Antcliff (Vice-Chair)
Councillor W Armitage (Chair)
Councillor K Gillott
Councillor D Hancock
Councillor P Kerry
Councillor H Liggett
Councillor K Rouse
Councillor D Ruff
Councillor R Welton

P Coleman - Parish Council Representative
T Collins - Parish Council Representative

For further information about this meeting please contact: Asher Bond 01246 217375

A G E N D A

1 Apologies for Absence

2 Declarations of Interest

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item in the agenda and withdraw from the meeting at the appropriate time.

3 Minutes of Last Meeting (Pages 4 - 8)

To approve as a correct record and the Chair to sign the Minutes of the Standards Committee held on 2 November 2022.

4 Review of the Constitution - NOW PUBLISHED (Pages 9 - 268)

Report of the Interim Governance Manager.

5 RIPA Annual Review - NOW PUBLISHED (Pages 269 - 364)

Report of the Assistant Director of Governance and Monitoring Officer.

6 Whistleblowing Policy Review - APPENDIX NOW PUBLISHED (Pages 365 - 378)

Report of the Assistant Director of Governance and Monitoring Officer.

7 Schedule of Meetings 2023/24 - NOW PUBLISHED (Pages 379 - 391)

Process for drawing up the Schedule of Meetings for 2023-24.

8 Member Development Update - NOW A VERBAL UPDATE

Verbal update by the Interim Governance Manager.

9 Civility and Respect in Local Councils (Pages 392 - 431)

Report of the Assistant Director of Governance and Monitoring Officer.

10 Complaints Update (Pages 432 - 435)

Report of the Assistant Director of Governance and Monitoring Officer.

11 Work Plan (Pages 436 - 437)

Report of the Assistant Director of Governance and Monitoring Officer.

12 Urgent Business (public session)

To consider any other matter which the Chair is of the opinion should be

considered as a matter of urgency.

Access for All statement

You can request this document or information in another format such as **large print** or **language** or contact us by:

- **Phone** - [01246 231111](tel:01246231111)
- **Email** - connectne@ne-derbyshire.gov.uk
- **Text** - [07800 00 24 25](tel:07800002425)
- **BSL Video Call** – a three way video call with us and a BSL interpreter. It is free to call North East Derbyshire District Council with [Sign Solutions](#) or call into the offices at Wingerworth.
- Call with [Relay UK](#) via textphone or app on [0800 500 888](tel:0800500888) – a free phone service
- **Visiting** our [offices](#) at Wingerworth – 2013 Mill lane, [S42 6NG](#)

STANDARDS COMMITTEE

MINUTES OF MEETING HELD ON WEDNESDAY, 2 NOVEMBER 2022

Present:

Councillor William Armitage (Chair) (in the Chair)
Councillor Pat Antcliff (Vice-Chair)

Councillor David Hancock
Councillor Heather Liggett
Councillor Tony Lacey

Councillor Pat Kerry
Councillor Diana Ruff

Pat Coleman – Parish Council Representative
Trevor John Collins - Parish Council Representative

Also Present:

S Gordon	HR & OD Manager
L Ingram	Legal Team Manager - Contentious Team
R Pope	Customer Services Manager
S Sternberg	Assistant Director of Governance and Monitoring Officer
A Maher	Interim Governance Manager
A Bond	Governance Officer

STA/ Apologies for Absence

9/21-

22 Apologies for absence were received from Councillors K Gillott, K Rouse and R Welton. Councillor T Lacey attended the meeting as a substitute for Councillor K Rouse.

STA/ Declarations of Interest

10/2

1-22 There were no Declarations of Interest made at this meeting.

STA/ Minutes of Last Meeting

11/2

1-22 RESOLVED – That the Minutes of the Standards Committee held on 13 July 2022 be approved as a correct record and signed by the Chair.

STA/ Local Government & Social Care Ombudsman Annual Review Letter

12/2

1-22 The Customer Services Manager delivered a report to Committee on the Local Government & Social Care Ombudsman Annual Review Letter.

Members heard that the Council had received its Annual Review letter from the Local Government & Social Care Ombudsman on the 20th July 2022. There were 11 complaints and enquires received in total by the Local Government & Social Care Ombudsman.

Out of these 11 complaints; five were premature complaints and referred back for local resolution; one complaint fell outside of the Council's policy as it

related to Rykneld Homes Ltd; two complaints were closed after initial enquiries; two complaints were not upheld and; one complaint was upheld. This compared favourably with previous years.

Committee were informed that a review of the Compliments, Comments and Complaints Policy and Procedure took place every three years and that a mini review had taken place during June 2022 which had included a consultation via the Citizens Panel that would take place during November 2022.

Members noted that quarterly corporate training was offered, including complaints training directly from the Local Government & Social Care Ombudsman.

Members discussed the report and in particular, questioned the difference between when a complaint is closed and when it is not upheld. They heard that when a complaint was not upheld this was usually because it did not meet a certain criteria and was not the fault of the Council. When a complaint was closed, this was usually after an investigation had started and could no longer continue.

RESOLVED – That Standards Committee acknowledged the report and findings of the Local Government and Social Care Ombudsman.

**STA/
13/2** **Employee Code of Conduct - Update**

1-22 Members received a verbal update on the Employee Code of Conduct and heard that the current Employee Code of Conduct had been in place since September 2018 but was reviewed on an annual basis.

The Employee Code of Conduct set out the standards and expectations of behaviour which all employees were expected to abide by. It contained sections on political neutrality, disclosure of information, tendering, gifts and hospitality and, use of financial resources among many more. New starters were made aware of the Employee Code of Conduct.

**STA/
14/2** **Code of Corporate Governance**

1-22 The Monitoring Officer presented the Code of Corporate Governance to Committee. They heard that this was part of the annual governance statement that was approved with the budget on an annual basis.

This was the first time that the Code of Corporate Governance had been brought to Standards Committee but it would be brought to Committee in the future prior to its approval at Council.

RESOLVED – That Standards Committee recommended the Code of Corporate Governance to Council for it to be included within the Constitution.

**STA/
15/2** **Review of the Constitution**

1-22 The Interim Governance Manager set out the proposed arrangements for reviewing and updating the Council's Constitution in preparation for the 2023-

24 Municipal Year.

Members heard that a three stage approach had been proposed in order to ensure that the Committee were able to carry out a more holistic review of the Constitution.

During stage one the Officers would identify and rectify any factual and typographical errors in the document. The Monitoring Officer would then formally agree these revisions and a summary of the changes made would be reported back to Committee at its Tuesday 6 December 2022 meeting.

Stage two would consider Councillors Roles and Responsibilities, the Code of Conduct and acceptable behaviour and how these should be reflected within the Council's Constitution. It was suggested that a special informal session should be arranged in order for Members to be able to discuss this in full.

Stage three would allow Members to consider the formal operation of the Council's Member and Officer Decision making arrangements and the expectations that underpin them. It was suggested that a special informal session should be arranged in order for Members to be able to discuss this in full.

Members discussed the proposed arrangements and considered that it would be good to meet in person for the informal discussion sessions.

RESOLVED – That:

- (1) Standards Committee receives a report at its Tuesday 6 December 2022 meeting explaining the technical updates to the Constitution made by the Monitoring Officer under the Council's Scheme of Delegation.
- (2) That a special informal meeting is organised for Standards Committee Members to consider how Councillor Roles and Responsibilities, the Code of Conduct and acceptable behaviour should be reflected in the Council's Constitution.
- (3) That following on from this special informal meeting Standards Committee be asked to consider and agree a range of specific amendments to the Constitution at its meeting on Wednesday 1 February 2023, for recommendation to Annual Council on Monday 22 May 2023.
- (4) That a special informal meeting is organised for Standards Committee Members to consider how the formal operation of the Council's Member and Officer decision making arrangements, and the expectations which underpin them, should be reflected in the Council's Constitution.
- (5) That following on from this special informal meeting, Standards Committee be asked to consider and agree a range of specific amendments to the Constitution at its meeting on Wednesday 19 April 2023, for recommendations to Annual Council on Monday 22 May 2023.

STA/ Member Induction Programme 2023-24

16/2

1-22

Committee received an update on the planned Member Induction Programme for 2023-24. They heard that the Member Development Working Group believed that the programme should meet both the needs of newly elected members and re-elected members. This would be achieved by developing a three-part package.

Members heard that in the first stage, it would be crucial to rapidly resolve any housekeeping issues such as ROI forms and ICT. Arrangements would be put in place to allow ROI forms to be completed and subsequently updated online.

In the second stage, training sessions would be organised for new Members to learn and for re-elected Members to be reminded of the Councillors and Council roles and responsibilities. This would also include specific training on the Council's responsibilities for Corporate Parenting and for Safeguarding Young People and Vulnerable Adults.

The third stage would focus on Members understanding and contribution to the Council's various decision making bodies, such as Planning and Licensing Committees. There would also be a specific session on the role of Standards Committee.

Members discussed the Induction Plan and noted that this was a step in the right direction. They highlighted the importance of ICT training and raised concerns over the training that had been offered in the past to Members elected during a by-election.

Committee heard that the Monitoring Officer would look into what training was and could be provided to Members elected during a by-election.

It was also noted that the Members ICT and Training Officer would be presented at the meeting on 6 December in order to highlight some of the systems that would be used going forward.

STA/ Schedule of Meetings 2023/2024

17/2

1-22

Committee received an update on the schedule of meetings for 2023-24. They heard that a draft schedule of meetings would be prepared in advance of the next municipal year and Members would have the opportunity to be consulted on the proposed dates.

The draft schedule would be included on the agenda for the next meeting of Standards Committee due to take place on Tuesday 6 December. The final schedule would be recommended to Council for approval, at its Annual Meeting on Monday 22 May 2023.

Members were in favour of the proposed approach but raised questions over whether the draft schedule would take into account the meeting dates of Outside Bodies. They heard that this would be looked into.

STA/ Lord Evans letter to Rt Hon Simon Clarke MP

18/2

1-22 Members viewed a letter from Lord Evans which had been sent to the Rt Hon Simon Clarke MP, Secretary of State for Levelling up, Housing and Communities, as a result of the Government's recent response to the Committee on Standards in Public Life's 2019 report on Local Government Ethical Standards.

Members expressed their disappointment that the Government had decided not to make any changes or to accept the recommendations of the Committee.

STA/ Complaints Update

19/2

1-22 Committee received an update on the number of complaints that have been received and what action had been taken on these within Quarter Two of the financial year.

Members heard that four new complaints had been received and one ongoing complaint had been closed. There were a total of four active complaints.

Members discussed the update and enquired as to what action would be taken if a complaint was upheld but the decision was not complied with. They heard that the Monitoring Officer would be assessing the complaints procedure and assessing any potential areas to be amended.

RESOLVED – That the update was noted.

STA/ Work Plan

20/2

1-22 RESOLVED – That the work programme be noted.

STA/ Urgent Business

21/2

1-22 There was no urgent business.

North East Derbyshire District Council

Standards Committee

6 December 2022

Review of the Constitution

Report of the Assistant Director of Governance and Monitoring Officer

Classification: This report is public

Report By: Assistant Director of Governance and Monitoring Officer

Contact Officer: Interim Governance Manager, Alan Maher: alan.maher@ne-derbyshire.gov.uk / Deputy Monitoring Officer, Lisa Ingram: lisa.ingram@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

To confirm that as Stage One of the Review of the Constitution any technical and typographical errors have now been corrected,

RECOMMENDATIONS

1. That Standards Committee note the Stage One updates to the Constitution.

Approved by the Portfolio Holder – Not applicable

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒

Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☒ No ☐

Details:

The Council is required under the Localism Act 2011 to prepare and keep up-to-date a Constitution. This should include its Standing Orders and the Members Code of

Conduct. It should also include any other information required or directed by the Secretary of State, or which the Council considers appropriate.

On Behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒
Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	No

Links to Council Plan priorities, including Climate Change, Equalities, and Economics and Health implications.
N/A

REPORT DETAILS

- 1 **Background** (reasons for bringing the report)

- 1.1 At its last meeting, the Committee agreed to undertake a three-stage review of the Constitution. 'Stage One' of the review would be to make any technical or typographic amendments required to the existing text, which has now been completed. The revised text is appended to the report. Committee Members can also access it through: [https://nmgxnet.ne-derbyshire.gov.uk/ieListDocuments.aspx?CId=1293&MId=2542&Ver=4&LO\\$=1](https://nmgxnet.ne-derbyshire.gov.uk/ieListDocuments.aspx?CId=1293&MId=2542&Ver=4&LO$=1)
- 1.2 It was also agreed that the Committee would then focus on Stage **Two** of the review, to consider how Councillor Roles and Responsibilities, the Code of Conduct and acceptable behaviour ought to be reflected in the Council's Constitution. **Stage Three**, will to consider the formal operation of the Council's Member and officer decision making arrangements, as well as the expectations which underpin them and how these should be reflected in the Council's Constitution.
- 1.3 Committee agreed that special, workshop style, meetings should be held for Stages Two and Three. Members will be contacted shortly to confirm the arrangements.

2. Details of Proposal or Information

- 2.1 In order to help the Committee carry out its review of the Constitution, it was agreed that the Monitoring Officer would rectify any factual and typographical errors within the Constitution under the Council's Scheme of Delegation.
- 2.2 The Monitoring Officer has identified these errors and formally agreed the revisions.

3 Reasons for Recommendation

- 3.1 To ensure the accuracy of the Council's Constitution.
- 3.2 To ensure that it remains adequate for the governance of the Council's Member and Officer Governance arrangements.

4 Alternative Options and Reasons for Rejection

- 4.1 None

DOCUMENT INFORMATION

Appendix No	Title
1	Constitution of North East Derbyshire District Council Stage One Technical Changes

Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet you must provide copies of the background papers)



**North East
Derbyshire**
District Council

The Constitution of North East Derbyshire District Council.

STAGE ONE REVIEW OF THE CONSTITUTION – TECHNICAL CHANGES

**Technical Changes
(6 December 2022)**

Sarah Steenberg

Assistant Director of Governance and Monitoring Officer

A G E N D A

- 1 **The Constitution of the Council - Part One** (Pages 3 - 9)
- 2 **The Constitution of the Council - Part Two** (Pages 10 - 27)
- 3 **The Constitution of the Council - Part Three** (Pages 28 - 71)
- 4 **The Constitution of the Council - Part Four** (Pages 72 - 168)
- 5 **The Constitution of the Council - Part Five** (Pages 169 - 244)
- 6 **The Constitution of the Council - Part Six** (Pages 245 - 255)

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PART 1

Introduction

Location

The District of North East Derbyshire lies on the edge of the Peak District National Park, where the foothills of the Pennines meet the Midland plain. Covering 100 square miles, and with some of the most beautiful scenery in the Country, the District is home for almost 100,000 people and is a popular visiting place for ramblers and tourists.

Our services cover both town and rural areas, with the biggest population centres being;

Dronfield
Killamarsh
Eckington
Clay Cross
North Wingfield
Wingerworth

About NEDDC

In England and Wales there are six types of council:

- County council
- District council
- Parish / town council
- Metropolitan council
- Shire English and Welsh Unitary authorities
- London boroughs.

What this means is that, depending where you live, you may have more than one council responsible for your local services.

Councils are responsible for the following services:

- Cemeteries and burials
- Crime and anti-social behaviour deterrent
- Education
- Environmental Health
- Fire
- Housing
- Highways
- Leisure
- Libraries
- Public footpaths
- Parks and open spaces
- Passenger Transport
- Planning applications
- Revenue collection
- Social Services
- Strategic Planning
- Transport planning

- Tourism
- Waste collection
- Waste Disposal
- Village and civic halls

Metropolitan, unitary single tier and London boroughs provide all the above local services in their areas, which are mainly towns and cities.

Derbyshire has a three-tier system of local government. This means that, throughout most of the county services are shared between three councils.

In our case, these are Derbyshire County Council, North East Derbyshire District Council and your parish or town council.

Derbyshire County Council provides the following services:

- Education
- Fire
- Highways
- Libraries
- Passenger transport
- Social Services
- Strategic Planning
- Transport planning
- Waste Disposal

North East Derbyshire District Council provides the following services:

- Housing
- Environmental Health
- Leisure & Recreation
- Planning applications
- Revenue collection
- Waste Collection

Town and parish councils may provide the following services:

- Cemeteries and burial
- Crime and anti-social behaviour deterrent
- Public footpaths
- Parks and open spaces
- Tourism
- Village and civic halls

Who we are and how we work

The *Leader of the Council* is elected by the Council. The *Head of Paid Service* is the most senior employees. The Council is governed by 53 *Councillors* elected by local people. We have approximately 400 staff, working in three *directorates*. We have a *Constitution* which sets out how we work and what we can do.

Our vision

Our vision for 2019-23 is:-

“North East Derbyshire is clean and attractive; a place where people are proud to live and work; a place where people will prosper; and a place where people will feel safe, happy and healthy.”

Our Values and Aims

We have four values that underpin all that we do and four aims that will help us to deliver our long term vision:

- Values
 - Honest, open and accountable;
 - Treat everyone fairly and with respect;
 - Listen, involve and respond; and
 - Embrace change and innovation.
- Aims
 - Enhancing our residents' quality of life;
 - Protecting and promoting the character of our district;
 - Delivering high quality cost-effective services by engaging with our residents, our partners and our staff; and
 - Growing our local economy and being a business friendly district.

Our Council Plan

Our detailed plans to achieve these priorities are set out in our *Council Plan 2019 – 2023*.

Our partners

We work together with other local authorities and public bodies who provide other services. In our immediate area, we work closely with *Chesterfield Borough, Bolsover District and Derbyshire Dales District Councils* and we are also part of the Sheffield City Region and D2N2 Local Enterprise Partnerships.

Our constitution

We've adopted a *Constitution* which sets out how we operate and how we make decisions.

Our constitution is in several different parts:-

- This introduction and summary is part 1 of the *Constitution*
- In *Part 2* there are articles which explain how key parts of the Council work
- In *Part 3* there are details about who can do what in the Council
- In *Part 4* there are detailed rules about how particular things operate
- In *Part 5* there are codes and protocols about how *Councillors* and staff should behave and details of what *Councillors* can be paid
- In *Part 6* there is an A – Z of the Constitution where the meanings of particular words are given

RESTRICTED

PART 1 OF THE CONSTITUTION

Summary of our Constitution

This summary gives a short description of how the Council is run and the key bodies and people who take decisions

Councillors

Your Council is governed by 53 *Councillors* who are elected every four years. Each *Councillor* represents people in a *Ward*. Some wards have more than one *Councillor*. The job of your *Councillor* is to represent you even if you did not vote for them.

Councillors have a *Code of Conduct* to make sure they follow high standards in the way that they carry out their role. There is a *Standards Committee* which trains, advises and deals with complaints against *Councillors* alleging that they have breached the *Code of Conduct*.

The Council Meeting

All *Councillors* meet together about six times a year in the *Council Meeting*. The *Council Meeting* decides overall policies and sets the *Budget* each year. The *Council Meeting* also appoints the *Leader of the Council*, the *Chairman of the Council* and other positions on various committees and outside organisations.

The Leader of the Council and the Cabinet

The *Leader of the Council* chairs meetings of the *Cabinet* and is elected for a four year term. The *Cabinet* is made up of seven *Councillors* who each have responsibility for special areas of the Council. The *Cabinet* can only make decisions within the scope of the overall *Budget* and *Policy Framework* set by the *Council Meeting*. If the *Cabinet* wants to make a decision outside the *Budget* and *Policy Framework* then it has to get the *Council Meeting* to agree.

The Chairman of the Council

The *Chairman of the Council* is the non-political and civic representative of the Council and is in charge of the *Council Meeting*. The Chairman cannot be a member of the Cabinet.

The Head of Paid Service

The Head of the Council's Paid Service, as part of the management team of Directors and heads of service, runs the day to day work of the Council, working with the *Leader of the Council* and the *Cabinet*.

Scrutiny

There are four *Scrutiny Committees* which hold the *Cabinet* to account and also review issues of local concern. In some cases, they can *Call In* a decision which has been made but not yet carried out by the Council.

Planning and Licensing

The Council's planning and licensing functions are overseen by a *Planning Committee* and a *Licensing Committee* which are both accountable to the *Council Meeting*.

Monitoring Officer and Chief Finance Officer

Along with the *Head of Paid Service*, two other members of staff have special roles to help make sure the Council follows the law and manages its finances well. These are the *Monitoring Officer* and the *Chief Finance Officer*.

RESTRICTED

PART 2 OF THE CONSTITUTION

Articles

Article 1 – The Council and the Constitution

This article explains what the Council's mission and values are and how this Constitution works.

1.1 Mission and values of the Council

(a) Mission

The Council will seek to make a difference by building thriving communities through partnership, community leadership and excellent service delivery.

(b) Values

The Council will follow these values:-

- (i) We are honest, open and accountable.
- (ii) We value people's differences and we will treat everybody fairly and with respect.
- (iii) We listen, involve and respond to all our communities.
- (iv) We always look for new and better ways of working to improve quality and value.

1.2 Powers of the Council

The Council must follow the law of England and this Constitution when it carries out its powers and duties.

1.3 The Constitution

This Constitution and all its appendices is the Constitution of North East Derbyshire District Council.

1.4 Purpose of the Constitution

The purpose of the Constitution is to:-

- (a) help the Council lead the district of North East Derbyshire working together with members of the public, business and other organisations;

- (b) help members of the public be involved in decision making;
- (c) help *Councillors* represent members of the public effectively;
- (d) make sure decisions are taken efficiently, appropriately and effectively;
- (e) make sure those who take the decisions can be held to account;
- (f) make sure that members of the public know who in the Council takes decisions and why they have taken them; and
- (g) provide a way of improving the delivery of services to the community.

1.5 Meaning of the Constitution

- (a) If the Constitution gives the Council a choice about what to do, the Council must choose the option that it thinks is closest to the purposes of the Constitution in Article 1.4.
- (b) The decision of the *Chairman of the Council* on the meaning of the Constitution or on any proceedings of the Council cannot be challenged by anyone at a *Council Meeting*. The *Chairman of Council* must have regard to the purposes of the Constitution when making a decision.
- (c) The meanings of many of the words and phrases in italics are given in the A – Z of the Constitution.

1.6 Review of the Constitution

The *Monitoring Officer* must monitor and review how the Constitution is working to make sure it gives full effect to the purposes in Article 1.4.

1.7 Changes to the Constitution

Changes to the Constitution can only be approved by the *Council Meeting*. Responsibility for reviewing the Constitution rests with the Standards Committee. The *Monitoring Officer* may make any associated changes to the Constitution to reflect what the *Council Meeting* has agreed.

1.8 Suspension of the Constitution

The *Articles* cannot be suspended. The *Council Meeting* may suspend the operation of some of the *Procedure Rules*.

1.9 Publication

The *Monitoring Officer* will make sure that every *Councillor* has access to the *Constitution* and that it is made widely available to staff and the public.

Article 2 – Councillors

This article explains who *Councillors* are, what they must do and how long they serve as *Councillors*. You can find out who your *Councillor* is here and also find out information on how to stand for election as a *Councillor*.

2.1 Number of Councillors and areas they represent

The Council will have 53 members called *Councillors*. The voters of each *Ward* may elect one or more *Councillors* to represent them.

2.2 Who can be a Councillor?

Anybody aged 18 years or over who:-

- (a) is currently a citizen of the European Union?
- (b) is registered to vote in local government elections in the District, or who has lived or worked there in the last 12 months, and
- (c) is not stopped by law from holding office as a *Councillor*

may stand for election as a *Councillor*.

2.3 When elections happen and how long Councillors are elected for

Elections for all *Wards* will take place on the first Thursday in May every four years. People elected as *Councillors* start being *Councillors* on the fourth day after being elected and finish on the fourth day after the next regular election.

2.4 Roles and functions of all Councillors

All *Councillors* should;

- (a) together be the makers of overall policy
- (b) represent, and speak up for their communities
- (c) deal with individual casework and speak up for members of the public
- (d) balance different interests within their *Ward* and represent it as a whole
- (e) be involved in Council decision making
- (f) be available to represent the Council on other bodies
- (g) maintain the highest standards of conduct and ethics, and
- (h) consider the views and work on behalf of all the residents in the ward, not just those who voted for them

2.5 Rights

Councillors will have rights of access to Council documents, information, land, buildings and information technology necessary to allow them to carry out their functions.

2.6 Responsibilities

Councillors must follow the *Councillor Code of Conduct* and *Protocols* and register their interests.

Councillors must undertake all mandatory training as specified within the Member Development Strategy.

2.7 Allowances

Councillors will be entitled to receive allowances in accordance with the *Members Allowance Scheme*.

2.8 Stopping being a Councillor

A *Councillor* will stop being a *Councillor* if:-

- (a) they resign by giving written notice, or
- (b) they fail to attend meetings of the Council for a period of six months without having been granted a dispensation for their absence by the *Council Meeting*, or
- (c) they are stopped by law from holding office, or
- (d) the period for which they were elected has come to an end, as set out in Article 2.2 and they have not been re-elected.

Article 3 – Members of the Public and the Council

This article explains what rights members of the public have to take part in decision making by the Council and also what they must do in return.

3.1 The Public's Rights

(a) Petitions

Under the *Council Procedure Rules*, members of the public have the right to sign and present a *Petition* to the *Council* in accordance with the Council's Petition Scheme.

They also have a right to start and sign a petition calling for a referendum on Mayoral executive arrangements.

(b) Elections and Referenda

The public has a right to take part in Parliamentary, Police Commissioner and local elections and referenda.

(c) Information

Under the *Access to Information Rules*, members of the public have the right to:

- (i) attend public parts of meetings of the *Council Meeting*, the *Cabinet* and committees;
- (ii) find out what *Key Decisions* will be taken by the *Cabinet* and when;
- (iii) see public reports and background papers, and any records of decisions made by the *Council Meeting*, the *Cabinet*, individual officers under delegated powers and committees;
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(d) Taking part

Members of the public have the right to take part in meetings of the *Council*, speak during public speaking time at meetings of the *Planning Committee* and contribute to investigations by *Scrutiny Committees* where asked to do so .

(e) Complaints

Members of the public have the right to complain to:

- (i) the Council under its complaints scheme;
- (ii) the *Ombudsman* after using the Council's own complaints scheme;
- (iii) the Council's *Monitoring Officer* about a breach of the *Code of Conduct*

3.2 The Public's Responsibilities

- (a) Members of the public must not be violent, abusive or threatening to *Councillors* or *Officers* and must not deliberately damage items owned by the Council, *Councillors* or *Officers*.
- (b) When attending meetings members of the public must not behave improperly, be offensive or interrupt the business of the meeting. If they do, they will be removed and excluded from the meeting.

Article 4 – The Council Meeting and Chairman of Council

This article explains the role of the *Council Meeting* which is when all *Councillors* attend a formal meeting in the Council Chamber in the Council's Offices. This is different to other meetings involving *Councillors* which may be committee meetings, less formal working groups or meetings of partnerships in which the Council is involved.

It also sets out the special role of the *Chairman of Council* who not only chairs *Council Meetings* but also has an important civic position as the non-political representative of the Council on ceremonial and other occasions.

4.1 Council Meetings

(a) Types of Council Meetings

There are three types of Council Meetings:-

- (i) The Annual meeting
- (ii) Ordinary meetings
- (iii) Extraordinary meetings

(b) Rules applying to Council Meetings

The *Council Procedure Rules* apply to *Council Meetings*.

4.2 Functions of the Council meeting and Functions Scheme

The *Council Meeting* will have the functions set out in the *Functions Scheme*.

4.3 Chairman of Council

(a) Election

The *Chairman of the Council* and the Vice-Chairman will be elected annually by the *Council Meeting*.

(b) Functions

The *Chairman of the Council* and, in the Chairman's absence, the Vice-Chairman will have the following roles and functions:

- (i) to uphold and promote the purposes of the Constitution;
- (ii) to decide what the Constitution means if there is a dispute;
- (iii) to chair *Council Meetings* so that decisions can be taken efficiently, with regard to the rights of *Councillors* and the interests of the community;
- (iv) to make sure that *Council Meetings* are a place for debating matters of concern to the local community and the place at which members who are not on the *Cabinet* are able to hold the *Cabinet* to account;

- (v) to promote public involvement in the Council's activities and in the democratic process;
- (vi) to be the conscience of the Council;
- (vii) to attend those civic and ceremonial functions which they or the Council consider appropriate; and
- (viii) to approve as urgent decisions, which will not be subject to *Call In*, when the Chairman of the relevant *Scrutiny Committee* is unavailable.

Article 5 – The *Leader* of the Council and the *Cabinet*

This article explains how the *Leader of the Council* is appointed and what they do. The *Leader* of the Council is the *Councillor* who is the political head of the Council.

It also explains and provides links to how the *Cabinet* works and what it does.

The *Cabinet* is a group of *Councillors* who work with Council staff to run the Council and take most decisions except those about major policy issues or setting the annual budget (which only the *Council Meeting* can do) or decisions on whether to give planning permissions or licenses which only the regulatory committees can do.

5.1 *Leader* of the Council

(a) Appointment

The *Council Meeting* will elect a *Councillor* to be the *Leader of the Council* for a four year term.

(b) Role

The *Leader of the Council* will normally chair meetings of the *Cabinet*, will lead in the formulation, co-ordination and presentation of the *Cabinet's* policies and liaise with the *Council's Management Team* on the carrying out of policies by the Council.

(c) Stopping being *Leader* of the Council

The *Leader of the Council* will stay as the *Leader of the Council* until:

- (i) they resign from office;
- (ii) they are suspended from being a *Councillor* although they may resume office at the end of the period of suspension;
- (iii) they are no longer a *Councillor*; or
- (iv) they are removed from office by resolution of the *Council Meeting*.

*(Within the legislation there is a requirement for the *Leader* to nominate a Deputy *Leader* and provisions for the Deputy *Leader* to act in the intervening period until Council appoints a replacement *Leader* if the *Leader* is unable to do so or the post of *Leader* becomes vacant)*

5.2 The *Cabinet*

(a) Role

The *Cabinet* will carry out all functions of the Council which are not the responsibility of another part of the Council, whether by law or under the *Functions Scheme*.

(b) Membership

The *Cabinet* will consist of the *Leader of the Council* and two or more *Councillors* (up to a maximum of 10 including the Leader) appointed by the *Leader*.

(c) Functions of individual members of the *Cabinet*

The *Leader of the Council* will decide what functions will be carried out by individual members of the *Cabinet*. The *Leader of the Council* will notify the *Monitoring Officer* of these functions in writing. The *Monitoring Officer* will make sure that they are set out in the *Functions Scheme*.

(d) Meetings of the *Cabinet*

Meetings of the *Cabinet* must follow the *Cabinet Rules*.

Article 6 – Working with Other Organisations

Working in partnership with other organisations is an important way that the Council tries to carry out its aims.

This article sets out how the Council can enter into joint arrangements with partners to provide a range of services.

The article sets out arrangements for joint committees. It gives details of who can appoint members of joint committees and how rules dealing with access to information apply to the committees.

The article also sets out arrangements for contracting out work.

6.1 Arrangements to promote well-being

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

6.2 Joint arrangements

(a) Joint arrangements for *Council Functions*

The Council may establish joint arrangements with one or more local authorities and/or their *Executives* to exercise *Council Functions* in any of the participating authorities, or advise the Council on any matter. These arrangements may involve the appointment of a joint committee with these other local authorities and will reflect the political balance requirements set out in the Local Government and Housing Act 1989.

(b) Joint arrangements for *Executive Functions*

The *Cabinet* may establish joint arrangements with one or more local authorities to exercise functions which are *Executive Functions*. These arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, the *Cabinet* may only appoint *Cabinet* Members to a joint committee and those Councillors need not reflect the political composition of the local authority as a whole.

The *Cabinet* may appoint members to a joint committee from outside the *Cabinet* if the joint committee has functions for only part of the area of the Council, and that part area is smaller than two-fifths of the Council by area or population. In such cases, the *Cabinet* may appoint to the joint committee any Councillor who is a member for a ward, which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.

(c) The Council and the Cabinet must maintain a list and details of the joint arrangements they have established.

6.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply to joint committees.
- (b) If all the members of any joint committee are members of the *Executive* in each of the participating authorities then the same rules on access to information will apply as those that apply to the *Cabinet*.
- (c) If the joint committee contains members who are not on the *Executive* of any participating authority, then the same rules on access to information will apply as those that apply to *Council Meetings*.

6.4 Delegation to and from other Local Authorities

- (a) The *Council Meeting* or the *Cabinet* may delegate their powers and functions to another local authority or, in certain circumstances, the *Executive* of another local authority.
- (b) The decision whether or not to accept such delegation from another local authority will only be taken by the *Council Meeting*.
- (c) All functions can be delegated in this way unless prevented by law.

6.5 Contracting Out

- (a) Functions which the *Cabinet* can decide to contract out

The *Cabinet* may contract out to another body or organisation functions which may be carried out by an *Officer* and which are:-

- (i) subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or
- (ii) under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles,

providing there is no delegation of the Council's discretionary decision making.

- (b) Rykneld Homes

The Council has delegated housing management and maintenance functions, housing appeals and the management of some of its anti-social behaviour functions to Rykneld Homes as set out in the *Functions Scheme*.

Article 7 – Officers of the Council

This article sets out that the Council will have a *Head of Paid Service* who, alongside the Directors is in charge of the Council's staff (called Officers) and works with *Councillors*, especially the *Leader of the Council* to carry out the aims and objectives of the Council.

The article also sets out other senior staff posts and indicates which senior staff posts also have additional roles such as the *Monitoring Officer* and the *Section 151 Officer* (Chief Finance Officer). The article provides links to the functions of these three roles. All three roles exist in every district, county and unitary council.

The *Head of Paid Service* (carried out by the *Managing Director*) is responsible for reporting to the Council on how staff are organised and deployed in the Council.

The *Monitoring Officer* is responsible for reporting the actual or potential breach of a legal requirement to the *Council Meeting* or *Cabinet* and for dealing with complaints of alleged breaches of the Code of Conduct by *Councillors*.

The *Chief Finance Officer* (carried out by the – *Director of Finance and Resources*) is responsible for reporting the actual or potential misspending of money to the *Council Meeting* or *Cabinet*.

7.1 Management structure

(a) General

The Council may employ such *Officers* as it considers necessary to carry out its functions.

(b) Senior Officers –Management Team (S)

The Council will employ persons in the following posts,

(c) Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer)

(i) The *Managing Director* will be the *Head of Paid Service*.

(ii) The *Director of Finance and Resources* will be the *Chief Finance Officer* (also referred to as the *Section 151 Officer*).

(iii) The Assistant Director of *Governance* will be the *Monitoring Officer*.

(iv) The *Head of Paid Service*, *Chief Finance Officer* and *Monitoring Officer* will have the functions set out in the *Functions Scheme*.

(v) The *Head of Paid Service* cannot be the *Monitoring Officer*, but may be the *Chief Finance Officer* if a qualified accountant.

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

7.3 Conduct

Officers will comply with the *Officer Code of Conduct* and the *Protocol on Officer/Member Relations*.

7.4 Employment

The recruitment, selections and dismissal of *Officers* will comply with the *Officer Employment Rules*.

7.5 Employment and Appeals Committee (the EAC)

- (a) There will be an Employment and Appeals Committee of four Councillors.
- (b) The membership shall comprise the Leader of the Council, the Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group or their appointed substitute. Substitutes if called upon will replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed. The Members shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.
- (c) The Employment and Appeals Committee will meet as a Committee in relation to all appointments of the Management Team which includes the Statutory Officers and other Chief Officers/Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).
- (d) The Employment and Appeals Committee will have the roles and functions as set out in the Functions Scheme.

Article 8 – Decision Making

This article sets out how the Council will take decisions and gives links to particular rules applying to decision making by the *Council Meeting*, the *Cabinet* and committees of the Council.

8.1 Principles of Decision Making

When the Council takes a decision it will:

- (a) make sure the action is proportionate to what the Council wants to happen;
- (b) consult properly and take professional advice from *Officers*;
- (c) consider equality, diversity and respect for human rights;
- (d) make the decision public unless there are good reasons for it not to be;
- (e) be clear about what the Council wants to happen and how it will be achieved; and
- (f) explain what options were considered and give the reasons for the decision.

8.2 Responsibility for Decision Making

The Council will prepare and keep up to date a *Functions Scheme*. The *Functions Scheme* will show what sorts of decisions can be made and who by.

8.3 Types of Decision

(a) Decisions reserved to the Council Meeting

Decisions reserved to the *Council Meeting* in the *Functions Scheme* will be made by the *Council Meeting* and not delegated.

(b) Key decisions

A decision maker may only make a *Key Decision* in accordance with the *Cabinet Rules*.

8.4 Decision Making by the Council Meeting

Subject to Article 8.8, the *Council Meeting* will follow the *Council Procedure Rules* when considering any matter.

8.5 Decision Making by the *Cabinet*

Subject to Article 8.8, the *Cabinet* will follow the *Cabinet Rules* when considering any matter.

8.6 Decision Making by Scrutiny Committees

Scrutiny Committees will follow the *Scrutiny Rules* when considering any matter.

8.7 Decision Making by other Committees or Groups established by the Council

Subject to Article 8.8, other Council committees or groups will follow those parts of the *Council Procedure Rules* as apply to them.

8.8 Decision Making by Council Bodies acting as tribunals

If any decision maker acts as a tribunal or in judgement of an issue in a way that might affect any person, they must follow the rules of natural justice as required by Article 6 of the European Convention on Human Rights.

Article 9 – Finance, Contracts and Legal Matters

This article sets out that the management of the Council's money and the making of contracts by it (especially when buying services and supplies) must follow special rules.

The article gives special authority to the *Monitoring Officer* and also to the Council's senior lawyers to take legal action on the Council's behalf. It also deals with how legal documents should be signed and how the official seal of the Council is to be used.

9.1 Financial Management

The management of the Council's financial affairs will comply with the *Finance Rules*.

9.2 Contracts

Every contract made by the Council will comply with the *Contract Procedure Rules*.

9.3 Legal Proceedings

- (a) The *Monitoring Officer* and/or the Team Manager (Solicitor) can institute, defend or take part in any legal proceedings where such action is necessary to give effect to decisions of the Council or where they consider that such action is necessary to protect the Council's interests.
- (b) The *Monitoring Officer* and/or the Team Manager (Solicitor) can designate nominated officers to carry out this function on their behalf.

9.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings, it will be signed by the Solicitor to the Council and/or Team Manager (Solicitor) or by some other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given authority to some other person.

9.5 Common Seal of the Council

- (a) The Common Seal of the Council will be kept in a secure place in the custody of the Team Manager (Solicitor).
- (b) A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
- (c) The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed or as required by the *Contract Procedure Rules*. The affixing of the Common Seal will be attested by the Solicitor to the Council, or in their absence, anyone delegated the function by the Solicitor to the Council together with the *Chairman of the Council*, or in their absence, another *Councillor*. An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose.

Schedule to the Articles - Description of Executive arrangements

The Council will operate a Leader and Cabinet Executive style of decision making. The Leader will be appointed for a four year term.

The following parts of the Constitution make up the *Executive Arrangements*:-

1. Article 5 – the Leader of the Council and the *Cabinet*, and the *Cabinet Rules*
2. Article 6 – Working with other organisations
3. Article 8 – Decision making and the Access to Information Rules
4. The Functions Scheme and the Cabinet Members' Portfolio Scheme.

PART 3 OF THE CONSTITUTION

8. Delegation of Council Functions and Executive Functions to Officers

1. Introduction

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

- Consideration of the policies and plans of the relevant Council
- The Employee Code of Conduct and adopted protocols
- The requirements of the Strategic Alliance Management Team in relation to the overall management and co-ordination of the Council's affairs
- Any financial limits set out in any budget agreed by Council and in accordance with Financial, Contract and Property Procedure Rules
- The Budget and Policy Framework set by Council and any other Council policy having regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972
- Any provision contained within this Constitution

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

1.11 A number of the posts are joint posts with Bolsover District Council within the Strategic Alliance. However, the word "Joint" has been omitted from the scheme descriptions.

Where the Delegation Scheme refers to Heads of Service, this also includes Assistant Directors

2. Exclusions

2.1 This Scheme does not delegate:

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

3. Authorisations to other Officers

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

4. Reserve Delegations

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

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

5. Consultation

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

6. Restriction on delegations

- 6.1 Each delegation to a Head of Service is subject to a limitation that it shall not be exercised if the Head of Paid Service, or a Director, or the Monitoring Officer, or Section 151 Officer, has given a direction to that effect.
- 6.2 The Head of Paid Service, or a Director, may exercise any delegated power possessed by a Head of Service whilst a direction is in force with respect to that delegation.
- 6.3 In the absence of a Director, a Head of Service within that Directorate may exercise any delegated power possessed by that Director.
- 6.4 An officer in a formal 'Acting-Up' arrangement may utilise the powers delegated to the post that they are covering for the specified period of that contractual agreement.
- 6.5 Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Finance Rules. The use of the Invest to Save Reserve is restricted to the Section 151 Officer.

7. Transfer of Functions

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

8. Proper Officers

- 8.1 In addition to the specific powers delegated to Chief Officers, local government legislation specifies that certain officers must have responsibility for a number of specific functions as set out in the various acts of parliament. Each officer with such responsibility is known as the "Proper Officer" in relation to that task. The list of Proper Officers is approved by the Council and is attached at Appendix One.

- 8.2 The Council is also required to appoint certain officers known as Statutory Officers to take responsibility for functions specified in local authority legislation. These functions are in addition to the Scheme of Delegation and are set out below.

9. General powers delegated to all Directors and Heads of Service

- 9.1 To exercise within approved budgets all matters of day to day administration and operational management of the services and functions for which they are responsible.
- 9.2 To take all necessary action to achieve and implement the objectives and actions set out in approved policies, strategies, plans and decisions of Council or committees.
- 9.3 To sign licenses and notices relevant to their service areas subject to consultation with the Monitoring Officer.
- 9.4 To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area, subject to Committee Terms of Reference.
- 9.5 Service of any statutory notices affecting their service area subject to consultation with the Monitoring Officer where appropriate.
- 9.6 To exercise the Council's powers to enter land and premises (and to authorise others to enter land and premises) for the purposes of any of the Council's functions which the officer has responsibility for enforcing or investigating.
- 9.7 To instruct the Council's Legal Service with respect to any legal matter concerning their department or services.
- 9.8 To exercise the Council's power to publish information about its services including deciding the content of any publication.
- 9.9 To decide the terms upon which services will be provided to the public (which may include providing services on different terms to different individuals or classes of individuals).
- 9.10 To exclude people from Council premises where they consider this to be warranted in the interests of health and safety or for the maintenance of order.
- 9.11 To deal with the following employment matters in accordance with Council procedures:
- 9.11.1 The employment of all employees below Head of Service level including determining the most appropriate means of recruitment and selection;

- 9.11.2 Formulation, review and revision of person specifications and job descriptions for posts within their service areas;
- 9.11.3 Application of conditions of service including the authorisation of leave of absence, purchase of annual leave (Bolsover District Council only) and payment of honoraria;
- 9.11.4 Suspension or dismissal of employees below Head of Service level;
- 9.11.5 Re-grading of posts below Head of Service level following job evaluation;
- 9.11.6 Determination of job sharing applications;
- 9.11.7 Waive any part of the notice required to be given by an employee to terminate employment.
- 9.12 To authorise payments for overtime in accordance with Council procedures.
- 9.13 To deal with procurement matters acting at all times within the Council's Financial and Contract Procedure Rules.
- 9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate where expenditure is within approved budgets.
- 9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property where expenditure is within approved budgets.
- 9.16 To commission goods, services and works within approved budgets.
- 9.17 To deal with media enquiries and press releases in conjunction with the Communications Manager/Officer who will contact the relevant Members.
- 9.18 To represent the views of the Council in responding to consultations with the Council by any outside body where it is expedient to do so or where the period for a response does not allow the consultation paper to be reported to Members, subject to contacting the relevant Portfolio Holder or the Leader and Deputy Leader where the matter is politically contentious and where appropriate reporting to Cabinet/ Council subsequently.
- 9.19 To work with partners to achieve and implement the objectives and actions set out in the approved Corporate Plan, Service Plans, Business Plans, policies, strategies or other plans.
- 9.20 To carry out any duties or responsibilities as contained within the Financial Rules (NEDDC)

- 9.21 To carry out any functions contained within section 2 – Council Functions and section 3 – Local Choice Functions of the Functions Scheme (NEDDC).
- 9.22 To make amendments to Council policy, subject to consultation with the Monitoring Officer, in order to:
- i) reflect changes in the law, government or regulators' guidance, and other Council policies; or
 - j) correct obvious, technical or clerical errors and to take account of changes of any names or titles.

SECTION 10 – SPECIFIC DELEGATIONS TO OFFICERS REVISED BY COUNCIL 23rd MAY 2022.

10. Specific Delegations

10. Managing Director and Head of Paid Service	
Delegations	
10.1	To act as Head of Paid Service for the Council in accordance with the duties set out in Section 4 of the Local Government Act 1989. <u>Exception to para 10.1:</u> Suspension of Monitoring Officer and Section 151 Officer limited to suspension for a maximum of 2 months.
10.2	To act as the Safeguarding lead
10.3	To guide and where appropriate direct Heads of Service in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
10.4	To express the views of the Council with regard to Local Government and the functions associated with it, within the general policy laid down from time to time by the Council or its Committees and to act thereon.
10.5	To take such action as he/she considers appropriate in an emergency following consultation with the Leader and/or Deputy Leader as he/she considers the circumstances will allow. Any decisions taken under this paragraph shall be reported by the Director of Corporate Resources to the next meeting of Council explaining the reasons for the decision.
10.6	If there is an urgent need for a commercial decision, the Managing Director, following consultation with the Leader and/or Deputy Leader shall make the decision and endorsement will be sought from the Cabinet or Council as appropriate.
10.7	To formulate and co-ordinate advice on strategic and corporate policy and value for money issues.
10.8	To authorise persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings
10.9	To progress the Strategic Alliance by taking any action necessary to facilitate it including but not limited to redundancies which may result from the implementation.
10.10	To implement shared services with other local authority or public sector bodies by taking any action necessary to facilitate the arrangements including but not limited to redundancies which may result from the implementation.
10.11	To make authorisations of officers from other services at Bolsover District Council to carry out appropriate statutory powers within North East Derbyshire.

- 10.12 To make authorisations of officers from other services at North East Derbyshire District Council to carry out appropriate statutory powers within Bolsover District Council.
- 10.13 To issue/grant such authorisations as may be necessary to enable any employee to undertake with full legal force the full range of their duties subject to such authorisation remaining only in force until the next ordinary meeting of the Committee have authority to issue/grant such authorisations.
- 10.14 To exercise any of the powers delegated to a Director or Head of Service.
- 10.15 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- 10.16 Following consultation with the Section 151 Officer, delegation in respect of points 1.3 and 1.4 of the Local Government Pension Scheme transfers policy.
- 10.17 Following consultation with the Section 151 Officer, if they see fit to accept transfers (in respect of an individual employees application to transfer in pension from a previous scheme), to the local government pension scheme outside the 12 month period, in those cases where the scheme member had not been informed of the time limit.
- 10.18 Following consultation with the Leader or Deputy Leader and on recommendation of the Monitoring Officer, to approve expenditure in pursuance or determination of any employment related disputes including settlement agreements.
- 10.19 To determine all staffing matters including but not limited to:
- (i) determining matters relating to structure (additions, reductions post title changes and other changes to the establishment)
 - (ii) the appointment, dismissal, suspension or discipline of staff save that in relation to the Directors, Assistant Director and the Heads of Service this does not include the appointment and dismissal.
 - (iii) Approving secondments and temporary appointments of any staff.
- 10.20 Where the decision of the Head of Paid Service taken under above will incur additional expenditure which cannot be met by approved budgets, then the matter will be referred to the Cabinet, provided that the remit of the Cabinet shall be limited to decisions on financial matters only.
- 10.21 To authorise the use of earmarked reserves (Invest to Save Reserve), in consultation with the Section 151 Officer who is required to see the proposals and sign the Delegated Decision Form (DD).

11. Director of Growth and Assets

Delegations

- 11.1 To act as the Emergency Planning lead.
- 11.2 To guide and where appropriate direct Heads of Service in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
- 11.3 To deputise for the Head of Paid Services in his absence and exercise any powers delegated to him.
- 11.4 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- 11.5 Following consultation with the Leader and the relevant Portfolio Holder, to determine the action the Council will take on a neighbourhood plan proposal following receipt of the examiner's report, in accordance with rule 18 of the Neighbourhood Planning (General) Regulations 2012, where there is insufficient time for the matter to be submitted to Cabinet/Executive to meet the statutory deadline.
- 11.6 Following a consultation with the Leader and the relevant Portfolio Holder, to make a neighbourhood development plan where more than half of those voting in an applicable referendum have voted in favour of the plan.
- 11.7 To carry out Rights of Way functions for which the Council is responsible in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- 11.8 (Further delegated to Head of Planning) Making Local Development Orders (section 61A TCPA) in consultation with the relevant Portfolio Holder;
- 11.9 (Further delegated to Head of Planning) Creating Simplified Planning Zones (section 82 TCPA) in consultation with the relevant Portfolio Holder;
- 11.10 (Further delegate to Head of Planning) Creating Enterprise Zones (section 88 TCPA) in consultation with the relevant Portfolio Holder.
- 11.11 (Further delegated to Head of Planning) discharge of Planning Conditions in consultation with the relevant Portfolio Holder
- 11.12 (further delegated to Head of Economic Development, Regeneration and Housing Delivery) Agreeing property transactions in line with the Acquisition and Disposal Policy in consultation with the relevant Portfolio Holder.
- 11.13 To approve applications and carry out associated functions pursuant to the Housing Grants, Construction and Regeneration Act 1996, the Regulatory

Reform (Housing Assistance) (England and Wales) Order 2002 and related legislation (including Disabled Facilities Grants)

Exception to para 11.11: Applications for discretionary Disabled Facilities Grants must be submitted to Cabinet

- 11.13 In consultation with the Portfolio Holder for Housing, the section 151 Officer and the Monitoring Officer to make changes to the draft Management Agreement with Rykneld Homes both before the final version is agreed and when signed.
- 11.14 To be appointed the Council's Senior Representative under the RHL Management Agreement and given delegated authority in consultation with the Portfolio Holder for Housing to make decisions required by the Management Agreement by the Senior Representative.
- 11.15 (Further delegated to the Head of Economic Development, Regeneration and Housing Delivery) to be appointed the Council's Contract Manager under the RKL Management Agreement and is given delegated authority to make decisions required by the Management Agreement by the Contract Manager.

- 11.16 To authorise another local authority to carry out the licensing enforcement function in respect of hackney carriage vehicles and private hire vehicles for the Council as well as the Council retaining those functions and;
- 11.17 To authorise the enforcement officers of that local authority to issue notices relating to enforcement, make decisions, or do anything required in respect of hackney carriage and private hire licensing enforcement function.
- 11.18 To authorise the making of notices under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014. In the case of Public Space Protection Orders only these will require consultation with the Leader or Deputy Leader of the Council and relevant Ward Members, and authorisation given to incur any necessary expenditure to create, manage or revoke Public Space Protection Orders
- 11.19 Following consultation with the Licensing Section, Legal Services and the Chair of the Licensing Committee, to suspend or revoke any Private Hire or Hackney Carriage Driver, Vehicle or Operator Licence in such cases where it would be inappropriate to refer the matter to Licensing Committee for consideration. Where permitted by law, this may be with immediate effect on the grounds of public safety.

12. Director of Finance and Resources and Section 151 Officer**Delegations**

- 12.1 To act as the Section 151 Officer for the Council in accordance with the duties set out in the legislation.
- 12.2 Have responsibility for the proper administration of the financial affairs of the Council.
- 12.3 After consulting with the Head of Paid Service and the Monitoring Officer, as Section 151 Officer to report to the Council Meeting (or to the Cabinet in relation to an Executive Function) and the External Auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is lawful and is likely to cause a loss or deficiency or if the Council is likely to enter an item of account unlawfully.
- 12.4 To approve the Draft Statement of Accounts prior to consideration by External Audit.
- 12.5 To determine whether an employee who has left the employment of the Councils shall be granted early release of pension subject to Council approval of the budgetary implications.
- 12.6 After consultation with the relevant Portfolio Holder to authorise the write-off of bad debts up to an approval limit of £5,000. Larger debts will be included in a report for information to the Cabinet.
- 12.7 To authorise any amendments to the list of named officers that may prove necessary during the course of the financial year in relation to the duties identified in accordance with s.223 of the Local Government Act 1972.
- 12.8 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- 12.9 To determine that the Council voluntarily repay 1-4-1 Right to Buy receipts during periods when social housing schemes cannot be identified on which the receipts could be utilised, provided no interest is payable on repayment.
- 12.10 To authorise small increases in individual budgets of up to £10,000 per budget on one occasion in any corporate year subject to a delegated decision notice being produced.

13. Assistant Director of Governance and Monitoring Officer**Delegations**

- 13.1 To act as Monitoring Officer for the Council in accordance with the duties set out in Section 5 of the Local Government Act 1989.
- 13.2 To act and perform all functions and duties of Electoral Registration Officer, Returning Officer, Deputy Returning Officer, Local Returning Officer, Acting Returning Officer and Local Counting Officer in all elections and referenda.
- 13.3 To institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.
- 13.4 Authority to sign documents in legal proceedings, contracts, contracts in accordance with the Contract Procedure Rules whether under seal or not, any document necessary in legal proceedings on behalf of the Council and Information and complaints, and lay them on behalf of the Council for the purpose of Magistrates' Court proceedings unless statute provides otherwise.
- 13.5 Instruction of Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Council.
- 13.6 To negotiate and settle claims and disputes without recourse to court proceedings.
- 13.7 To represent the Authority and secure the appearance of an advocate on the Authority's behalf in any legal proceedings.
- 13.8 To conduct, authorise and co-ordinate investigations into complaints under the Members Code of Conduct and make reports or recommendations about them to the Standards Committee.
- 13.9 To advise whether decisions of the Cabinet/Executive are in accordance with the Budget and Policy Framework.
- 13.10 To provide advice on the scope of powers and authority to take decisions, financial impropriety, probity and Budget and Policy Framework.
- 13.11 Monitoring and advising upon all aspects associated with the Regulation of Investigatory Powers Act (RIPA).
- 13.12 To monitor the use of the Gifts and Hospitality Registers and to maintain and sign acknowledgement of entries in the Gifts and Hospitality Register.
- 13.13 To authorise officers who are not solicitors to represent the Council in legal proceedings in the Magistrates Court.

- 13.14 To authorise persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings
- 13.15 Following consultation with the Leader and/or Deputy Leader and relevant Portfolio Holder, to make a revoke appointments to outside bodies.
- 13.16 Following consultation with the Bolsover District Council Leader and Deputy Leader, to select Members to sit on any appeals hearing detailing with the hearing and determination of appeals relating to employment (including those relating to dismissal or other disciplinary action, sickness absence, pensions and grievance).
- 13.17 To amend the Polling Place Scheme between reviews, following consultation with the Leader and Deputy Leader.
- 13.18 To consider and co-ordinate any investigation by the Local Government and Social Care Ombudsman or the Housing Ombudsman subject to informing the Head of Paid Service.
- 13.19 To consider and report on any report of the Local Government and Social Care Ombudsman or the Housing Ombudsman and to decide on and implement the action to be taken and to approve and make compensation payments on the recommendation of the Ombudsman whether or not a budget exists following consultation with the Head of Paid Services, the Leader and Deputy Leader up to a maximum of £5,000 in respect of each recommendation.
- 13.20 To make appropriate changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.
- 13.21 To provide a dispensation under Section 85 of the Local Government Act 1972, where an application for dispensation has been received and there is no Council meeting in the meeting schedule which could consider the application before expiry, a dispensation may be granted until the date of the next Council Meeting which could consider it.
- 13.22 To start a recruitment process for the appointment of an Independent Person.
- 13.23 To designate Neighbourhood Areas in consultation with the Portfolio Holder for Environment.

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

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

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

S.100D(1)(a)	The officer to prepare a list of background papers for inspection.	Assistant Director of Governance and Monitoring Officer
S.100D(5)(a)	The officer to include in the list of background papers those documents which have been relied on.	Assistant Director of Governance and Monitoring Officer
S.100F(2)	The officer to determine when a document should not be open to inspection because it discloses exempt information.	Assistant Director of Governance and Monitoring Officer
S.115(2)	Receipt of money due from officers	Director of Finance & Resources and S.151 Officer
S137A (5)	Statement on Financial Assistance	Director of Finance & Resources and S.151 Officer
S.146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Director of Finance & Resources and S.151 Officer
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs	Director of Finance & Resources and S.151 Officer
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs - Deputy	Director of Finance & Resources and S151 Officer
S.191 (2) and (4)	Officer to whom an application under S.1 of the Ordinance Survey Act 1841 will be sent	Assistant Director of Governance and Monitoring Officer
S.225 (1) and (2)	Deposit of documents	Assistant Director of Governance and Monitoring Officer
S.228(3)	Accounts for inspection by any member of the Council	

		Director of Finance & Resources and S.151 Officer.
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RESTRICTED

S.229(5)	Certification of photographic copies of documents	Team Manager (Solicitor)
s.234	The officer required to give, make or issue any notice, order or other document under any enactment and to sign the same.	Assistant Director of Governance and Monitoring Officer
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Team Manager (Solicitor)
S.238	Certification of byelaws	Governance Manager
S.248 and 249	Officer who will keep the Roll of Honorary Aldermen and Freemen	Governance Manager
Local Government Act 1972 – Schedule 12		
Para 4(2)(b)	Signing of summons to Council meeting	Assistant Director of Governance and Monitoring Officer
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Assistant Director of Governance and Monitoring Officer
Local Government Act 1972 – Schedule 14		
Para 25	Certification of resolution passed under this paragraph (Street naming etc)	Director of Growth and Assets
Local Government Act 1974		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Assistant Director of Governance and Monitoring Officer

Local Government (Miscellaneous Provisions) Act 1976		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Assistant Director of Governance and Monitoring Officer
Local Authorities Cemeteries Order 1977		
Regulation 10	To sign exclusive rights of burial	Managing Director
Representations of the People Act 1983		
S.8	Registration Officer	Assistant Director of Governance and Monitoring Officer
S.8	Deputy Registration Officer	Electoral Services Manager
S.35	Returning Officer for Local Elections	Assistant Director of Governance and Monitoring Officer
S.35	Deputy Returning Officer for Local Elections	Electoral Services Manager
S.24	Acting Returning Officer for a Parliamentary Election	Assistant Director of Governance and Monitoring Officer
S.24	Deputy Acting Returning Officer for a Parliamentary Election	Electoral Services Manager

S.52	To act in place of Registration Officer	Deputy Registration Officer (see above)
S.67	Appointment of election agent	Assistant Director of Governance and Monitoring Officer
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Assistant Director of Governance and Monitoring Officer
S.128, S.131, S.145, S.146	Provisions relating to election petitions	Assistant Director of Governance and Monitoring Officer
S. 200	Publication of Notices under the Act	Assistant Director of Governance and Monitoring Officer
Sch. 4, (3), (6) and (8)	Elections Expenses	Assistant Director of Governance and Monitoring Officer
Local Authorities (Conduct of Referendums) (England) Regulations 2012		
S.4, S41 and S.43	Publicity in connection with the referendum and the Declaration of result	Assistant Director of Governance and Monitoring Officer
Local Elections (Parishes and Communities) (England and Wales) Rules 2006		
Rules 5	Officer to receive the request for election to fill a casual vacancy in a Parish Council.	Assistant Director of Governance and Monitoring Officer
Local Government Act 2000		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Monitoring Officers and Head of Paid Services, except as specifically provided in this scheme

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012		
Regulation 2	Determination of documents constituting Background Papers	Assistant Director of Governance and Monitoring Officer
Regulation 12	Recording of Executive decisions made at meetings of the Executive or Cabinet.	Assistant Director of Governance and Monitoring Officer
Regulation 14	Inspection of documents following Executive decisions	Assistant Director of Governance and Monitoring Officer
Regulation 15	Inspection of background papers	Assistant Director of Governance and Monitoring Officer
Regulation 13	Individual Executive decisions	Assistant Director of Governance and Monitoring Officer
Regulation 7	Access to agenda and connected reports	Assistant Director of Governance and Monitoring Officer
Regulation 10	General exception relating to Key Decisions	Assistant Director of Governance and Monitoring Officer
Regulation 16	Members' rights of access to documents	Assistant Director of Governance and Monitoring Officer
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Assistant Director of Governance and Monitoring Officer
Building Act 1984		
S.78	Signing of Notices	Managing Director

Public Health Act 1936		
S.85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Managing Director
Public Health Act 1961		
S.37	Control of any verminous article	Managing Director
Localism Act 2011		
S.33	Submission of written requests for Standards Dispensations	Assistant Director of Governance and Monitoring Officer
S.81	Administration of Community Right to Challenge	Assistant Director of Governance and Monitoring Officer
S.87	Maintenance of List of Assets of Community Value	Assistant Director of Governance and Monitoring Officer
Freedom of Information Act 2000		
S.36	Qualified Person determining prejudice to effective conduct of public affairs	Assistant Director of Governance and Monitoring Officer
Local Government and Housing Act 1989		
S.2(4)	Recipient of the list of politically restricted posts	Assistant Director of Governance and Monitoring Officer
S.3A	Employers certificate for exemption from politically restricted posts	Managing Director
S.4	Head of Paid Service	Managing Director

S.5	The Monitoring Officer	Assistant Director of Governance and Monitoring Officer
S.5	Deputy Monitoring Officer	Team Manager (Contentious) (Solicitor)
Local Government (Committees and Political Groups) Regulations 1990		
	For the purposes of the composition of committees and nominations to political groups	Assistant Director of Governance and Monitoring Officer
Local Authorities (Standing Orders) (England) Regulations 2001		
Schedule 1, Part II, para 5.	Officer who will be given written notice of appointment or dismissal of officers listed in Schedule 2, Part II, paragraph 3	Managing Director
Data Protection Act 2018		
S.69	Data Protection Officer	Information, Engagement and Performance Manager

The Cabinet Member Portfolio Scheme

This sets out the areas of *Cabinet Functions* for which individual members of the *Cabinet* have responsibility. The portfolios are set by the *Leader of the Council* and can be changed by him/her

Councillor Alex Dale – Leader Portfolio Holder for Overall Strategic Leadership

- Overall Direct Focus and Vision
- Corporate Strategy
- Place Shaping
- Strategic Alliance
- HS2
- Vision Derbyshire
- Combined Authority & Devolution
- D2N2 Board Representation (if any)
- Policy Co-ordination
- Performance Monitoring
- Licensing
- Safeguarding

Councillor Charlotte Cupit – Deputy Leader & Portfolio Holder for Environmental Services

- Development Management and Local Plan & Planning Policy
- Delivery (inc Neighbourhood Planning)
- Planning Enforcement
- Environmental Health
- Fleet Management, Grounds Maintenance & Street Cleansing
- Waste Collection & Recycling

Councillor Mark Foster – Portfolio Holder for Council Services

- Human Resources
- Customer Services
- Democratic Services
- Governance
- Elections
- Legal & Scrutiny
- Health & Safety
- Emergency Planning & Business Continuity

Councillor Jez Kenyon – Portfolio Holder for Leisure, Transformation & Climate Change

- Transformation Programme inc. Digital Transformation
- Climate Change
- Leisure Facilities
- Health & Wellbeing
- Facilities & Estate Management
- Property Services

Portfolio Holder for Finance

- Audit & Procurement
- Accountancy
- Finance
- Revenues & Benefits
- Treasury Management
- Payroll
- ICT Infrastructure

Councillor Alan Powell – Portfolio Holder for Housing, Communities & Communications

- RHL Client Support & Management
- Strategic Housing
- Empty Homes & Homelessness Strategy
- Housing Development & Delivery Joint Venture Companies
- Promoting Home Ownership
- Community Safety Partnership
- Internal & External Communications & Public Profile
- Partnership Engagement & Strategy
- Community & Residents' Engagement
- Residents' Forums & Public Meetings
- Community Grants

Councillor Carolyn Renwick – Portfolio Holder for Economic Growth

- Economic Development & Growth
- Business Strategy, Commerce & Assets
- Commercial Property Development & Investment
- Town Centre & High Street Development
- One Public Estate
- Town Centre & High Street Development
- Promoting Tourism

SECTION 10 – SPECIFIC DELEGATIONS TO OFFICERS REVISED BY COUNCIL 23rd MAY 2022.

PART 3 OF THE CONSTITUTION

The Functions Scheme

1. Introduction

References in the Scheme to the *Functions Regulations* are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

2. Council Functions and Local Choice Functions

- 2.1 *Council Functions* are local authority functions which by law cannot be carried out by the *Cabinet*. Local Choice Functions are those which the Council can choose whether the Council Meeting or the Cabinet is responsible. The Council has determined that all Local Choice Functions will be the responsibility of the Council Meeting.

Council Meeting

The following functions may be exercised by the Council Meeting only:

- Adopting and changing the Constitution
- Approving or adopting the *Policy Framework*, the *Budget*.
- Any application to the Secretary of State in respect of any *Housing Land Transfer*
- Subject to the *Urgency Procedure* in the *Access to Information Rules*, making a decision contrary to the *Policy Framework* or the *Budget*, or part of it
- Appointment of Chair and Vice Chair of the Council
- Appointing the *Leader of the Council*
- Appointment of Independent Persons under the Localism Act
- Setting the Terms of Reference of committees, deciding on their composition and making appointments to them (excluding executive committees)
- Appointing representatives to outside bodies (unless the appointment is an *Executive Function* or has been delegated by the Council)
- Adopting and changing the Petitions Scheme
- Agreeing the *Members Allowance Scheme*
- Changing the name of the area
- Giving someone the title of honorary alderman
- Review of Polling Districts, Polling Places and Polling Stations
- Functions relating to Community Governance Reviews
- Functions relating to the name and status of areas and individuals in Schedule 1 of the *Functions Regulations*
- Byelaw functions in Regulation 2 and Schedule 1 of the *Functions Regulations*
- Power to promote or oppose local or personal bills set out in Regulation 2 and Schedule 1 of the Regulations
- Calculations relating to and setting of Council Tax
- Setting of Council House rent levels
- Duty to designate an *Officer* as the *Head of Paid Service*

- Duty to designate an *Officer* as the *Monitoring Officer* and to provide staff
- Adoption of Members' Code of Conduct
- Adoption of The Statements of Licensing Policy under the Licensing Act 2003
- To resolve whether to issue a casino licence
- The adoption of the Taxi Licencing Policy.

Local Choice Function:

- The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the District – (Local Choice Function)

The following functions are the responsibility of the Council Meeting but have also been delegated to Committees and/or Officers. The Committee or Officer to whom the function has been delegated is stated in brackets after each function.

- Elections functions in Schedule 1 of the *Functions Regulations (Joint Head of Corporate Governance)*
- Power to appoint staff on or above Head of Service level, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) (*Joint Employment and Appeals Committee or NED Employment and Appeals Committee for posts wholly responsible to NEDDC*)
- Duty to make arrangements for the proper administration of financial affairs (*Chief Finance Officer*)
- Power to appoint *Officers* for particular purposes (otherwise called the appointment of proper officers) (*Monitoring Officer*)
- Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments (*Audit and Corporate Governance Scrutiny Committee*)
- Authorisation of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings (*Monitoring Officer / Team Manager (Solicitor)*)
- determine the calendar of meetings annually and make any subsequent amendments throughout the relevant period subject to rule 4.1 of the Council Procedure Rules (*Monitoring Officer*)

Local Choice Functions:

- Determination of an appeal against any decision of the Authority (*Appeals Committee (set up on an ad-hoc basis as necessary)*)
- Any function relating to contaminated land
- The discharge of any function relating to the control of pollution or the management of air quality
- The service of an abatement notice for a statutory nuisance
- Inspections for statutory nuisance
- Investigation of any complaint as to the existence of a statutory nuisance (
- Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land (*Assistant Director Planning Planning Manager – Development Management, Team Manager (Solicitor)*)
- Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976 (*Senior Managers*)

- Appointing or revoking the appointment of a person to any office or body other than the Council (*Monitoring Officer*)
- Making agreements with other local authorities to let them use *officers (Head of Paid Service/ Directors/ Heads of Service)*

Delegation of Responsibility for Council Functions

The following Committees have been appointed by the Council to exercise Council functions, with the terms of reference set out at **Appendix 1** to this Part.

1. Scrutiny Committees*
 - Audit and Corporate Governance Scrutiny Committee*
 - Communities Scrutiny Committee*
 - Growth Scrutiny Committee*
 - Organisation Scrutiny Committee*
2. Planning Committee*
3. Licensing and Gambling Acts Committee*
4. General Licensing Committee*
5. Standards Committee*
6. Strategic Alliance Joint Committee
7. Joint Employment and Appeals Committee

***Training**

*All members will be required to undertake training in respect of their roles on each of the above Committees.

Advisory bodies and working parties

Advisory bodies or working parties may be established from time to time which include in their membership *Councillors* and/or *Officers* and/or representatives from partner organisations or the local community. Working parties or advisory bodies established under this section will not be constituted as committees and are not authorised to make decisions on behalf of the Council

Executive functions

Any function not specified as a Council or Local Choice function will be an executive function.

The *Cabinet* will have responsibility for all executive functions including:-

- (a) be responsible for strategic and policy co-ordination.
- (b) recommend major new policies (and amendments or revisions of existing policies) to the *Council Meeting* for approval as a part of the *Budget and Policy Framework*

- (c) prepare and agree other policies and strategies for implementation.
- (d) recommend to the *Council Meeting* the annual budget, including the Capital and Revenue Budgets and the level of Council Tax.
- (e) consider, at least annually, the level of reserves, provisions, and balances held by the Council and recommend any changes to the *Council Meeting*.
- (f) make sure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time, including recommending to the *Council Meeting* any changes to policy that will materially reduce or increase the services of the Council or create significant financial commitments in future years.
- (g) take in-year decisions on resources and priorities including the use of reserves together with other stakeholders and partners in the local community, to deliver and implement the *Policy Framework* and *Budget*
- (h) carry out the Council's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- (i) consider and respond to recommendations and reports from *Scrutiny Committees*.
- (j) monitor expenditure on the capital programme.
- (k) approve major service developments or reductions which are *Key Decisions*.
- (l) receive and consider reports from the Audit and Corporate Governance Scrutiny Committee relating to audit (including the Management Letter) and agree any appropriate action.
- (m) consider the reports of external review bodies on key aspects of overall service delivery.
- (n) make sure that the promotion of the rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services.
- (o) carry out the Council's responsibilities for improving the economic, social and environmental well-being of the District and increasing the availability and equality of access to employment.
- (p) review and monitor the Council's strategy and overall implementation on electronic transformation, transformational government, telecommunications, information systems and information technology, making recommendations to the *Council Meeting* as required.
- (q) oversee the provision of all the Council's services other than those functions reserved to the *Council Meeting*.

- (r) secure the management and maintenance of the Council's housing stock.
- (s) manage and maintain the Council's non-housing property portfolio.
- (t) collect the Council Tax, National Non-Domestic Rates, periodic income and sundry debts.
- (u) provide, manage and keep under review the concessionary bus fares scheme.
- (v) carry out the Council's powers for emergency planning and responding to civil emergencies.
- (w) carry out the Council's functions as a local planning authority (except to the extent that those functions are by law the responsibility of the *Council Meeting*), including supplementary planning documents, and designating and altering conservation areas and adopting character statements for them.
- (x) oversee the Council's overall policy on the voluntary and community sector.
- (y) be able to approve the purchase, sale or appropriation of land and buildings where the market value of the transaction is over £50,000 and to approve the leasing (or otherwise) of property where for the length of the lease the annual rental will be over £50,000.
- (z) be able to authorise the making of compulsory purchase and control orders.
- (za) be able to write off debts.
- (zb) be able to write-off stocks, stores and other assets and to write off any losses of money or stores or to settle claims.
- (zc) be able to accept tenders where there is no, or not enough, budgetary provision.
- (zd) receive reports on contract overspends in accordance with limits set out in the *Finance Rules* and agree the action to be taken.
- (ze) be able to give grants or loans to parish/charitable, voluntary bodies or other bodies where permitted by law.
- (zf) promote and develop international exchanges and links with towns and cities in other countries.
- (zg) carry out the powers and duties of the Council under sections 13 and 14 of the Public Order Act 1986.
- (zh) be the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs.
- (zi) confer with other local authorities, government departments, statutory bodies, voluntary bodies, Derbyshire Constabulary or other external agencies in order to discharge the responsibilities vested in the *Cabinet*.

- (zj) resolve disputes between *Cabinet* members about the exercise of their functions.
- (zk) carry out all functions under the Derbyshire Act 1981 and other local acts except those relating to licensing, registration or regulatory functions
- (zl) be able to make decisions where no other tier of government has responsibility or where a policy or strategy does not exist.
- (zm) decide all *Local Choice Functions* set out in section 3 of this Scheme which the *Council Meeting* decides should be undertaken by the *Cabinet*.
- (zn) decide applications for disposal of land under section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 and sections 32 and 45 of the Housing Act 1985 for disposal of housing land other than under Right to Buy legislation.
- (zo) implementation of the Health and Safety at Work Act in respect of the Council as an employer and all its operations.
- (zp) appointment, terms of reference and membership of sub-committees to deal with matters within the Executive functions.
- (zq) approval of the level of any fee, charge, rent or other payment due to the Council provided it is within the Policy Framework.
- (zr) monitoring the implementation of the Council's equalities responsibilities.
- (zs) consideration of tenders in excess of the key decision threshold.
- (zt) monitoring the level of homelessness and the Council's responsibilities under the Housing Act 1996.

The *Leader of the Council* has notified the *Monitoring Officer* that the portfolios of individual *Cabinet Members* will be as set out in the *Cabinet Members Portfolio Scheme*.

All the functions listed in this section are reserved to the *Cabinet* unless delegated to *Officers* in Section 7.

Appendix 1 – Committee Terms of Reference

1. Scrutiny Committees

The following *Scrutiny Committees* have been established:

- (i) Growth Scrutiny Committee
- (ii) Communities Scrutiny Committee
- (iii) Organisation Scrutiny Committee
- (iv) Audit and Corporate Governance Scrutiny Committee

With nine Councillors on each Committee.

The *Scrutiny Committees* will follow the *Scrutiny Rules*.

Within their themed areas, all *Scrutiny Committees* will:-

- (i) review decisions made by and the performance of the *Council Meeting*, the *Cabinet*, committees and *Officers* both in relation to individual decisions and over time (but not including *Regulatory Decisions*)
- (ii) review the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) question members of the *Cabinet* and *Officers* about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions (but not including *Regulatory Decisions*)
- (iv) make recommendations to the *Council Meeting* and/or *Cabinet* arising from work undertaken by a *Scrutiny Committee*
- (v) review the performance of other public bodies in the area and invite reports from them by asking them to address the *Scrutiny Committee* about their activities and performance
- (vi) question and gather evidence from any person with their consent
- (vii) collaborate with other *Scrutiny Committees* and other bodies carrying out similar functions outside the Council
- (viii) report to the Council meeting annually on the scrutiny function and their work
- (ix) exercise functions relating to call in and Councillor Call for Action.

The committees will have responsibility for scrutiny functions relating to:-

Growth Scrutiny Committee	Communities Scrutiny Committee	Organisation Scrutiny Committee
<ul style="list-style-type: none"> • Local Enterprise Partnership and Combined Authorities • Business/Economy • Economic Development • Regeneration • Asset Management • Planning • Tourism • Partnerships • Strategic Housing – Housing Strategy 	<ul style="list-style-type: none"> • Statutory Crime and Disorder responsibility • Community Safety • Leisure • Health and Well being • Street Scene • Environment Health (including Licensing) • Inclusion • Equality • Housing Management • Emergency planning • Estates and property 	<ul style="list-style-type: none"> • Services: <ul style="list-style-type: none"> ○ Audit ○ Communication and Consultation ○ Customer Services ○ Finance ○ Governance ○ Human Resources ○ ICT ○ Legal ○ Procurement ○ Revenue and Benefits ○ Scrutiny ○ Strategy and Performance • Shared Services • Commissioning/De-Commissioning Services • Self Regulation • Transformation Programme • Employees

Audit and Corporate Governance Scrutiny Committee

The committee will:-

- consider the Internal Audit annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements
- consider summaries of specific Internal Audit reports as requested
- consider reports dealing with the management and performance of the providers of Internal Audit Services
- consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale
- consider the External Auditor's Management Letter, relevant reports, and the report to those charged with governance
- consider specific reports as agreed with the External Auditor
- comment on the scope and depth of external audit work to ensure it gives value for money

- liaise with the Audit Commission over the appointment of the Council's external auditor
- commission work from Internal and External Audit as necessary
- maintain an overview of the Contract Procedure Rules, and Finance Rules
- review any issue referred to it by a Director, the Monitoring Officer, the Chief Finance Officer or the Council Meeting, a committee or the Cabinet
- monitor the effective development and operation of risk management and corporate governance in the Council
- monitor the Council's anti-fraud and corruption strategy
- oversee the production of the Council's Annual Governance Statement and recommend its adoption
- oversee the Council's arrangements for corporate governance and agree necessary actions to ensure compliance with best practice
- oversee the Council's compliance with its own and other published standards and control
- approve the Council's audited Annual Statement of Accounts
- review the annual statement of accounts, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council Meeting
- consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts

Issues falling within the functions of two or more Scrutiny Committees

Any Committee may consider matters that are important to the Health and Well Being of residents within North East Derbyshire.

Where a particular issue could fall within the functions of two or more Scrutiny Committees the Chairs of the relevant Scrutiny Committees, following consultation with the Overview and Scrutiny Manager, will agree which Scrutiny Committee will consider the matter.

Joint scrutiny arrangements

The Council is part of the Shared Services Joint Scrutiny Committee with Bolsover District and Chesterfield Borough Councils which scrutinises the joint working arrangements across the three Councils.

2. Planning Committee

There will be a *Planning Committee* of 13 *Councillors*.

Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.

Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside Planning Committee Members.

Any substitutions must be notified to the Governance Team by 12 noon on the day of the Committee.

The functions of the Planning Committee include:

- Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Hedgerow and tree preservation functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Rights of Way functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*

The following matters may only be determined by the Planning Committee:

- The determination of all submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority where:
 - (a) In the opinion of the Head of Planning or the Planning Manager the application raises matters which should be determined by the Planning Committee.
 - (b) The application is submitted by or on behalf of the Council for its own development, except for the approval of development to which no objections have been received.
 - (c) A Councillor has notified the Head of Planning / the Planning Manager or the application case officer in writing or by e-mail within 3 weeks of the publication of the weekly list that the application should be determined by the Planning Committee and the notification is supported by one or more planning grounds.
 - (d) A Councillor has notified the Head of Planning, the Planning Manager - Development Management or the application case officer by email before the application has been determined the planning reasons why the application should be determined by Planning Committee, and the Head of Planning or Planning Manager Development Management has agreed with the Planning Committee Chair or Vice Chair that the reasons justify Planning Committee determination.
 - (e) The application is submitted by:
 - i – a serving NEDDC Councillor

- ii – a current NEDDC officer who has any involvement in the determination or advising on planning matters
 - iii – an immediate family member of i or ii
- when the proposal is in accordance with the development plan and there has been no objection from any consultee or member of the public.
(Immediate family means parent, sibling, spouse/partner and child)
- (a) To consider any objections or other representations made in opposition to the proposed making of a Tree Preservation Order.

Delegation of functions to officers

The following functions may be carried out by the Assistant Director of Planning or the Planning Manager – Development Management

- All submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority is delegated to the Head of Planning Health / Planning Manager – Development Management / Development Management Team Leader / Planning Policy Team Leader except for the matters reserved to the Planning Committee as set out above.
- Making Tree Preservation Orders (TPO's) except where there are any objections or other representations made in opposition to the proposed making of a TPO.
- Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Hedgerow and tree preservation functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Rights of Way functions for which the Council is responsible in Schedule 1 of the *Functions Regulations*
- Delegation to serve Section 215 Town and County Planning Act notices is further extended to Environmental Health Officers.

3 **Licensing and Gambling Acts Committee**

There will be a *Licensing and Gambling Acts Committee* of 14 *Councillors* which must meet at least once a year by law.

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

The functions of the Licensing and Gambling Acts Committee include:

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

3.1 **Licensing and Gambling Acts Sub Committee**

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

A quorum of three Members of the Sub Committee will be required for the meeting to be held. The Chairman for the meeting will be determined by the Members present at the meeting.

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

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

- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Licensing Act 2003, including:
 - Application for a personal licence where there are relevant unspent convictions;
 - The review of a premises licence or club premises certificate; other than minor variations
 - Decision to object when the local authority is the consultee and not the relevant authority considering the application;
 - Determination of a police or environmental health objection to a temporary event notice.
- Where a relevant representation has been made in respect of the following applications:
 - personal licence;
 - premises licence or club premises certificate;
 - provisional statement;
 - variation to a premises licence or club premises certificate;
 - variation to a designated personal licence holder;
 - transfer of a premises licence;
 - interim authority.
- To consider all matters which cannot be delegated to officers concerning the discharge by the Council of its licensing functions under the Gambling Act 2005, including:
 - Application for a premises licence where representations have been received and not withdrawn.
 - Application for variation to a licence where representations have been received and not withdrawn.
 - Application for a transfer of a licence where representations have been received from the Gambling Commission.
 - Application for a provisional statement where representations have been received and not withdrawn.
 - Review of a premises licence.

- Application for a club gaming/club machine permits where objections have been received and not withdrawn.
- Cancellation of club gaming/club machine permits.

Delegation of functions to officers

The following functions may be exercised the Head of Housing and Community Safety save for the matters reserved for Licensing and Gambling Acts Committee or Sub-Committees, or for Full Council:

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

4 General Licensing Committee

There will be a *General Licensing Committee* of 14 *Councillors* which will meet at least once a year.

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

The functions of the General Licensing Committee include:

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

4.1 General Licensing Sub Committee

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

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

but not at the same meeting.

A quorum of three Members of the Sub Committee will be required for the meeting to be held. The Chairman for the meeting will be determined by the Members present at the meeting.

Schedule of Meetings

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

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

The functions of the General Licensing Sub-Committee include:

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

Delegation of functions to officers

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

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

5. Standards Committee

There will be a *Standards Committee* of 12 members comprising:-

- (i) Ten *Councillors*
- (ii) Two non-voting *Parish Members* elected by the District's parish and town councils

The Committee will be politically balanced.

Independent Persons

The Council will appoint two Independent Persons who will be consulted by the authority before it makes a finding as to whether a member or co-opted member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member.

They may also be consulted by the Authority in respect of a standards complaint at any other stage and by a member or co-opted member of the District Council or of a parish or town council against whom a complaint has been made.

The functions of the Standards Committee include:

- Advising the Council on the adoption of or revision to the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct and promotion of high standards of conduct by Members and Co-opted Members of the Council.
- Oversee Member Training, (including the attendance of Members at courses), in relation to matters affecting their conduct and probity including relevant information provided to newly affected District Councillors.

- Promote and maintain high standards of conduct within Town/Parish Councils and to assist them in following their own Codes of Conduct or adopt the North East Derbyshire Code of Conduct.
- Oversee training provided to Parish Councils on conduct and probity matters including relevant information provided to newly elected Parish Councillors.
- Oversee the public face of the Standards Committee through the website and increase public awareness of the Code of Conduct and its application.
- Granting dispensations to allow *Councillors* and co-opted members to take part in meetings where they have a disclosable pecuniary interest.
- Receiving regular reports from the Monitoring Officer on the number of complaints against members, how they are progressing, what decisions have been made and what action taken.
- Through the Hearings Sub-Committee, undertaking hearings into complaints which have been investigated and deciding on sanctions where a breach of the Members' Code of Conduct has been found.
- Oversee matters referred to the Monitoring Officer in relation to complaints against Town and Parish Councillors where it is inappropriate for the Monitoring Officer to take a decision.
- Overseeing the whistle blowing policy.
- Overseeing complaints handling and outcomes of Ombudsman investigations.
- Review Members' attendance at meetings on a bi-annual basis.
- Receiving annual reports on gifts and hospitality received by Council members and officers.
- Receiving annual reports on the Council's operation and use of the powers under the Regulation of Investigatory Powers Act 2000 and to approve amendments to the policy as necessary.
- Receive reports of the Independent Remuneration Panel prior to Council submission.
- Undertaking an annual review of the Council's Constitution, making recommendations to the Council meeting.
- Provide an annual written report to Council on the work of the Committee

6. Employment and Appeals Committee

There will be an Employment and Appeals Committee of four Councillors.

The membership shall comprise the Leader of the Council, the Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group or their appointed substitute. Substitutes if called upon will replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed. The Members shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.

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

The Employment and Appeals Committee will have the roles and functions as set out below:

Functions	Matters not delegated
<p>To interview candidates for posts within the Management Team</p> <p>To appoint candidates to posts within the Management Team, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer</p> <p>To recommend to Council the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer</p> <p>To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers</p> <p>To deal with appeals from the Chief Officers/Deputy Chief Officers, including Statutory Officers, against action taken against them</p> <p>In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Employment and Appeals Committee shall make a recommendation to Council which will be supported via a report from two of the Council's Standards Committee Independent Persons</p>	<p>To determine any matter referred to it.</p>

7. Council Joint Consultative Group (JCG)

The role of the Council Joint Consultative Group is to oversee the industrial relations framework of the Council and to provide a method of consultation between management and employee/union representatives on matters affecting employees generally.

OBJECTIVES

To bring together Members, Management and Trade Union representatives to:-

- (a) provide a regular basis of consultation and negotiation on matters of principle relating to employee relations, working and other arrangements and conditions of service affecting employees throughout the Authority which are not reserved for negotiation at national, provincial or other agreed local levels;
- (b) improve service provision and efficiency;
- (c) consider health and safety matters to improve standards of health and safety performance throughout the Authority.

FUNCTIONS

In achieving the above objectives the following specific matters, which affect employees generally, are appropriate for consideration by the Group:-

- (a) operational and policy issues;
- (b) negotiation on local terms and conditions of service with the exception of those affecting a single service;
- (c) issues and proposals to promote equality.

Informal meetings between Management and Employee representatives may be arranged outside of the scheduled Council Joint Consultative Group to consider policy or legal developments which require changes to policies to be made. Such meetings will take place as and when required.

Employee relations and Health and Safety issues within specific services should be raised with the relevant Service managers/Head of Service, and the HR & OD Manager and/or Health and Safety Manager where necessary, to seek a resolution before they are raised at the Council Joint Consultative Group.

MEMBERSHIP

The Group shall include six representatives from Management (Employer Side) including the Leader, Deputy Leader, relevant Portfolio Member, Head of Paid Service, Human Resources Manager or their representative and six representatives of employees (Employees' side).

Both Sides shall appoint their representatives to hold office for one year from the Annual Meeting of the Council. Representatives shall be eligible for re-appointment.

The Employees' Side shall include six representatives from recognised Trade Unions as follows:-

UNISON – 3
GMB – 1
UNITE – 2

who shall represent the interests of all the workforce.

Where possible, not more than one person from any Service within the Council shall attend as a Trade Union representative.

Trade Union officials and Service representatives may attend meetings as advisers.

If a representative of either Side is unable to attend a meeting a substitute representative may attend subject to the terms of these Terms of Reference.

The Group shall have power to appoint Sub-Groups as necessary.

OFFICERS

At the first meeting in each municipal year a Chair and Vice Chair shall be appointed from among the Group.

The Chair and Vice Chair shall be from different Sides of the Group and shall alternate each year unless otherwise agreed.

The Secretary for the Group shall be provided from the Governance team.

MEETINGS

There shall be at least four meetings scheduled each municipal year at quarterly intervals.

Additional or Special meetings may be called with the agreement of the Chair at the request of either Side submitted through the Secretary.

If a scheduled meeting cannot take place, due to lack of quorum or a reason other than lack of business, the meeting shall be reconvened

Separate meetings of both Sides shall take place immediately prior to a meeting of the Group.

If there is insufficient business for a meeting it may be cancelled with the agreement of the Chair and Vice Chair.

Three members of each Side shall together constitute a quorum.

Recommendations from the Group shall, wherever possible, be reached by consensus and, where appropriate, the views of both Sides shall be reflected in the Minutes. Where

necessary, the Council may still proceed with the Council's decision making processes in accordance with the Constitution, even if consensus cannot be reached.

Items for inclusion on an agenda shall be provided to the Secretary and exchanged between the two Sides not later than three weeks prior to a meeting. Such items must be specific to facilitate investigations and evaluation prior to a meeting. They must be matters which cannot be settled locally with service management. Items with only subject headings may be deferred if insufficient information has been supplied to allow for proper consideration of the matter. Other business not appearing on the agenda will not be discussed unless the Chair agrees that a matter is urgent, in which case the reasons for urgency will be minuted.

Minutes shall be circulated to the Chair and Vice Chair and then circulated to Members of the Group with the agenda for the next meeting, at which they will be approved and signed by the Chair and Vice Chair.

WORKING ARRANGEMENTS

To manage its work programme and tasks strategically, the Group may appoint managed Sub-Groups with appropriate membership to undertake specific tasks.

These Sub-Groups will report findings back to the Council JCG, who will consider the findings and any recommendations.

TIME OFF ARRANGEMENTS

Employees' Side representatives shall be granted time off work to attend meetings of the Group and reasonable accommodation shall be provided for them to hold pre-meetings.

The six employee representatives shall be entitled to take a maximum of half a day off work (including travelling time) one month before each meeting of the Group to formulate and discuss agenda items.

Access to Information Rules

1. Meetings Covered by these Rules

- 1.1 These Rules apply to all *Meetings* of the *Cabinet*, its committees and sub-committees (known throughout these Rules as “decision-making bodies”). They are based on the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

2. Application to Other Meetings

- 2.1 Paragraphs 4, 6 and 7 of these Rules also apply to Council and all joint committees, committees and sub-committees of the Council, however, paragraph 6.2(c) only applies to the Annual meeting of Council.

3 Meetings of the Cabinet and their committees to be held in public

- 3.1 Subject to paragraph 4, a meeting of a decision-making body must be held in public.

4 Admission of the public to meetings of the Cabinet and their committees

- 4.1 A meeting of a decision-making body must be open to the public except to the extent that the public are excluded under paragraph 4.2.

- 4.2 The public must be excluded from a meeting during an item of business whenever:-

- (a) it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
- (b) the decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them; or
- (c) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

- 4.3 A resolution under paragraph 4.2(b) must:-

- (a) identify the proceedings, or the part of the proceedings to which it applies, and
- (b) state, by reference to the descriptions in Schedule 12A to the 1972 Act (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

- 4.4 The public may only be excluded under sub-paragraph (a) or (b) of paragraph 4.2 for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

- 4.5 Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the decision-making body is not to have the power to exclude members of the public from a meeting while it is open to the public.
- 4.6 While the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

5 Procedures prior to private meetings

- 5.1 A decision made by a decision-making body to hold a meeting in private is a prescribed decision for the purpose of Section 9GA(5) of the 2000 Act (regulations requiring prescribed information about prescribed decisions).
- 5.2 At least 28 clear days before a private meeting, the decision-making body must:-
- (a) make available at the offices of the Council a notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 5.3 A notice under paragraph 5.2 must include a statement of the reasons for the meeting to be held in private.
- 5.4 At least five clear days before a private meeting, the decision-making body must:-
- (a) make available at the offices of the relevant local authority a further notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the Council's website.
- 5.5 A notice under paragraph 5.4 must include:-
- (a) a statement of the reasons for the meeting to be held in private;
 - (b) details of any representations received by the decision-making body about why the meeting should be open to the public; and
 - (c) a statement of its response to any such representations.
- 5.6 Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from:-
- (a) the Chair of the relevant Scrutiny Committee; or
 - (b) if there is no such person, or if the Chair of the relevant Scrutiny Committee is unable to act, the Chair of the Council; or
 - (c) where there is no Chair of either the relevant Scrutiny Committee or of the Council, the Vice-Chairman of the Council.

that the meeting is urgent and cannot reasonably be deferred.

5.7 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 5.6 to hold a private meeting, it must:-

- (a) make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

6 Procedures prior to public meetings

6.1 The decision-making body must give notice of the time and place of a public meeting by displaying it at the offices of the Council and publishing it on the Council's website:-

- (a) at least five clear days before the meeting; or
- (b) where the meeting is convened at shorter notice, at the time that the meeting is convened.

6.2 An item of business may only be considered at a public meeting:-

- (a) where a copy of the agenda or part of the agenda, including the item has been available for inspection by the public as requested by regulation 7 for at least five clear days before the meeting; or
- (b) where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened.
- (c) where by reason of special circumstances, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency.

7 Access to agenda and connected reports for public meetings

7.1 Subject to paragraph 7.2 a copy of the agenda and every report for a meeting must be made available for inspection by the public:-

- (a) at the offices of the Council; and
- (b) on the Council's website.

7.2 If the proper officer thinks fit, there may be excluded from the copy of any report provided pursuant to paragraph 7.1 the whole, or any part, of the report which relates only to matters during which, in the proper officer's opinion, the meeting is likely to be a private meeting.

7.3 Any document which is required by paragraph 7.1 to be available for inspection by the public must be available for such inspection for at least five clear days before the meeting except that:-

- (a) where the meeting is convened at shorter notice, a copy of the agenda and associated reports must be available for inspection when the meeting is convened; and
- (b) where an item which would be available for inspection by the public is added to the agenda, copies of the revised agenda and any report relating to the item for consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.

7.4 Nothing in paragraph 7.3 requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to members of the decision-making body concerned.

7.5 Where by virtue of paragraph 7.2 the whole or any part of a report for a public meeting is not available for inspection by the public:-

- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication"; and
- (b) there must be stated on every copy of the whole or the part of the report:-
 - (i) that it contains confidential information; or
 - (ii) by reference to the descriptions in Schedule 12A to the 1972 Act, the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.

7.6 Except during any part of a meeting during which the public are excluded, the Council must make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

7.7 Subject to paragraph 20, following a request made by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council must supply to that person or newspaper:-

- (a) a copy of the agenda for a public meeting and a copy for each of the reports for consideration at the meeting;
- (b) such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and
- (c) if the proper officer thinks fit in the case of any item, a copy of any other document supplied to members of the Cabinet in connection with the item.

7.8 Paragraph 7.2 applies in relation to copies of reports provided pursuant to paragraph 7.6 or 7.7 as it applies in relation to copies of reports made available for inspection pursuant to paragraph 7.1.

8 Key decisions

- 8.1 In these Rules a “key decision” means an executive decision, which is likely:-
- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.
- 8.2 In determining the meaning of “significant” for the purposes of paragraph 8.1 the Council must have regard to any guidance for the time being issued by the Secretary of State in accordance with Section 9Q of the 2000 Act (guidance). The Council has decided that revenue income or expenditure of £100,000 or more, and Capital income or expenditure of £250,000 or more is significant.

9 Publicity in connection with key decisions

- 9.1 Where a decision-maker intends to make a key decision, that decision must not be made until a document has been published in accordance with paragraph 9.2, which states:-
- (a) that a key decision is to be made on behalf of the Council;
 - (b) the matter in respect of which the decision is to be made;
 - (c) where the decision maker is an individual, that individual’s name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
 - (d) the date on which, or the period within which, the decision is to be made;
 - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
 - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
 - (g) that other documents relevant to those matters may be submitted to the decision-maker; and
 - (h) the procedure for requesting details of those documents (if any) as they become available.
- 9.2 At least 28 clear days before a key decision is made, the document referred to in paragraph 9.1 must be made available for inspection by the public:-
- (a) at the offices of the Council; and
 - (b) on the Council’s website.

9.3 Where, in relation to any matter:-

- (a) the public may be excluded under paragraph 4.2 from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not, because of paragraph 20.3, be disclosed to the public,

the document referred to in paragraph 9.1 must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

10 General exception

10.1 Subject to paragraph 11, where the publication of the intention to make a key decision under paragraph 9 is impracticable, that decision may only be made:-

- (a) where the proper officer has informed the Chairman of the relevant Scrutiny Committee or, if there is no such person, each member of the Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;
- (b) where the proper officer has made available at the offices of the Council for inspection by the public and published on the Council's website a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).

10.2 Where paragraph 10.1 applies to any matter, paragraph 9 need not be complied with in relation to that matter.

10.3 As soon as reasonably practicable after the proper officer has complied with paragraph 10.1 he or she must:-

- (a) make available at the offices of the Council a notice setting out the reasons why compliance with paragraph 9 is impracticable; and
- (b) publish that notice on the Council's website.

11 Cases of special urgency

11.1 Where the date by which a key decision must be made makes compliance with paragraph 10 impracticable the decision may only be made where the decision maker has obtained agreement from:-

- (a) the Chairman of the relevant Scrutiny Committee; or
- (b) if there is no such person or if the Chairman of the relevant Scrutiny Committee is unable to act, the Chairman of the Council; or

- (c) where there is no Chairman of the relevant Scrutiny Committee or of the Council, the Vice-Chairman of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

- 11.2 As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 11.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must:-

- (a) make available at the offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

12 Recording of executive decisions made at meetings

- 12.1 As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present at the meeting, the person presiding, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph 12.2.

- 12.2 The statement referred to in paragraph 12.1 must include:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

- 12.3 For the purposes of paragraph 12.1 "person presiding" means the person actually presiding or the person nominated to preside at that meeting.

- 12.4 Executive decisions made by decision-making bodies are prescribed decisions for the purposes of Section 9G(3) of the 2000 Act (duty to keep written records of private meetings).

13 Recording of executive decisions made by individuals

- 13.1 Executive Decision is defined as a decision in connection with the discharge of an Executive function, which will, or is likely to incur expenditure or savings or generate revenue return/income in excess of the Key Decision financial thresholds as a specific consequence of that decision.

- 13.2 As soon as reasonably practicable after an individual member has made an executive decision, that member must produce or instruct the proper officer to produce a written statement of that executive decision which includes the information specified in paragraph 13.2.
- 13.3 The statement referred to in paragraph 13.1 must include:-
- (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the member when making the decision;
 - (d) a record of any conflict of interest declared by an Cabinet member who is consulted by the member which relates to the decision; and
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.
- 13.4 Executive decisions made by individual members of the Cabinet are prescribed decisions for the purposes of Section 9G(4) of the 2000 Act (duty to keep a written record of decisions made by individual members of local authority executives).
- 13.5 As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce a written statement which must include:-
- (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the officer when making the decision;
 - (d) a record of any conflict of interest declared by any Cabinet member who is consulted by the officer which relates to the decision; and
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's Head of Paid Service.

14 Inspection of documents following executive decisions

- 14.1 Subject to paragraph 20, after a meeting of a decision-making body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the proper officer must ensure that a copy of:-
- (a) any records prepared in accordance with paragraphs 12 and 13; and
 - (b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with paragraphs 12 or 13 or, where only part of the report is relevant to such a

decision, that part must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council and on the Council's website apart from where they relate to Human Resources matters.

- 14.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph 14.1, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

15 Inspection of background papers

- 15.1 Subject to paragraph 20, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with paragraph 7 or 14, at the same time:-

(a) a copy of a list compiled by the proper officer of the background papers to the report or part of the report, must be included in the report or, as the case may be, part of the report; and

(b) at least one copy of each of the documents included in that list

must be available for inspection by the public at the offices of Council and on the Council's website.

16 Additional rights of access to documents for members of local authorities

- 16.1 Subject to paragraphs 16.5 to 16.6, any document which:-

(a) is in the possession or under the control of the Cabinet; and

(b) contains material relating to any business to be transacted at a public meeting

must be available for inspection by any member of the Council.

- 16.2 Any document which is required by paragraph 16.1 to be available for inspection by any member of the Council must be available for such inspection for at least five clear days before the meeting except that:-

(a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

(b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 16.1 in relation to that item, must be available for inspection when the item is added to the agenda.

- 16.3 Subject to paragraphs 16.5 to 16.6, any document which:-

(a) is in the possession or under the control of the Cabinet; and

(b) contains material relating to:-

- (i) any business transacted at a private meeting;
- (ii) any decision made by an individual member in accordance with executive arrangements; or
- (iii) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been made.

- 16.4 Any document which is required by paragraph 16.3 to be available for inspection by any member of the Council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.
- 16.5 Paragraphs 16.1 and 16.3 do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).
- 16.6 Notwithstanding paragraph 16.5, paragraphs 16.1 and 16.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:-
- (a) paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
 - (b) paragraph 6 of Schedule 12A to the 1972 Act.
- 16.7 Where it appears to the proper officer that compliance with paragraph 16.1 or 16.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.
- 16.8 The rights conferred by paragraphs 16.1 and 16.3 are in addition to any other rights that a member of the Council may have.

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

- 17.1 Subject to paragraph 17.3 a member of a Scrutiny Committee of the Council is entitled to a copy of any document which:-
- (a) is in the possession or under the control of the Cabinet; and
 - (b) contains material relating to:-
 - (i) any business that has been transacted at a meeting of a decision-making body of the Council;

- (ii) any decision that has been made by an individual member of the Cabinet in accordance with executive arrangements; or
- (iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.

17.2 Subject to paragraph 17.3, where a member of a Scrutiny Committee requests a document which falls within paragraph 17.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

17.3 No member of a Scrutiny Committee is entitled to a copy:-

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:-
 - (i) an action or decision that the member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

17.4 Where the Cabinet determines that member of a Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 17.1 or 17.3, it must provide the Scrutiny Committee with a written statement setting out its reasons for that decision.

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

18.1 Where an executive decision has been made and:-

- (a) It was not treated as being a key decision; and
- (b) A relevant Scrutiny Committee is of the opinion that the decision should have been treated as a key decision,

that Scrutiny Committee may require the Cabinet which is responsible for the decision to submit a report to the Council within such reasonable period as the committee may specify.

18.2 A report under paragraph 18.1 must include details of:-

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion.

19 Cabinet reports to the local authority

- 19.1 The Leader must submit to the Council at such intervals as may be determined a report containing details of each executive decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent in accordance with paragraph 11.
- 19.2 A report submitted for the purposes of paragraph 19.1 must include:-
- (a) particulars of each decision made; and
 - (b) a summary of the matters in respect of which each decision was made.
- 19.3 The Leader must submit at least one report under paragraph 19.1 annually to the Council.

20 Confidential information, exempt information and advice of a political adviser or assistant

- 20.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- 20.2 Nothing in these Rules:-
- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information; or
 - (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.
- 20.3 Where a member of the Cabinet or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules:-
- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
 - (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.
- 20.4 Nothing in these Rules requires a decision-making body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place, where such proceedings

include Confidential information, exempt information and advice of a political adviser or assistant.

21 Inspection and supply of documents

21.1 Any document required by any provision of these Rules to be open to inspection by members of the public must be available for inspection:-

- (a) at all reasonable hours at the offices of the Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to paragraph 15, on payment of a reasonable fee if required by the Council by the person seeking to inspect the documents at the offices of the Council.

21.2 Subject to paragraph 21.4, where a document is to be available for inspection by a person under any provision in these Rules, the person may:-

- (a) make a copy of the whole or part of the document; or
- (b) require the person having custody of the document to supply the person requiring inspection of a copy of the whole or part of the document,

on payment by the person requiring the copy to the Council of postage, copying or other necessary charge for transmission.

21.3 Subject to paragraph 21.4, any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Rules.

21.4 Paragraphs 21.2 and 21.3 do not require or authorise the doing of any act which infringes the copyright of any work except that, where the owner of the copyright is the Council, nothing done pursuant to that paragraph constitutes an infringement of the copyright.

21.5 Where any document required by these Rules to be open to inspection by the public:-

- (a) is supplied to or available for inspection by members of the public; or
- (b) is supplied for the benefit of any newspaper in pursuance of paragraph 7.7 or 14.2,

the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.

21.6 Any written record of an executive decision or any report required by paragraph 14 to be available for inspection by members of the public, must be retained by the Council and made available for inspection by the public for a period of at least six years beginning on the date on which the decision, to which the report or record relates, was made.

- 21.7 Any background papers required by paragraph 15 to be available for inspection by members of the public must be retained by Council and be available for inspection by the public for a period of at least four years beginning on the date on which the decision, to which the background papers relate, was made.
- 21.8 The rights conferred on any person by these Rules to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Rules.

22 Offences

- 22.1 A person who has custody of a document which is required by paragraph 7, 14 or 15 to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:-
- (a) intentionally obstructs any person exercising a right conferred under these Rules to inspect, or to make a copy of the whole or part of the document, or
 - (b) refuses to supply a copy of the whole part of the document in accordance with paragraphs 7.7, 14.2 or 21.2.
- 22.2 A person who commits an offence under paragraph 22.1 is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Budget and Policy Framework Rules

1 The Framework for Cabinet Decisions

- 1.1 The *Council Meeting* will be responsible for the adoption of the *Budget and Policy Framework*. Once a *Budget and Policy Framework* is in place, it will be the responsibility of the *Cabinet* to implement it.
- 1.2 The following comprise the Policy framework: These all extant?
- Community Safety Partnership Plan
 - The Council Plan
 - Food Law Enforcement Plan
 - Governance Arrangements (changes to the Constitution, new executive arrangements and changes to the Petitions Scheme and local Code of Conduct)
 - Housing Revenue Account Business Plan
 - Licensing Policy Statement
 - Local Plan
 - Medium Term Financial Plan
 - Pay Policy Statement (Localism Act)
 - Sustainable Community Strategy
 - Treasury Management Strategy

2 Process for Developing the Budget and Policy Framework

The Committee identified in the second column below should be notified of plans to adopt any plan, strategy or budget that forms part of the Budget and Policy Framework.

The plan, strategy or budget, together with any recommendations from the Committee, will then be reported to Cabinet who will confirm the contents of the document before recommending it to Council for adoption.

Plan, strategy or budget	Relevant body
Budget	Audit and Corporate Governance Scrutiny Committee
Community Safety Partnership Plan	Communities Scrutiny Committee
Council Plan	Audit and Corporate Governance Scrutiny Committee
Food Law Enforcement Plan	Communities Scrutiny Committee
Governance Arrangements	Standards Committee
Housing Revenue Account Business Plan	Communities Scrutiny Committee
Licensing Policy Statement	Licensing Committee
Local Plan	Planning Committee
Medium Term Financial Plan	Audit and Corporate Governance Scrutiny Committee
Pay Policy Statement (Localism Act)	Audit and Corporate Governance Scrutiny Committee
Sustainable Community Strategy	Growth Scrutiny Committee
Treasury Management Strategy	Audit and Corporate Governance Scrutiny Committee

3 Decisions Outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 (virement) the *Cabinet*, a *Director*, *Head of Service* or Senior Manager or any body under joint arrangements discharging *Executive Functions* may only take decisions which are in line with the *Budget and Policy Framework*. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the *Council Meeting*, then that decision may only be taken by the *Council Meeting*, subject to 4 below.
- (b) If the *Cabinet*, a *Director*, *Head of Service*, a Senior Manager or any body under joint arrangements discharging *Executive Functions* want to make such a decision, they shall take advice from the *Monitoring Officer* and/or the *Chief Finance Officer* as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the

decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4 Urgent Decisions Outside the Budget or Policy Framework

- (a) The *Cabinet*, a *Director*, Head of Service or a *Senior Manager* or any body under joint arrangements discharging Executive functions may take a decision which is contrary to the *Policy Framework* or contrary to or not wholly in accordance with the *Budget* if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the *Council Meeting*; and
 - (ii) if the Chairman of a *Scrutiny Committee* agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the *Council Meeting* and the Chairman of a *Scrutiny Committee*'s consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a *Scrutiny Committee*, the consent of the *Chairman of the Council*, and in the absence of both, the Vice-Chairman of Council will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available *Council Meeting* explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5 Virement

- (a) In order to comply with the CIPFA Code of Practice, the Council shall have budget heads based on its current organisational structure for both the General Fund and Housing Revenue Account.
- (b) Steps taken by the *Cabinet*, a Senior Officer or under joint arrangements (if any) discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However the *Cabinet*, or a Senior Officer shall be entitled to vire across budget heads), where each individual virement does not exceed £50,000 in total and the aggregated total virement must not exceed £150,000 in any one year. Beyond that limit approval for any virement across budget heads shall require the approval of the Council.

No officer, other than the Section 151 Officer, may vire funds from the Invest to Save Reserve.

6 In-Year Changes to Policy Framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Senior Officer or joint arrangements (if any) discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) which are necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- (d) in response to recommendations made by the Council's External Auditors.

7 Call-In of Decisions Outside the Budget or Policy Framework

- (a) Where a Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and Section 151 Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer and the Section 151 Officer conclude that the decision was a departure, and to the relevant Scrutiny Committee if the Monitoring Officer and the Section 151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and the Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the relevant Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and the Section 151 Officer. The Council may either:
 - (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework or accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and Section 151 Officer.

RESTRICTED

Cabinet Rules

These rules set out how the *Cabinet* operates and how decisions relating to *Executive Functions* are taken

1. Carrying out Executive Functions

- 1.1 Where the *Cabinet*, a Committee of the *Cabinet* or an individual Member of the *Cabinet* is responsible for an *Executive Function*, they may delegate further to joint arrangements or an officer.
- 1.2 Where the *Leader of the Council* has an interest this should be dealt with as set out in the *Councillor Code of Conduct*.
- 1.3 If every Member of the *Cabinet* has an interest this should be dealt with as set out in the *Councillor Code of Conduct*.
- 1.4 If the exercise of an *Executive Function* has been delegated to a committee of the *Cabinet* or an officer, and if a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the *Councillor Code of Conduct*.

2. Meetings of the Cabinet

- 2.1 The *Cabinet* will meet every 4 weeks in accordance with the *Calendar of Meetings*. The *Cabinet* will meet at the Council's main offices or another location set by the *Leader of the Council*.
- 2.2 Meetings of the *Cabinet* will be open to the public, subject to the confidentiality provisions set out in the *Access to Information Rules*.
- 2.3 The quorum for a meeting of the *Cabinet* will be three.
- 2.4 Meetings of the *Cabinet* and committees of it will comply with the *Access to Information Rules*.
- 2.5 The *Leader of the Council* will chair meetings of the *Cabinet*. The *Deputy Leader* will chair the meeting in the *Leader's* absence. If both are absent, then those present will choose one of them to chair the meeting.
- 2.6 The following business will be conducted at each meeting of the *Cabinet*:
 - (a) consideration of the minutes of the last meeting;
 - (b) declarations of interest, if any;
 - (c) matters referred to the *Cabinet* (whether by a Scrutiny Committee or by the Council) for consideration by the *Cabinet* in accordance with the *Scrutiny Rules* or the *Budget and Policy Framework Procedure Rules*.
 - (d) consideration of reports from the *Scrutiny Committees*; and

- (e) matters set out in the agenda for the meeting, and which shall indicate which are *Key Decisions* and which are not.

- 2.7 All reports to the *Cabinet* from any member of the *Cabinet* or an *Officer* on proposals relating to the *Budget and Policy Framework* must contain details of the nature and extent of consultation with stakeholders and the *Scrutiny Committees*, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.
- 2.8 An item may be placed on the agenda of a meeting of the *Cabinet* and any committee of it by a member of the *Cabinet*, a Chair of the *Scrutiny Committees*, Directors, Heads of Service, the Monitoring Officer or the Chief Finance Officer.

Contract Procedure Rules

Contract Procedure Rules

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1. INTRODUCTION

- 1.1 These Contract Procedure Rules provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, the Rules are designed to ensure that the Council complies with the statutory framework, obtains value for money and the required level of quality and performance from all contracts that are let. Every contract for the supply of goods and services and for the execution works made by or on behalf of the Council shall comply with these Rules and the Public Contracts Regulations 2015 (“the Regulations”).
- 1.2 The Council has a joint procurement service with Bolsover District Council (“the Procurement Service”). This includes advice on procurement and tendering procedures and the provision and management of the e-tendering system on the Council’s behalf.
- 1.3 E-procurement procedures shall be used wherever possible. These include e-purchasing, e-tendering, purchase cards and others. Where appropriate e-auctions may be used, so long as provision is made for this in the advert. No e-tendering system should be used without the approval of the Chief Finance Officer. Requests for quotations, Pre-qualification questionnaires and Invitations to tender should wherever practical be issued to tenderers by electronic means. Where e-tendering is utilised then this must be undertaken by way of the corporate e-tendering system which is managed on the Council’s behalf by the Procurement Service.
- 1.4 Before any tendering exercise is considered, reference must be made to the Council’s procurement and equalities guidelines. The Council is committed to dealing fairly with all relevant discrimination groups as defined in the Equalities Act 2010. A failure to take into account special requirements for these groups in a tender would be a significant corporate failure, affecting the reputation and standing of the Council.
- 1.5 All procurement arrangements must ensure compliance with the Council’s responsibility in respect of the Freedom of Information Act, Environmental Information Regulations 2004 and the Data Protection Act and the General Data Protection Regulation.
- 1.6 Any employee who fails to comply with Contract Procedure Rules may be subject to disciplinary action.
- 1.7 A Glossary of Terms can be found at Appendix B.

2. COMPLIANCE WITH CONTRACT PROCEDURE RULES

- 2.1 The provisions contained in these Rules are subject to the statutory requirements of both the European Union and the United Kingdom Government. The letting and content of Contracts shall conform to all statutory requirements, principally the Public Contracts Regulations 2015 (“the Regulations”), and be subject to any over-riding directives of the European Union relating to contracts and procurement. This Rule cannot be waived, since

a failure to comply with legislation may result in a legal challenge with consequent reputational and financial risk. If you are uncertain, advice should be sought from a member of the Procurement Service or the Monitoring Officer.

- 2.2 In estimating relevant contract values, officers shall have regard to the rules regarding aggregation. See Appendix 'A'.

2.3 Partnerships

- 2.4 These Rules apply to any proposal for the Council to become involved in a joint venture or partnership, including the monitoring of any such arrangement.

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

- 2.5 Where partnership arrangements, or working with other bodies, are used in order to procure goods or provide services consultation must take place with the Monitoring Officer and Chief Finance Officer prior to entering into such arrangements. Such arrangements should only be pursued on the basis that appropriate approval from the Council's statutory officers and from appropriate Council bodies has been secured prior to any formal commitments being given.

3. NORMAL PROCEDURE

- 3.1 These Rules relate to five categories of procurement based on the estimated value of the contract:

- (a) £1 to £1,000
- (b) £1001 to £5,000
- (c) £5001 to £25,000
- (d) £25,001 to £75,000
- (e) £75,001 to £EU Threshold as amended each year
- (f) Over the EU Threshold

- 3.2 In all instances, goods, services or works should be obtained via the methods outlined below:

- (a) in-house services (for example, printing and design etc.)
- (b) established corporate contracts or framework agreements
- (c) request for quotation
- (d) Tender
- (e) framework contracts established by Purchasing Consortia or other Local Authorities (following advice from the Procurement Service)
- (f) for low-value purchases, Purchasing Cards can be used provided they are not used with the intention of undermining the use of approved or

corporate contracts, or to circumvent the procedures set out within this document.

In considering whether to utilise any of the above options officers must take into account the fact that their use is subject to UK and European Law.

In-house services can include services provided by either the Council or in co-operation with Bolsover District Council or other Councils.

- 3.3 Orders and payments for goods, services and works shall be undertaken in accordance with Financial Procedure Rules.
- 3.4 Before entering into a contract, the authorised officer must:
- (a) Be satisfied that a specification (where appropriate) that will form the basis of the contract has been prepared (the specification should be retained on the appropriate contract file held within the service),
 - (b) Have prepared and documented an estimate of the cost of the contract including, where appropriate, any maintenance and on-going costs (the estimate should be retained on the appropriate contract file held within the service),
 - (c) Ensure that all evaluation criteria have been determined in advance, put into order of relative importance with weightings for each element and published in the tender pack;
 - (d) For contracts where there are risks, and for all contracts over £50,000, produce and maintain a documented risk register for the procurement process and for the eventual contractual relationship. As a minimum documentation should be maintained analysing all risks, identifying how they will be managed, and naming the responsible officer(s).
- 3.5 Before entering into a contract the authorised officer must:
- (a) Be satisfied about the technical capability of such proposed contractor and be satisfied that s/he has the power and authority to enter into the contract;
and
 - (b) Ensure that these Rules and the Code of Practice have been complied with, and that the proposed contract represents value for money; and
 - (c) For all contracts that exceed £50,000, the authorised officer shall undertake appropriate checks to ensure that the proposed contractor has the financial and resource capacity (taking account of contract value and risk) to perform the contract (unless the contractor has already been subjected to a recent satisfactory financial check). Financial vetting shall be undertaken by a designated financial officer, who shall advise on what, if any, security should be provided by the contractor.

3.6 Advertising

All tenders shall be advertised and, where appropriate, full details should be available for download from the website sourcederbyshire.co.uk. As part of the Government's Transparency Agenda details of all forthcoming contracts should be published on the Council's website at the earliest opportunity. Such details should be notified via email to the Chief Finance Officer. When the contract is above £25,000 details must also be published on the Government's Contracts Finder website. Details of such contracts must be provided to the Procurement Service who will arrange for appropriate advertising to be undertaken. Again such communication should be via email. Contract award notices shall also be published on the website and on Contracts Finder within 90 days of the contract being advertised.

Officers should consider whether the contract will be of benefit to other public sector bodies. If so consideration should be given to including text along the following lines in the advert:

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

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

- 3.7 All EU notices shall be referred, in advance of sending to the OJEU, to the Procurement Service to advise on wording. This need reviewing
- 3.8 Where the contract is over the OJEU threshold the Council must offer unrestricted and full direct free of charge access online to the procurement documents from the date of publication of the notice in OJEU. This need reviewing

4 EXEMPTIONS TO CONTRACT PROCEDURE RULES

- 4.1 Subject to statutory requirements tenders need not be invited in accordance with these Rules in the following cases:
- (a) In the case of the supply of goods:
 - (i) the goods or materials are proprietary articles and in the opinion of the appropriate Senior Officer no reasonably satisfactory alternative is available.
 - (b) The work to be executed or the goods or services to be supplied are controlled by a statutory body.
 - (c) The work to be executed or the goods or services to be supplied constitutes an extension to an existing contract and it is the view of the Senior Officer that it would not be in the interest of the service or the

Council to tender the contract. The Senior Officer or his or her nominee should consult with the Procurement Service and a record of the decision must be placed on the project file.

- (d) The contract is for the execution of work or the supply of goods or services certified by the appropriate Senior Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Portfolio Holder shall be kept informed of such decisions and a record of the decision shall be retained by the service and a copy sent to the Procurement Service.
- (e) The contract relates to commissioning, such as projects funded by external grant where, for example, there is no (or insufficient) marketplace to tender for the supply of goods, services or works required.

All contracts that fall within the above exemptions shall be notified in writing to the Procurement Service.

- 4.2 Nothing contained in the above exceptions exempts officers either from using the Council's internal services where appropriate, or from following established arrangements in Rule 3.2. Officers should ensure that the best possible balance of value for money and quality is obtained for the Council.
- 4.3 Tenders need not be invited where they have been undertaken by any consortium, collaboration or similar body, of which the Council is able to access contracts. Officers should consult the Procurement Service to ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK and EU procurement directives and regulations.
- 4.4 Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed.

5 CONTRACTING & FINANCIAL GUIDELINES

- 5.1 Officers should order goods and services that are required through an arrangement illustrated in Rule 3.2. If the Council or the consortium providing them do not have the goods or services or resources available to meet the reasonable needs of the service then an alternative supply may be sourced. In these circumstances the authorised officer must record why the goods or services have been procured through other means, and retain a formal copy of that document. In all circumstances a purchase order must be issued as required by financial regulations.
- 5.2 It is good practice (for all but small value and routine purchases) to obtain a written quotation. For further information on this, please contact the Procurement Service.

5.3 Contracts £1 to £1000

Procurement of goods and services estimated to be for amounts up to £1000 shall be by oral or written quotation and preferably from at least three suppliers,

unless an arrangement under 3.2 has already been established for the goods, services or works required. There is no mandatory procurement involvement.

5.4 Contracts £1001 to £5000

Procurement of goods and services estimated to be for amounts in the range £1001 to £5000 shall be by written quotation from at least three suppliers, unless an arrangement under 3.2 has already been established for the goods, services or works required. There is no mandatory procurement involvement.

5.5 Contracts £5001 to £25000

Procurement of goods and services estimated to be for amounts in the range £5,001 to £25000 shall be by formal written request for quotation (RFQ) from at least three suppliers, unless an arrangement under 3.2 has already been established for the goods, services or works required. There is no mandatory procurement involvement.

5.6 Contracts £25,001 to £75,000

Procurement of goods and services estimated to be for amounts in the range £25,001 to £50000 shall be by formal written request for quotation (RFQ) from at least three suppliers, unless an arrangement under 3.2 has already been established for the goods, services or works required. Details must also be published on the Government's Contracts Finder website, which must be done through the Procurement Service.

5.7 Contracts £75,001 to EU Threshold as amended each year

Procurement of goods and services estimated to be for amounts in the range £50001 to EU THRESHOLD shall be by formal open Invitation to Tender (ITT), unless an arrangement under 3.2 has already been established for the goods, services or works required, whereupon mini competition will be encouraged with at least three approved suppliers. For evaluation purposes, an invitation to the evaluation meeting may be issued to officers from Finance, Legal and Audit along with the relevant Portfolio Holder or substitute and the appropriate commissioning officer.

5.8 Contracts EU Threshold and above

Procurement of goods and services estimated to be for amounts in the range EU Threshold and above shall be by formal open Invitation to Tender (ITT). Where contracts of this value are undertaken then appropriate professional support must be secured from either the Procurement Service or an appropriately qualified external advisor. Both the Monitoring Officer and the Chief Finance Officer must be made aware of the position.

In considering whether or not a procurement exercise is subject to OJEU requirements you must consult with Legal Services. In particular you should consider whether extensions to a contract or operating it for a period in excess of one year will breach OJEU financial limits. Where any contract has a value above or approaching OJEU limits it is the responsibility of the client officer to

ensure that appropriate legal advice is secured throughout the tendering and contractual process.

5.9 SME Participation

To facilitate SME participation in awards of contracts, consideration should be given to dividing contracts into smaller lots where appropriate. Where a decision is taken not to divide a contract into lots then the responsible officer must maintain a written summary of the reasoning underlying that decision.

6 PROBITY

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

7 RECEIPT AND CUSTODY

- 7.1 Tenders are only managed by way of a corporate e-tendering system operated on the Council's behalf by the Procurement Service. This provides a clear electronic audit trail of the tender process.
- 7.2 Responses to pre-qualification questionnaires (PQQs) and quotations (RFQ's) are not deemed to be tenders and should be returned to the originating officer, either via hard copy or electronically.

8 OPENING TENDERS

- 8.1 All e-tenders will be submitted to and held in a secure electronic vault. This may only be opened by the Procurement Service after the due date for tenders has closed.
- 8.2 Chairman. The lead officer of the evaluation team is responsible for ensuring that the team is adequately resourced to ensure compliance with the Regulations and with accepted good practice. A report outlining the results of the evaluation process will then be presented to Cabinet, if over the Key Decision threshold, to approve the award of the contract.

9 EXTENSION OF DEADLINE FOR RECEIPT OF TENDERS

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

10 ACCEPTANCE

- 10.1 Contracts shall be evaluated and awarded in accordance with the evaluation criteria issued with the tender documentation. Only those tenders that comply with the evaluation criteria shall be considered for acceptance. Tenders must be accepted on the basis of “most economically advantageous” tender (MEAT) that complies with requirements of tender documents, is not excluded by virtue of Regulation 57 of the Regulations and meets the selection criteria. Cost-effectiveness and the price-quality ratio may be taken into account when determining MEAT.
- 10.2 A tenderer who submits a qualified or conditional tender shall be given the opportunity to withdraw the qualification or condition without amendment to the tender. If the tenderer fails to do so the tender must be rejected.
- 10.3 Prior to final contract award, the contractor must provide evidence of adequate insurance to cover both public and employers’ liability, and produce such evidence during the life of the contract at the reasonable request of the authorised officer.
- 10.4 For all procurements covered by the EU Directives, a statutory minimum standstill time after the award decision is issued is required to allow companies an opportunity to challenge the decision. The standstill time depends on the circumstances and is set out in Regulation 87 of the Regulations.

A voluntary waiting period is operated for procurements below the EU threshold, at the discretion of the Procurement Service.

The notification of the award decision, based on the most economically advantageous tender, must be issued in line with the timescales of the standstill period and should contain;

- the award criteria;

- the reasons for the decision, including the characteristics and relative advantages of the successful tender and the score (if any) obtained by the recipient and the successful tender;
- the name of the winning tenderer;
- the confirmation of the standstill period.

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

- name of contractor;
- date contract entered into;
- contract value;
- whether contractor was SME or VCSE.

10.6 All contracts must be notified to the Procurement Service, including performance monitoring information, with a copy to the Chief Finance Officer.

11 NOMINATED/NAMED SUB-CONTRACTORS AND SUPPLIERS

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

12 ENGAGEMENT OF CONSULTANTS

12.1 An authorised officer may only appoint external consultants or advisors providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the service. Where such services are available in-house, the authorised officer must consult with a Senior Officer before taking any decision to make an external appointment.

12.2 Consideration should be given to using the appropriate frameworks for business, professional, and ICT consultancy services. Advice should be sought from the Procurement Service.

12.3 External consultants and technical officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.

12.4 Procurement plans and / or tenders prepared by external consultants on behalf of the Council must be referred to the Monitoring Officer or Chief Finance Officer for approval and advice.

12.5 The relevant officer is required to liaise with the Procurement Service in respect of all consultancy and advisor contracts where the value of the contract is above

£5,000. In estimating relevant contract values, officers shall have regard to the rules regarding aggregation. See appendix 'A'

- 12.6 All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the authorised officer, and lodge all such documents and records with the appropriate officer at the end of the contract.
- 12.7 The authorised officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.

13 CONTRACT CONDITIONS

- 13.1 Every contract for goods or services regardless of value shall be in writing and shall specify:
- (1) the work, materials, matters or things to be furnished had or done;
 - (2) the price to be paid, with a statement of discounts or other deductions; and
 - (3) the time, or times within which the contract is to be performed.

Every contract over £50,000 shall be in a form approved by the Team Manager (Solicitor) or their nominee.

14 EXTENDING EXISTING CONTRACTS

- 14.1 The authorised officer, subject to the budget being available, and after consultation with the appropriate Senior Officer, may extend a contract subject to the extension being within the scope of the original scheme (subject to Rule 4.1.c).
- 14.2 If the original contract was subject to the EU procurement regulations, the contract can only be extended if it meets one of the six statutory grounds as set out in Relation 72 of the Regulations.

15 PERFORMANCE BONDS AND GUARANTEES

- 15.1 In the case of all contracts valued above £50,000 the authorised officer shall determine, based on advice from the Chief Finance Officer, the degree of security (if any) required to protect the Council from a contractor default. This may be a performance bond or some other form of financial or performance guarantee.
- 15.2 Where an order is placed with a Council in-house service and work forming part of that order is sub-contracted to an external company, then the provisions of Rule 15.1 will apply.
- 15.3 Where a performance bond and/or parent company guarantee is required, then the tender documents must provide for this.

16 LIQUIDATED DAMAGES

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

17. CONTRACT FORMALITIES

- 17.1 Agreements shall be completed as follows:

Total Value	Method of Completion	By
Up to £75,000	Signature	Senior Officer see 17.2
£75,001 and above	Sealed	see 17.3

17.2 Signature

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

17.3 Sealing

Where contracts are completed by each side adding their formal seal, the affixing of the Council's seal will be attested by the Solicitor to the Council, or in their absence, anyone delegated the function by the Solicitor to the Council together with the *Chairman of the Council*, or in their absence, another *Councillor*.

An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose. The seal must not be affixed without the authority of the *Cabinet*, a *Committee*, a *Portfolio Holder*, or a *Senior Officer* acting under delegated powers. A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end; or
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- there is any doubt about the authority of the person signing for the other contracting party; or
- the *Total Value* exceeds £75,000.

17.4 Archiving & lodgement of records

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

RESTRICTED

Appendix A - Financial Thresholds and Aggregation Rule

Contract Value		Process	Award Procedure based on	Contract Opportunity Publication/Route	Documentation
From	To				
£0	£1,000	Oral quotation	At least 3 oral quotations	No mandatory procurement involvement	Employee identifying need to record details on quotation database.
£1,001	£5,000	Written quotation	Minimum of 3 written quotations	No mandatory procurement involvement	Employee identifying need to record details on quotation database.
£5,001	£25,000	RFQ (Request for quotation)	3 written quotations based on a RFQ document with simplified Ts&Cs	No mandatory procurement involvement.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.
£25,001	£75,000	RFQ (Request for quotation)	3 written quotations based on a RFQ document with simplified Ts&Cs	Mandatory procurement involvement. Advertised in Source Derbyshire and the electronic RFQ system (INTEND). Contracts over £25,000 also published on Contracts Finder.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.
£ 75,001	Up to EU Threshold as amended each year	Formal tender (Report to Executive(BDC)/ Cabinet(NEDDC) if over the Key Decision Threshold)	Full tender process	Mandatory procurement involvement. Advertised in Source Derbyshire and Contracts Finder, if appropriate INTEND Specialist publication if appropriate	ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.
EU Threshold	above	Formal tender (Report to Executive(BDC)/ Cabinet(NEDDC) if over the Key Decision Threshold))	Full tender process	Mandatory procurement involvement. OJEU, Advertised in Source Derbyshire , if appropriate INTEND Specialist publication if appropriate	PQQ and ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.

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

Appendix B - Glossary of Definitions;

Authorised Officer Means any officer who by the nature of his or her job, or as directed by a manager, is authorised to place orders.

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

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

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

Senior Officer Means one of the following: Directors and Heads of Service.

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

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

Council Procedure Rules

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

1. Annual Council Meeting

TIMING AND BUSINESS

- 1.1 In a year when there is an ordinary election of *Councillors*, the annual meeting will take place within 21 days of the retirement of the outgoing *Councillors*. In any other year, the annual meeting will take place in March, April or May.
- 1.1 The annual meeting will:
- (a) elect a person to preside if the *Chair of the Council* is not present;
 - (b) elect the *Chair of the Council*;
 - (c) appoint the *Vice Chair of the Council*;
 - (d) receive any declarations of interest;
 - (e) approve the minutes of the last meeting;
 - (f) receive any announcements from the *Chair of the Council* and/or the *Head of Paid Service*;
 - (g) elect the *Leader of the Council* in the year of the District Council elections only;
 - (h) receive the announcement of the appointment of the Deputy Leader and Members of the Cabinet;
 - (i) consider any other business as set out in the notice of the meeting.

COMMITTEES AND OUTSIDE BODIES

- (j) appoint at least one *Scrutiny Committee* and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the *Council Meeting* nor are *Executive Functions*
- (k) decide the size and terms of reference for those committees;
- (l) decide the allocation of seats to political groups in accordance with the political balance rules set out in Appendix A;
- (m) receive nominations of *Councillors* to serve on each committee and outside body; and

- (n) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.
- (o) agree the scheme of delegation set out in Part 3 of this Constitution.
- (p) approve the financial threshold for Key Decisions.

2. Ordinary Meetings

2.1 Ordinary meetings of the Council will take place in accordance with the agreed calendar of meetings. Ordinary meetings will:

- (a) elect a person to preside if the *Chairman of the Council* or *Vice Chairman of the Council* is not present;
- (b) approve the minutes of the last meeting and the Chairman will sign them as a correct record;
- (bb) where the Minutes are approved by virtual means, arrangement will be made after the meeting, and within 2 months, for signatures to be made in hard copy.
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the *Chair of the Council*, *Leader*, Members of the Cabinet or the *Head of Paid Service*;
- (e) receive any *Deputations* or consider petitions submitted in accordance with the Council's Petitions Scheme
- (f) receive any questions from, and provide answers to, the public;
- (g) receive any questions from Members of the Council;
- (h) deal with any business from the last Council meeting;
- (i) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports as required by law or specifically referred by those bodies;
- (j) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (k) consider motions on notice;
- (l) consider any other business specified in the summons to the meeting.

2.2 It is the right of Council at any ordinary or extraordinary meeting to establish or dissolve any board or committee (apart from the Cabinet) or to review its size and terms of reference, giving regards to existing rules around proportionality.

- 2.3 If a meeting of Council is to be cancelled before the notice and summons has been sent out, this is to be agreed with the Chair and Vice Chair of the Council and the Leader of the Council, or Deputy Leader in their absence.
- 2.4 Under regulation 4(1) of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, meetings may be moved or cancelled. This shall only be exercised with the consent of the Chair or, in the Chair's absence, the Vice-Chair.

3. Extraordinary Meetings

- 3.1 The people or bodies listed below may require the Head of Paid Service to call Council meetings in addition to ordinary meetings:
- (a) the Council by resolution;
 - (b) the *Chairman of the Council*;
 - (c) the *Monitoring Officer*;
 - (d) the Chief Finance Officer; and
 - (e) any five Members of the Council if they have signed a requisition presented to the *Chairman of the Council* and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- 3.2 When requested, the Head of Paid Service shall call a meeting of the Council unless he or she is of the opinion that the business to be discussed at the proposed meeting can conveniently wait until the next ordinary meeting of the Council.
- 3.3 No business may be conducted at an Extraordinary meeting other than that specified in the resolution, request or requisition which led to it being called.¹

4. Time and Place of Meetings

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

5. Notice of Meetings

- 5.1 The Monitoring Officer or other authorised officer will give notice to the public of the time and place of any meeting in accordance with the *Access to Information Procedure Rules*.
- 5.2 At least five clear working days before a meeting, the Monitoring Officer will send a summons signed by him/her by post or electronic mail to every Member of the Council or by leaving it at their usual place of residence. Members may provide details in

¹ This does not restrict the agenda to one item of business. Questions and Motions may be included on the agenda for Extraordinary meetings.

writing of an alternative address or email to which he/she wishes summons to be sent to.

- 5.3 The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by any relevant reports.

6. Chair of Meeting

- 6.1 The person presiding at a meeting of the Council may exercise any power or duty of the *Chair of the Council*. Where these rules apply to meetings of boards or committees, references to the *Chair of the Council* also include the Chair of boards or committees.

7. Quorum

- 7.1 Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of members or three voting members, whichever is the greater.
- 7.2 If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will stand adjourned.
- 7.3 During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. If the meeting remains inquorate, remaining business will be considered at a time and date fixed by the person chairing the meeting. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. Questions by the Public

8.1 General.

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

8.2 Notice of Questions.

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

8.3 Number of Questions.

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

8.4 Scope of Questions.

The Monitoring Officer may reject a question if:

- (a) it is not about a matter for which the Council has a responsibility or which affects the district;
- (b) it is defamatory, frivolous or offensive;
- (c) it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) it requires the disclosure of confidential or exempt information;
- (e) it breaches any procedure rule;
- (f) it relates to an item on the agenda for that Council meeting;
- (g) it relates to a planning application that is in the process of being determined by the District Council; or
- (h) it relates to an ongoing complaint currently being considered by the District Council.

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

8.5 Record of Questions.

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

8.6 Order of Questions.

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

8.7 Asking the Question at the Meeting.

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

8.8 Supplementary Question.

A questioner who has put a question in person may also put one brief supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original request or reply. The *Chair of the Council* may reject a supplementary question on any of the grounds in rule 8.5 above or if the question takes the form of a speech.

8.9 Response

An answer may take the form of:

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

8.10 Reference of Question to the *Cabinet* or a Committee.

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

9. Questions by Councillors

9.1 On Reports of the Cabinet or Committee.

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

9.2 Questions on Notice at Council Meetings.

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

9.3 Notice of Questions.

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

- (a) submitted the question in writing to the question to the Monitoring Officer no later than midday twelve clear working days before the day of the meeting; or
- (b) the question relates to urgent matters, they have the consent of the Councillor to whom the question is to be put and the content of the question is given to the Monitoring Officer by 9 am on the day of the meeting.
- (c) details of questions submitted by Councillors on notice will be circulated to Cabinet immediately after the deadline has passed.

9.4 Scope of Questions

The Monitoring Officer may reject a question if:

- (a) it is not about a matter for which the Council has a responsibility or which affects the district;
- (b) it is defamatory, frivolous or offensive;
- (c) it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) it requires the disclosure of confidential or exempt information;
- (e) it breaches any procedure rule;
- (f) it relates to an item on the agenda for that Council meeting;
- (g) it relates to a planning application that is in the process of being determined by the District Council; or
- (h) it relates to an ongoing complaint currently being considered by the District Council.

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

9.5 Response.

An answer may take the form of:

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

9.6 Supplementary Question.

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

9.7 Number of Questions.

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

9.8 Time for Questions.

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

9.9 Format of Questions.

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

9.10 Withdrawal of Questions.

A question which has been accepted and published may be withdrawn by the Member who asked it provided that they indicate this in writing to the Monitoring Officer and the Member to which the question has been asked not later than 10am on the day of the meeting.

10. Motions - on Notice

10.1 Notice

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

10.2 Scope

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

10.3 Motions Set Out in the Agenda

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

11. Motions and Amendments - Without Notice

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

- (a) to appoint a *Chairman* of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;

- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Councillor arising from an item on the summons for the meeting;
- (f) to receive reports and recommendations of Committees or officers and to make any decisions necessarily arising;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Procedure Rule;
- (n) to exclude the public in accordance with the Access to Information Procedure Rules;
- (o) not to hear a Councillor further or to require a Councillor to leave the meeting; (rules 22.2 and 22.3) and
- (p) to give the consent of the Council where its consent is required by this Constitution.

12. Rules of Debate

12.1 No Speeches to be Made until Motion Seconded

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

12.2 Right to Require a Motion in Writing

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

12.3 Secunder's Speech

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

12.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. A Member presenting a report of the Cabinet or other Member Group or moving a motion, of which notice has been given under Rule 10, may speak for up to ten minutes. No other speech may exceed 5 minutes. The *Chair of the Council* may consent to extend the time limit on speeches.

12.5 When a Councillor May Speak Again

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

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

12.6 Amendments to Motions

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

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

12.7 Alteration of Motion

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

12.8 Withdrawal of Motion

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

12.9 Right of Reply

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

12.10 Motions which may be Moved during Debate

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

- (a) to withdraw the motion
- (b) to amend the motion
- (c) to proceed to the next business
- (d) that the question be now put
- (e) to adjourn a debate
- (f) to adjourn a meeting

- (a) to exclude the press and public in accordance with the access to information rules
- (h) that a Councillor be not further heard or to exclude the Councillor from the meeting (under rules 22.2 and 22.3).

12.11 Closure Motions

- (a) A Councillor may move without comment the following motions at the end of a speech of another Councillor:
 - (i) to proceed to next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the *Chair of the Council* thinks the item under discussion has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the *Chair of the Council* thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed, he or she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or adjourn the meeting is seconded and the *Chair of the Council* thinks the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he or she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) When a motion that the debate be now adjourned is carried, the discussion shall be resumed at the next meeting, when the Member who moved its adjournment shall be entitled to speak first.²

12.12 Point of Order

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

² Members may use the term 'defer', however in the context of a debate commenced this is classed as 'adjournment'.

12.13 Personal Explanation

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

13. **Previous Decisions and Motions**

13.1 Motion to Rescind a Previous Decision

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

13.2 Motion Similar to one Previously Rejected

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

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

14. **Voting**

14.1 Majority

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

14.2 Chairman of the Council's Casting Vote

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

14.3 Show of Hands

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

14.4 Recorded Vote

If three Councillors present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

14.5 Right to Require Individual Vote to be recorded

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

14.6 Voting on Appointments

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

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

15. Minutes

15.1 Signing the Minutes

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

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

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

15.3 Recording Attendance

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

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

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

16. Petitions

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

- 16.2 That acknowledgement will set out what the Council plans to do with the petition.
- 16.3 If a petition contains more than 1,000 signatures it will be debated by the full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.
- 16.4 The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.
- 16.5 The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of up to 30 minutes.
- 16.6 The Council will decide how to respond to the petition at this meeting.

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

17. Deputations

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

18 Requirements for Members to Withdraw from Meetings

- 18.1 Where a member has a disclosable pecuniary interest in any business of the authority they must withdraw from the meeting room (including the public gallery) whenever it becomes apparent that the business is being considered, unless the member has been granted a dispensation.
- 18.2 Subject to paragraph 18.3 below and paragraph 11 (d) of the Code of Conduct, where a member has a significant other interest in any business of the authority they must withdraw from the meeting room (including the public gallery) whenever it becomes apparent that the business is being considered.
- 18.3 A member with a significant other interest in any business of the authority may still attend that meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose. Immediately after making representations, answering questions or giving evidence the member must withdraw from the meeting room (including the public gallery) for the consideration and vote on the business.

19. Use of Media and Other Communication Methods

- 19.1 Subject to Rule 22, a person may report on or provide commentary on the proceedings of a meeting using any means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later.

20. Exclusion of the Public

- 20.1 The public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 22 (disturbance by the public).

21. Councillors' Conduct

Speaking at Meetings

- 21.1 When a Councillor speaks at Council, firstly they should announce their name and Ward or Cabinet Portfolio (if more appropriate), and he/she must address the meeting through the Chairman. Whilst there is no requirement, Councillors are permitted to stand to address Council should they wish to do so.
- 21.2 If more than one Councillor wishes to speak, the Chair will ask one to speak, and the other will refrain. Other Councillors must remain silent whilst a Councillor is speaking unless they wish to make a point of order or personal explanation.
- 21.3 When the *Chair of the Council* stands during a debate any Councillor(s) then standing must sit down and the Council must be silent.
- 21.3A Where a virtual meeting is taking place or a Member is attending the meeting remotely, Members must comply with any Council guidelines on how they should indicate their wish to speak and other rules on participation during the course of debate.

Disturbance by Members

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

22. Disturbance by Public

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

23. Suspension and Amendment of Council Procedure Rules

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

24. Attendance at Committee Meetings by Members of the Council

- 24.1 A Member of the Council may, with the approval of the appropriate Chairman, attend any meeting of a Committee or Sub-Committee and, if so invited by the Chairman of that Committee or Sub-Committee, may speak but not vote on business before that meeting.
- 24.2 No Member of the Council shall attend any Standing Committee or Standing Sub-Committee or any other Committee, Sub-Committee or other body set up by the Council of which he/she is not a member whilst that Committee/Sub-Committee/Other body is exercising any function which, in the opinion of the Head of Paid Service, is engaged in interviewing candidates for any position with the Council or in existing appellate functions in relation to appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council.

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

25. Application of Council Procedure Rules to Committees

Rules 4 to 7, 11 to 15 and 18 to 24 apply to meetings of all groups and committees.

Appendix A

Proportionality Rules

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

In years where no District Council elections are held, the procedure outlined above will be followed. In election years, the notice will be sent by the Monitoring Officer as soon as practicable following the elections and the political parties to respond as soon as practicable in advance of the Annual Meeting.

Employment Rules

1. DEFINITIONS

In this Order the following words have the following meanings:

The 1989 Act	The Local Government and Housing Act 1989
The 2000 Act	The Local Government Act 2000
The Council	North East Derbyshire District Council
Chief Finance Officer	The officer having responsibility for the purposes of section 151 of the Local Government Act 1972.
Designated Independent Person	Such person as may be agreed between the Council and a Chief Officer against whom misconduct has been alleged which, in the opinion of the Council, requires investigation and in default of such agreement, may be appointed by the Secretary of State.
Disciplinary Action	In relation to a member of staff of the Council, any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Council, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

Employee	Person appointed to or holding a paid office of the authority or employed by the authority.
Head of Council's Paid Service	The officer designated under section 4(1) of the Local Government and Housing Act 1989.
Monitoring Officer	The officer designated under section 5(1) of the Local Government and Housing Act 1989.
Proper Officer	Section 151 Officer

2. EMPLOYMENT AND DISMISSAL OF SENIOR OFFICERS

- 2.1 Subject to paragraphs 2.2, 2.3 and 2.4 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 Head of Paid Service or his nominees.
- 2.2 Paragraph 2.1 shall not apply to the appointment or dismissal of, or disciplinary action against employees within the description of paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 3384 of 2001), which may be summarised as:
- (a) Head of the Council's Paid Service;
 - (b) A statutory Chief Officer (this means the Chief Finance Officer and the Monitoring Officer);
 - (c) Senior Officers (this means Directors,) and
 - (d) Heads of Service (often designated Assistant Directors).
- 2.3 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal 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 or, as the case may be, must approve that dismissal before notice of dismissal is given.
- 2.4 Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in paragraph 2.2 other than in relation to political assistants, at least one member of the Cabinet must be a member of that committee or sub-committee.
- 2.5 In paragraphs 2.6 and 2.7 "appointor" means, in relation to the appointment of a person as an officer of the Council, the Council or where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.
- 2.6 An offer of an appointment as an officer referred to in paragraph 2.2 other than in relation to political assistants, must not be made by the appointor until:

- (a) The appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) The proper officer has notified every member of the Cabinet of:
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor had notified to the proper officer; and the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
 - (iii) the Leader has, within the period specified in the notice, notified the appointor that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
 - (iv) the proper officer has notified the appointor that no objection was received by him/her within that period from the Leader; or
 - (v) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

2.7 In paragraphs 2.8 and 2.9, “dismissor” means, in relation to the dismissal of an officer of the Council, the *Council Meeting* or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the *Council Meeting*, that committee, sub-committee or other officer, as the case may be.

2.8 Notice of the dismissal of an officer referred to in sub-paragraph 2.2 other than in relation to political assistants, must not be given by the dismissor until:

- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- (c) either:
 - (i) the Leader has, within the period specified in the notice notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;

- (ii) the Proper Officer has notified the dismissor that no objection was received by him/her within that period from the Leader; or
- (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

3 APPOINTMENT OF OFFICERS

- 3.1 All jobs will be open to competition and appointments will be made on merit except the following:
- (a) An appointment may be limited to internal applicants only whose jobs are at risk because of ill-health (as confirmed by the Occupational Health Service), disability or they are at risk of redundancy or potential redundancy and are on the Redeployment Register.
 - (b) The appointment is for temporary added duties including, for example, a temporary secondment/development opportunity for up to a maximum period of two years.
 - (c) In other exceptional circumstances as identified by the Head of Paid Service in consultation with the Leader after seeking advice from the Head of Corporate Governance and Monitoring Officer.
- 3.2 All applicants with a disability who meet the minimum requirements for a job vacancy will be interviewed subject to there being no “at risk” applicants.
- 3.3 Where the Council propose to appoint an officer to any post the Council will:
- (a) draw up a job description outlining the duties of the Officer concerned; and
 - (b) draw up a person specification outlining any qualifications or qualities to be sought in the person to be appointed;
 - (c) make arrangements for the post to be advertised in such a way that is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (d) make arrangements for a copy of the statement mentioned in paragraph 3.3 (a) to be sent to any person on request.

Every appointment of a Senior Officer shall be made by the Appointments Committee, save that the appointment of a Head of Paid Service must be approved by *Council Meeting*.

4. DISCIPLINARY ACTION – HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER

- 4.1 A decision on whether to dismiss the Council’s Head of Paid Service, Monitoring Officer or Chief Finance Officer must be taken by the Council meeting who must consider any advice, views or recommendations made by a panel comprising at least two or more Independent Persons appointed under Section 28(7) of the Localism Act

as well as the conclusions of any investigation into the matter and the representations of the relevant officer.

- 4.2 Priority on the panel will be given to an Independent Person who has been appointed by the authority and is a local government elector for North East Derbyshire. Thereafter, priority will be given to any other Independent Persons appointed to the authority and then an Independent Person who has been appointed by another authority or authorities.
- 4.3 The Panel may only meet to consider the relevant case 20 working days after it has been selected.

Finance Rules

1 INTRODUCTION

- 1.1 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

Section 151 of the Local Government Act 1972
The Local Government Finance Act 1988
The Local Government and Housing Act 1989
The Accounts and Audit Regulations 2011.

- 1.2 The Section 151 Officer is accordingly responsible for:

- (a) the proper administration of the Council's financial affairs which includes:
- (b) setting, and monitoring compliance with, financial management standards
- (c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- (d) providing financial information
- (e) preparing the Revenue Budget and Capital Programme
- (f) treasury management activities
- (g) ensuring effective financial Governance arrangements are in place

- 1.3 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of the Constitution of the Council which includes the following Financial Regulations.

2 FINANCIAL REGULATIONS

2.1 General

- 2.2 Financial Regulations provide the framework for managing the Authority's financial affairs. They apply to every member and officer of the Council and anyone acting on its behalf.
- 2.3 The regulations, in conjunction with the Constitution of the Council, identify the financial role and responsibilities of the Council Meeting, Cabinet and Audit and Corporate Governance Scrutiny Committee members, the Head of the Paid Service, the Monitoring Officer, the Section 151 Officer and Senior Officers.
- 2.4 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the *Standards Committee* and then on to Council.

- 2.5 The Senior Officers are responsible for ensuring that all staff are aware of the existence, content of the Authority's Financial Regulations, other internal regulatory documents and ensuring compliance with them.
- 2.6 The Senior Officers are also responsible for consulting the Section 151 Officer to seek approval on any matter potentially having a material impact on the Authority's finances, before any contractual or binding commitments are incurred.

3 ACCOUNTING

3.1 Accounting Policies

The Section 151 Officer is responsible for implementing the accounting policies and ensuring that they are applied consistently.

3.2 Accounting Records and Returns

The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Senior Officers to the existing financial systems or the establishment of new systems must be approved in advance by the Section 151 Officer. However, Senior Officers are responsible for the proper operation of financial processes in their own directorates.

- 3.3 Any changes to agreed procedures by Senior Officers to meet their own specific service needs should be agreed with the Section 151 Officer.
- 3.4 Senior Officers should ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer as soon as possible after commencing employment.

3.5 Accounting Principles

The following principles shall be observed in the allocation of accounting duties:

- (a) the duties of providing information about sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- (b) officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- (c) standards arising from accepted good practice must be adhered to at all times.

3.6 Treatment of Year-end Balances

The *Cabinet Meeting* is responsible for agreeing procedures for carrying forward under and over spending on budget heads.

3.7 The Annual Statement of Accounts

The Section 151 Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom. Following the conclusion of the External Audit process the Audit and Corporate Governance Scrutiny Committee is responsible for approving the Annual Statement of Accounts. The Draft Statement of Accounts, prior to consideration by External Audit, will be approved by the Chief Finance Officer.

4 ADVANCE ACCOUNTS

- 4.1 The Section 151 Officer shall provide such advance accounts (Imprests) as he/she considers appropriate, for such officers of the Council as may need them, to meet minor expenditure on behalf of the Council, and prescribe rules for the operating of these accounts.
- 4.2 No income received on behalf of the Council may be paid into an advance account but must be banked or paid to the Council as provided elsewhere in these regulations.
- 4.3 Payments shall be limited to minor items of expenditure and to such other items as the Section 151 Officer may approve, and shall be supported by a receipted voucher, to the extent that Section 151 Officer may require. Where appropriate a VAT receipt must be obtained that is compliant with the VAT regulations.
- 4.4 An officer responsible for an advance account shall maintain on a continuous basis a statement detailing the position of his/her Imprest account. That Statement shall if requested be provided to the Section 151 Officer.
- 4.5 On leaving the employment of the Council or otherwise ceasing to be entitled to hold an Imprest advance, an officer shall account to the Section 151 Officer for the amount advanced to him/her. Any transfers of Imprests between staff should be evidenced in writing and the Section 151 Officer shall be informed, also in writing, of the change in Imprest holder.

5 ASSETS

5.1 General

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. These assets must be safeguarded and used efficiently in service delivery. Arrangements must be made for the security of both assets together with any supporting legal documentation, operational information, etc.

- 5.2 No employee shall make personal use of Council assets unless given authorisation from a senior officer to do so.

5.3 Asset Register

In order to comply with good practice guidelines in respect of both accounting and effective asset management the Council will maintain an up-to-date asset register.

5.4 The Section 151 Officer will ensure that an Asset Register for all fixed assets, of and above an agreed value, is maintained for the Authority; that it is updated as and when changes occur and that the assets are valued in accordance with recognised good practice.

5.5 Senior Officers shall provide the Section 151 Officer with details of all property, plant and machinery, and movable assets currently owned by or used by the Authority and under their control, and of any additions or changes to those assets.

5.6 A complete list of leased equipment held must be maintained by Senior Officers, a copy of which should be forwarded to the Section 151 Officer at the end of each financial year.

5.7 Disposals of Fixed Assets

The disposal or sale of all Fixed Assets must be in accordance with legislation, the Constitution of the Council and the Asset Management Plan (including the Acquisitions and Disposals Policy).

5.8 Land Database

The Team Manager (Solicitor), Commercial Property and Estates Manager and the GIS Officer shall maintain a database of all property owned by the Council (except dwellings provided under the Housing Acts) recording the statutory powers under which it is held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

5.9 Inventories

Senior Officers will be responsible for maintaining up-to-date inventories of all furniture, fittings and equipment purchased, or given to the Council, under their control. The details recorded for each item should be sufficient to enable easy identification and facilitate the valuation of the Council's assets.

5.10 Senior Officers shall ensure that an annual check is carried out on their inventories in order to verify the location and condition of all items, that they are still required, and to take action in relation to any disposals, transfers and losses in accordance with the procedures laid down by the Section 151 Officer. All attractive and portable items, e.g. computers, cameras, electronic equipment, should be identified with security markings as belonging to the Council.

5.11 Senior Officers should ensure that all of the Council's property under their control is only used in the course of the Council's business, unless they have given permission otherwise.

5.12 At the end of each financial year Senior Officers shall submit a copy of their complete inventory to Section 151 Officer.

- 5.13 Inventory items that become obsolete or surplus to requirements can, with authorisation from the relevant Director or Head of Service, be sold or disposed of in accordance with Council Policy.

5.14 Stocks and Stores

Senior Officers shall be responsible for the care and custody of the stocks and stores in their area.

- 5.15 Stocks shall not be in excess of normal requirements, except in special circumstances and with the approval of Cabinet.

- 5.16 Senior Officers shall arrange for a regular, independent, physical check of all stocks, ensuring that all stock items are checked at least once per year. Any surpluses or deficiencies should be investigated to a satisfactory conclusion. The Council's records should be corrected for minor discrepancies but major discrepancies must be reported to Section 151 Officer at the earliest opportunity.

- 5.17 The Section 151 Officer shall be entitled to receive from each Senior Officer such information as he/she requires in relation to stores to develop required accounting, costing and financial records. At each year-end Senior Officers shall provide details of their Stock holdings in the form of balances on Year End Stock Certificates.

- 5.18 Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless a decision to the contrary is taken at an appropriate level as required by the Council's Constitution.

5.19 Intellectual Property

Intellectual property is a generic term that includes inventions and writing. If these are created by an employee, during the course of their employment, then, as a general rule, they belong to the employer, not the employee.

- 5.20 Certain activities undertaken within the authority may give rise to items that are patentable, e.g. equipment and computer software. These items are known as intellectual property.

- 5.21 Senior Officers must ensure that controls are in place to prevent staff from carrying out private work in Council time, and must make staff aware of the Council's rights with regard to intellectual property.

6 AUDIT

6.1 General

The requirement for an internal audit function within local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".

- 6.2 The Accounts and Audit Regulations 2015 states - A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking in to account public sector internal audit standards or guidance.
- 6.3 The Council advised by the Chief Finance Officer will ensure that appropriate arrangements for undertaking the external audit of the Council's Statement of Accounts and financial arrangements are in place.
- 6.4 Local authorities can also be subject to audit, inspection, or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- 6.5 Internal Audit

Internal Audit is undertaken on the Council's behalf by a Joint Consortium with Chesterfield Borough Council as the host authority, operating under the terms of reference set out within the Audit Charter, agreed by the audit committees of the authorities within the consortium. The Audit Charter covers the following matters:-

INTRODUCTION

The Internal Audit Consortium Audit Charter describes the purpose, authority and principal responsibilities of the Internal Audit Consortium that has been established to provide the internal audit service to the three Councils.

SCOPE AND OBJECTIVES OF INTERNAL AUDIT

Internal Audit is an independent objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

The Internal Audit services has rights to unrestricted access at each partner authority to all records and assets deemed necessary to undertake its duties. This right of access is set out in the Financial Regulations. In addition, where necessary, the Internal Audit Consortium Manager will have unrestricted access to:

- The Head of Paid Service
- The Chief Finance Officer
- Members
- Audit and Corporate Governance Scrutiny Committee
- Individual Directors / Heads of Service
- All Other Employees
- The External Auditor

INDEPENDENCE

In order to achieve its objectives effectively, Internal Audit must be seen to be independent.

This is achieved by:

- Organisational status of the Internal Audit Consortium and the objectivity of Internal Audit
- Ability of internal audit to report in its own name to all senior management and to members at the relevant authority.
- Being independent of systems and procedures being audited.
- Where the Internal Audit Consortium is asked to provide any services in a consultancy role, this should be made clear in the project brief
- The independence and reporting arrangements for the Internal Audit Consortium Manager being detailed in the Consortium legal agreement and the Council's Constitution.

AUTHORITY

There are two principal pieces of legislation that impact upon internal audit at local authorities:

- Section 151 of the Local Government Act 1972 – requires a Local Authority to ensure that one of the officers has responsibility for the proper administration of its financial affairs.
- The Accounts and Audit Regulations 2015 states that “A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking in to account public sector internal audit standards or guidance.

In addition, the Consortium legal agreement details how the Consortium will operate in terms of finance, staffing, reporting and independence.

Internal Audit is also governed by policies, procedures, rules and regulations established by the host Council. These include financial regulations, conditions of service, codes of conduct and anti-fraud and corruption strategies.

Where key services are to be provided to one of the partner councils by other contractors or through a partnership, in order for internal audit to form an opinion on the controls operating, a right of access to relevant information and documents should be included in contracts or agreements concerned.

STANDARDS

The Internal Audit Consortium adopts standards established by CIPFA (The Chartered Institute of Public Finance and Accountancy) in undertaking its work. In particular The Public Sector Internal Audit Standards (2013).

The Internal Audit Consortium will follow the CIPFA guidance as ‘proper practice’ in the provision of the Internal Audit Service to the partner Councils.

The Internal Audit Consortium will seek to achieve continuous improvement in the provision of the internal audit service and will establish a performance management and quality assurance framework to assist in this process.

The Internal Audit Consortium Manager will develop, maintain and manage a Risk Assessment in relation to the functions of the Consortium.

INTERNAL AUDIT RESPONSIBILITY

The areas of Internal Audit responsibility are detailed in the Consortium Legal Agreement as follows (paragraph numbers below refer to the Consortium Legal agreement):

6.5.1 The Statutory Internal Audit Functions and Other Internal Audit-related Functions carried out for the Councils

- Each Council hereby empowers The Consortium to discharge on its behalf **the Internal Audit Functions** in accordance with this Agreement and at such level as may be agreed from time to time in the Audit Plan for each Council
- The Councils agree that references to their respective separate internal audit units in their respective constitutions or Financial Regulations or procedures shall be read as references to the Consortium where appropriate

In particular the Consortium will, for each Council:

- Prepare each year in advance an **Audit Plan** for discussion and agreement by each Council's Client Officer. The Audit Plan shall then be submitted for approval by the Councils' respective Audit Committees. Any in-year significant changes to the Audit Plan shall be agreed by the respective Client Officers and Audit Committees
- Prepare evidence based **audit reports** following discussions between Consortium staff and relevant service managers. The Internal Audit Consortium Manager shall send final audit reports to the relevant Client Officer for circulation within the relevant Council. The relevant Client Officer will follow up audit reports to ensure that implementation plans in those audit reports are completed and received by the Internal Audit Consortium Manager and actioned
- Support **Corporate Activities** as agreed in the Audit Plan for each Council by way of internal audit input to appropriate corporate issues
- Liaise as required with the **External Auditor** for each Council and with other regulators
- Contribute as agreed in the **Audit Plan** to the **Annual Governance Statement** and **Local Code of Corporate Governance**
- Contribute to reviews of **financial regulations**
- Carry out such **Other Internal Audit-related Functions** for the Councils as may be proposed from time to time by the Internal Audit Consortium Manager and the Client Officer in each Council and agreed in the

approved Audit Plan. Such Other Internal Audit-related Functions may include contributing to the confidential reporting policies ("whistleblowing" policies) of the Councils

6.5.2 The Public Body Functions

The Consortium will also carry out such

- Statutory Internal Audit Functions and
- Other Internal Audit-related Functions

For such public sector bodies (other than the Councils) as may be approved from time to time by the Joint Board within legal and operational limits

Other responsibilities of internal audit are:

- To provide a written annual report to the Audit Committee (or equivalent) at each partner authority.

The report will include:

- An overall opinion on the adequacy and effectiveness of the organisation's control environment (including any qualifications to that opinion)
- Present a summary of the audit work from which the opinion is derived, including reliance placed on the work by other assurance bodies
- Draw attention to any issues the Internal Audit Consortium Manager judges particularly relevant to the preparation of the Annual Governance Statement
- Compare work actually undertaken with work that was planned and to report relevant performance measures and targets
- Comment on compliance with Standards and report on the results of quality assurance reviews

Where either:

- (a) Key systems are being operated, or key systems provided by other organisations on behalf of the Council
- (b) Key systems are being operated, or key systems provided, on behalf of other organisations by the Council

The Internal Audit Consortium Manager will decide, in consultation with all parties, whether Internal Audit conduct the work to derive the required opinions on the reliability of systems and controls or should rely on the opinion provided by other auditors.

FRAUD AND CORRUPTION

Managing the risk of fraud and corruption is the responsibility of management.

The Internal Audit Consortium Manager should be notified of all suspected or detected fraud, bribery, corruption or impropriety in accordance with each Council's Financial Regulations and Anti-Fraud and Corruption Strategies, in order to inform their opinion of the internal control environment.

Subject to availability of resources with the Internal Audit Plan, internal audit may assist management in the investigation of suspected fraud, bribery or corruption.

AUDIT STYLE AND CONTENT

The primary task of the Internal Audit Consortium is to review systems of internal control operating throughout each of the partner authorities, and in this will adopt a predominantly systems based approach to the audit.

The Internal Audit Consortium Manager will manage the provision of the Internal Audit service to each Council by:

- Preparing a risk based annual audit plan for discussion and agreement by each Council's Client Officer.
- Reporting to each Council's Audit Committee for approval the recommended annual audit plan.
- Ensuring audit work is supervised, recorded and reported.

AUDIT REPORTING

All audits will result in the development of a formal written report. Reports will be issued to the relevant Head of Service and Client (Section 151) Officer concerned. If the Internal Audit Consortium Manager considers necessary, copies of reports may also be issued to the Directors and Monitoring Officer and to members at the relevant authority. The Internal Audit Consortium Manager will make periodic reports to each Audit Committee summarising all internal audit reports issued.

AUDIT RESOURCES

The staffing and budget of the Internal Audit Consortium will be kept under review by the Head of Internal Audit, bearing in mind the resource requirements identified in the audit plan process. Where resources available do not match the resource requirements identified by the annual audit plans, the Head of the Internal Audit Consortium will report to the audit committee of the Council concerned and to the Joint Board.

REVIEW OF AUDIT CHARTER

The Audit Charter will be reviewed every 2 years by the Internal Audit Consortium Manager and will be reported to each Council's Audit Committee for approval.

6.6 Fraud and Corruption

The Council has a zero tolerance of fraud and corruption whether that arises within the Council itself, from its suppliers, its contractors or from partner agencies.

6.7 The Council has approved an Anti-Fraud and Corruption Strategy and both employees, elected Members and those who work with the Council staff are required to abide by the standards set out within that Strategy. It also contains details of the 'Whistleblowing' arrangements in place Supporting the Zero Tolerance approach to fraud is the Council's Confidential Reporting or Whistleblowing Policy. Members, employees and those who work with the Council are expected to use Whistleblowing if they suspect any impropriety, breaches of procedure or acts of fraud or corruption by other members of staff, Council Members, occupants of Council properties and recipients of Housing or Council Tax Benefits.

6.8 All Officers and staff will notify the Section 151 Officer immediately, of any suspected fraud, theft, bribe, irregularity, improper use or misappropriation of the Council's property or resources. The Section 151 Officer and Monitoring Officer shall jointly and severally take such steps as they consider necessary to investigate promptly and report in accordance with the procedure in place.

7 Banking Arrangements and Cheques

7.1 All arrangements with the Council's bankers shall be made by or under arrangements approved by the Section 151 Officer, who shall be authorised to operate such banking accounts, , as he/she may consider necessary.

7.2 Cheques

All cheques shall be ordered only on the authority of the Section 151 Officer, who shall make proper arrangements for their safe custody.

7.3 Any cheques for more than £25,000 must be countersigned by the Section 151 Officer or one of the other officers authorised to sign cheques.

7.4 BACS

The payment of creditors will, wherever possible, be made by BACS transfer, the schedule of payments being made will be authorised by the Section 151 Officer or other officer authorised by the Council to do so.

7.5 CHAPS

Where appropriate payment including the repayment of monies borrowed by the Council as part of its Treasury Management shall be made by CHAPS or Faster Payment to facilitate the cash flow position. All payments must be authorised by the Section 151 Officer or another authorised officer.

8 Budgeting

8.1 Budget format

The budget and policy framework will be approved by the *Council Meeting* and will be implemented by the Cabinet. The Rules of Procedure are set out in Part 4 of the Constitution of the Council.

8.2 Budget preparation

The Section 151 Officer shall determine the detailed form of Capital and Revenue estimates subject to the general directions of the Audit and Corporate Governance Scrutiny Committee, the Cabinet and after consultation with Senior Officers.

8.3 It is the responsibility of Senior Officers to ensure that budget estimates reflecting the agreed Corporate Plan are submitted to the Section 151 Officer, in accordance with both the agreed requirements and timetable.

8.4 The Section 151 Officer will collate the estimates and report to the Audit and Corporate Governance Scrutiny Committee and the Cabinet. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds. The Cabinet will recommend a budget to the *Council Meeting*.

8.5 Budget monitoring and control

The Section 151 Officer together with relevant senior offices is responsible for providing appropriate financial information to enable budgets to be monitored effectively. Reports detailing expenditure against the budget for every budget head are to be provided to both Cabinet and to the Audit and Corporate Governance Scrutiny Committee on a quarterly basis.

8.6 It is the responsibility of Senior Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by Section 151 Officer. They should report to him/her on variances or anticipated variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any issues which have arisen or may arise.

8.7 Virements

Once the budget has been approved, Cabinet or budget managers shall be entitled to vire across budget heads with the exception of salary related budgets. Virements from salary related budgets can only be utilised for the use of agency and consultancy work. The Accountancy Section shall be entitled to vire budgets for housekeeping purposes.

No officer, other than the Section 151 Officer, may vire funds from the Invest to Save Reserve.

8.8 Resource allocation

The Section 151 Officer in consultation with the Head of Paid Service is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's policy framework.

8.9 Preparation of the Capital Programme

The Section 151 Officer is responsible for ensuring that a Capital Programme is prepared on an annual basis for consideration by the Audit and Corporate Governance Scrutiny Committee and the Cabinet. Cabinet will agree a recommended Programme for submission to the *Council Meeting*.

8.10 Following the approval by the *Council Meeting* of the Capital Programme the Senior Officers concerned shall be authorised to:

- (a) take steps to enable land required for the Capital Programme to be acquired.
- (b) prepare a scheme and estimate of costs for approval by the Cabinet.

8.11 Guidelines

Guidelines on budget preparation are issued to Senior Officers by the Section 151 Officer in line with accepted good practice. The guidelines will take account of:

- (a) medium-term planning prospects
- (b) the corporate plan
- (c) available resources
- (d) spending pressures
- (e) relevant government guidelines
- (f) other internal policy documents
- (g) other relevant issues

9 Contracts for Building, Constructional or Engineering Works

9.1 All contracts will be let strictly in accordance with the Council's Procurement Strategy and *Contract Procedure Rules* with respect to Contracts and will be entered into the Contracts Register.

9.2 Where contracts provide for payment to be made by instalments the Section 151 Officer shall arrange for the keeping of a Contract Register or Registers. This will be held by the Head of Finance, and Resources, to show the state of account on each contract between the Council and the Contractor, together with any other payments, and the related professional fees.

9.3 Payments to Contractors for work under contracts shall only be made on a certificate issued by a Senior Officer or other officer nominated by him/her in writing.

9.4 Subject to the provisions of the contract in each case, every extra or variation, shall, unless otherwise evidenced to his/her satisfaction, be authorised in writing by the appropriate Senior Officer, or other officer nominated by him/her in writing, and by the appropriate Cabinet Member, (or, in his/her absence, the Leader of the Council).

- 9.5 The final certificate of completion of any contract shall not be issued until the appropriate Senior Officer has produced to the Section 151 Officer a detailed statement of account, and all relevant documents as required.
- 9.6 The Section 151 Officer shall, to the extent he/she considers necessary, examine final accounts for contracts and he/she shall be entitled to make all such enquiries and receive such information and explanations as he/she may require in order to satisfy himself/herself as to the accuracy of the accounts.
- 9.7 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Team Manager (Solicitor) for consideration of the Council's legal liability and, where necessary, to the Section 151 Officer for financial consideration before a settlement is reached.
- 9.8 Where completion of a contract is delayed, it shall be the duty of the supervising officer concerned to take appropriate action in respect of any claim for liquidated damages including if appropriate a report to the Cabinet.
- 9.9 In any case, where the total cost of any work carried out under a contract exceeds the approved contract sum by more than 10% and £5,000, a report of the cost shall, after agreement of the final account, be submitted to the Cabinet.
- 9.10 A Senior Officer regularly undertaking, by direct labour, work which contractors are able and willing to undertake, shall periodically compare the cost of a representative selection of such work with the cost of the same work performed by contractors.

10 Corporate Governance

- 10.1 All staff and members must comply with the standards of good Corporate Governance set out both within the Council's own Policy documents and accepted good practice.

11 Corporate Plan (also known as The Council Plan)

- 11.1 The Council's Management Team are responsible for ensuring that an up to date Corporate Plan is in place, which should be recommended as required by the Cabinet to the *Council Meeting* for approval.

12 Expenditure

12.1 General

The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. In this capacity he/she shall agree the method(s) and procedures required for the ordering and payment of all work carried out for, and all goods and services supplied to, the Council. These shall be in line with the requirements of the Council's Financial Regulations and accepted good practice to ensure that robust systems of internal control are maintained.

- 12.2 Every officer and member of the Council has a responsibility to declare any links or personal interests that they have with purchasers, suppliers and/or contractors, in

accordance with the appropriate codes of conduct. Where such links exist the individuals concerned shall take no part in the evaluation of, or the decision making process in respect of the purchases or contracts concerned.

- 12.3 Each Senior Officer shall supply the Section 151 Officer with a list of his/her officers designated as Authorised Signatories for the purpose of authorising orders, invoices, timesheets and other types of expenditure, together with those authorised to sign other forms of documentation e.g. legal documents and correspondence. The limits of each signatory's authorisation must also be stated. Changes to the list must be notified to the Section 151 Officer promptly.
- 12.4 Each Senior Officer shall ensure that a proper division of duties is exercised throughout the procedures involved in the ordering and payment for work, goods and services.
- 12.5 The Council has established appropriate procedures for seeking competitive quotations for the provision of goods and services. In addition to satisfying the Council's internal procedures Officers prior to placing any orders must ensure that the procurement process adopted is in line with statutory requirements and European regulations. For any contracts with a total value in excess of £50,000 advice must be sought from the Procurement unit, or legal services.
- 12.6 As part of the Procurement Process all Officers must ensure that upcoming contracts are advertised both locally and nationally in line with regulations. All contracts entered into, whatever their nature, should be entered into the Contracts Register. Details of both upcoming contracts together with those currently in place are provided on the Council's website and senior officers must ensure that the records relating to their service area are comprehensive and up to date.
- 12.7 Orders for Work, Goods and Services

All orders for work, goods or services must be in a form approved by the Council and the Section 151 Officer and are only to be authorised in manuscript, or, where applicable, electronically, by officers designated by each Senior Officer.

- 12.8 Official orders must be issued for all work to be carried out, and all goods or services to be supplied to the Council, unless an alternative method is formally agreed by the Section 151 Officer. This does not include the supply of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer. A copy of each order shall, if required, be supplied to the Section 151 Officer.
- 12.9 Where a Credit Card is used all orders placed must be detailed, on the Transaction Log provided, by the Card Holder. A detailed receipt **MUST** be obtained, for every purchase made using this method, to support each order placed.
- 12.10 All purchases, of materials or services, must be contained within the annual budget agreed by the *Council Meeting*, or agreed by the Cabinet prior to the order being placed.
- 12.11 All orders must be placed in accordance with the Council's Procurement Strategy and Policies. Standard terms and conditions must not be varied without the prior approval

of the Section 151 Officer or the Monitoring Officer. Before placing any order Officers must satisfy themselves that it secures best value for the Council and that the achievement of such best value can be evidenced.

12.12 No orders, in any format, must be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

12.13 Payment of Accounts

The methods of payment shall be as decided by the Section 151 Officer Electronic means will be used wherever possible.

12.14 When a Credit Card has been used there will be no invoice to pay in respect of individual items. Credit Card Statements will be provided on a monthly basis and must be checked thoroughly. Senior Officers must ensure that all charges, recorded against Cards held by officers within their area, have been properly incurred. Orders should be recorded on the Card Holders Transaction Log; proper, detailed receipts should have been obtained; the goods or services should have been necessary, received and of good quality and value for money. Any charges which cannot be supported must be investigated and reported to the Council's Bank and the Financial Services Section.

12.15 Card Holders will be responsible for the security of the card issued to them, at all times. All rules applying to the use of them must be complied with fully. The loss of a card **MUST** be reported immediately to the Council's Bank and Section 151 Officer.

12.16 Senior Officers issuing electronically authorised orders are responsible for examining, and verifying the related invoices. For any other payment, or for vouchers and accounts arising from sources within their areas, each Senior Officer will be responsible for examining, verifying and certifying these for payment.

12.17 Before certifying or approving an account for payment, the authorising officer shall have satisfied himself/herself that:

- (a) the work, goods or services to which the account relates have been carried out, received, or examined and approved.
- (b) the price(s), extension(s), calculation(s), trade discount(s), other allowance(s), credit(s) and tax are correct, and that the price(s) complies with the quotation(s), tender, contract or catalogue price(s).
- (c) the invoice is correctly coded, the expenditure has been properly incurred and is within the budget provision.
- (d) the appropriate entries have been made in the relevant accounting records, e.g. inventories, stores or stock records.
- (e) the account has not been previously passed for payment and is a proper liability of the Council.

12.18 All approved invoices, vouchers and certified accounts shall be passed, without delay, to the Section 151 Officer, who shall examine them to the extent that he/she considers

necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may require.

12.19 Any amendment to an account shall be made in ink and initialled by the officer making it, stating briefly the reasons where they are not self-evident.

12.20 Each Senior Officer shall, on request, as soon after 31 March as possible and in accordance with agreed timescales, notify the Section 151 Officer of all outstanding expenditure relating to the previous year (Sundry Creditors).

12.21 Salaries, Wages, Pensions and Other Emoluments

The payment of all salaries, wages, pensions, allowances, compensation and any other emoluments to all employees, former employees and members of the Council shall be made by the Section 151 Officer or under arrangements approved and controlled by him/her.

12.22 Each Senior Officer shall notify the Section 151 Officer as soon as possible, and in the form prescribed by him/her, of all matters affecting the payment of such emoluments, and in particular:

- (a) appointments, resignations, dismissals, suspensions, secondments, and transfers;
- (b) absences from duty for sickness or other reason, apart from approved leave;
- (c) changes in remuneration, other than normal increments, pay awards and agreements of general application;
- (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.

12.23 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.

12.24 All time records, other pay documents and claims for allowances shall be in a form prescribed or approved by the Section 151 Officer and shall be certified in manuscript, or by approved electronic means by or on behalf of the appropriate Senior Officer. In the case of claims for travelling, subsistence and incidental expenses those making the claims must only claim for authorised expenditure legitimately incurred on Council Business. In approving such claims the Senior Officer responsible shall satisfy himself/herself that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

12.25 Such claims should be made within 3 months of the relevant event(s) taking place. Those submitted more than 3 months after the expenses were incurred will only be paid with the express approval of the Section 151 Officer. All claims for a particular financial year are to be submitted within 1 month of 31 March.

13 Income

13.1 General

Income is a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cash flow while avoiding the time and cost of administering debts.

13.2 External Funding

The Section 151 Officer in conjunction with Senior Officers is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

13.3 Collection of Income

The Section 151 Officer shall agree arrangements for the collection of all income due to the Council and shall approve the procedures, systems and documentation for its collection.

- 13.4 Each Senior Officer shall ensure that all income due to the Council, for work carried out, goods supplied and/or services rendered, is identified, and charged correctly (in accordance with an approved charging policy which is reviewed regularly). Particulars of all sums due should be utilised to ensure the prompt issuing of accounts for the recovery of income due and the maintenance of appropriate accounting records.
- 13.5 The Section 151 Officer shall be notified promptly of all contracts, leases and other agreements and arrangements entered into, which will generate an income to the Council. The Section 151 Officer shall have the right to inspect any documents or other evidence in this connection as he/she may decide.
- 13.6 All receipting forms will be ordered and supplied to service areas by the Section 151 Officer or, where they are used by one area only, by an officer nominated by the relevant Senior Officer in accordance with the procedure laid down by the Section 151 Officer.
- 13.7 All money received by an officer on behalf of the Council shall be paid fully and into the appropriate bank account utilising agreed systems and procedures, in the form that it was received. No deduction may be made from such monies save to the extent that the Section 151 Officer may specifically authorise. Each officer who so banks money shall enter on the paying-in slip the name of his/her office or establishment, the nature of the receipt and a reference to the payer. On the reverse of each cheque paid in they should enter a reference to the related debt, e.g. Rent/Council Tax/Sundry Debtor Account number and a receipt number.
- 13.8 Personal cheques shall not be cashed from income or any other monies held on behalf of the Council.

13.9 The duty of identifying debts and raising charges, the collection of those charges, and the control and reconciliation of the resulting income shall be separated as far as is practicable.

13.10 Every transfer of official money from one member of staff to another will be evidenced in the records of the service areas concerned by the signature of the receiving officer.

13.11 Debt Recovery

The Section 151 Officer shall establish appropriate recovery procedures, and the Team Manager (Solicitor) will take legal action, where necessary, for debts that are not promptly paid.

13.12 The Section 151 Officer shall, after consultation with the relevant Portfolio Member authorise the write-off of bad debts up to an approved limit in each case and refer larger debts to the Cabinet with recommendation for write off. A record of all debts written off will be maintained and the requirements of the Accounts and Audit Regulations will be complied with.

14 Insurances

14.1 The Section 151 Officer shall effect all insurance cover and negotiate all claims in consultation with other officers where necessary.

14.2 A Senior Officer shall notify the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance cover and of any alterations affecting existing insurance policies.

14.3 A Senior Officer shall notify the Section 151 Officer and Internal Audit Consortium, immediately, of any loss, liability or damage that may lead to a claim against the Council, and provide any information or explanation required by the Section 151 Officer or the Council's insurers. Internal Audit Consortium should also notify the police if they consider it necessary.

14.4 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance policy.

14.5 The Section 151 Officer shall, annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Senior Officers as appropriate for necessity and adequacy.

14.6 Senior Officers shall consult the Section 151 Officer about the terms of any indemnity which the Council is requested to give.

14.7 No employee, or anyone covered by the Council's insurances, shall admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

14.8 The Section 151 Officer shall, in consultation with the appropriate Senior Officer ensure that adequate insurance cover is maintained on all contracts let.

15 Partnerships

- 15.1 The *Council Meeting* or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may (as stated in Article 9 of the Constitution):
- (a) enter into arrangements or agreements with any person or body;
 - (b) co-operate with, or facilitate or co-ordinate the functions of that person or body; and
 - (c) exercise on behalf of that person or body any functions of that person or body.
- 15.2 The Section 151 Officer in consultation with the Monitoring Officer shall ensure that suitable accounting arrangements are adopted relating to partnerships and/or joint ventures; that the overall corporate governance arrangements and legal issues have been properly considered and that all risks have been fully appraised.

16 Risk Management

- 16.1 Risk Management is a process of identifying significant risks to the achievement of the Council's strategic and operational objectives, evaluating their potential consequences and determining and implementing the most effective way of responding to, controlling and monitoring them.
- 16.2 Cabinet is responsible for approving the Council's Risk Management Policy Statement and Strategy. The Audit and Corporate Governance Scrutiny Committee is responsible for promoting a culture of risk management awareness throughout the Council, and for reviewing the effectiveness of risk management.
- 16.3 The Section 151 Officer is responsible for the Council's Risk Management Policy, and for developing an effective culture of Risk Management throughout the Council.
- 16.4 Internal Control
- Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources whilst ensuring that the Council's assets and interests are safeguarded.
- 16.5 The Section 151 Officer is responsible for advising on effective systems of internal control.
- 16.6 It is the responsibility of each Senior Officer to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial and operational performance targets.

17 Security

- 17.1 Senior Officers should ensure that records and assets are properly maintained and securely held at all times. They should also ensure that contingency plans for the

security of assets and continuity of service in the event of disaster or system failure are in place.

- 17.2 Senior officers shall consult the Section 151 Officer in any case where he/she considers internal control/security to be defective or where it is considered that special or enhanced internal control/security arrangements may be needed.
- 17.3 Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without his/her agreement.
- 17.4 Keys to safes and similar receptacles are to be kept in a secure place separate from the safe or receptacle at all times; the loss of any such keys must be reported to the Section 151 Officer immediately.
- 17.5 Each Senior Officer shall be responsible for maintaining proper security and privacy as respects data/information held in his/her area. Appropriate steps must be taken to maintain the confidentiality and security of all personal/sensitive data in accordance with the appropriate Council policies on Data Protection and IT security.

18 Taxation

- 18.1 It is the responsibility of the Section 151 Officer to advise all Senior Officers in the light of guidance issued by the appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 18.2 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.

19 Treasury Management/Investments, Borrowings and Trust Funds

19.1 Treasury Management

The Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 4 of that Code.

- 19.2 Accordingly, the Council will develop and maintain a Treasury Management Strategy to be approved by Council as part of the budget process. Officers must ensure that all Treasury Management activity is conducted in accordance with this Strategy. Council will monitor adherence to that Strategy.

19.3 Investments, Borrowings and Trust Funds

All investments of money under its control shall be in the name of the Council or in the name of nominees approved by the Cabinet.

- 19.4 All securities, the property of, or in the name of, the Council or its nominees, will be held by the Section 151 Officer and the title deeds of all property in its ownership shall be held in the custody of H M Land Registry.
- 19.5 All borrowings shall be effected in the name of the Council.

- 19.6 The Section 151 Officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.
- 19.7 All Trust Funds shall be, wherever possible, in the name of the Council.
- 19.8 All officers acting as trustees by virtue of their official position shall deposit all securities, etc, relating to the Trust, with the Section 151 Officer unless the deed otherwise provides.

20 Work for Third Parties

- 20.1 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a service to maintain economies of scale and existing expertise. Arrangements should therefore be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.
- 20.2 The Cabinet is responsible for approving the contractual arrangements for any work carried out for third parties or external bodies after consultation has taken place with the appropriate Senior Officer, the Section 151 Officer and the Monitoring Officer.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

PETITIONS SCHEME

Petitions

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

Petitions can be sent to:

The Monitoring Officer
North East Derbyshire District Council
District Council Offices
2013 Mill Lane
Wingerworth
Chesterfield
S42 6NG

Petitions can also be presented to a meeting of the Council. These meetings take place approximately every eight weekly basis; dates and times can be found here:

www.ne-derbyshire.gov.uk/council-democracy/meetings-and-committees.

If you would like to present your petition to the Council or would like your Councillor or someone else to present it on your behalf, please contact Sarah Sternberg – Monitoring Officer on (01246) 217057 or email her on MonitoringOfficer@ne-derbyshire.gov.uk at least 10 working days before the meeting and she will talk you through the process. If your petition has received 1,000 signatures or more it will also be scheduled for a Council debate and if this is the case we will let you know when this will happen.

Who can submit a petition?

Any person (regardless of age) who lives, studies or works in the District is able to submit a petition.

Merging petitions

Where the Council receives petitions relating to the same issue we will consider amalgamating the signatories only with the approval of the petition organisers.

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- the contact details for the petition organiser (lead petitioner) so the Council knows who to contact (The contact details of the petition organiser will not be placed on the website.)
- the name, address, postcode and signature of any person supporting the petition.
- Date the petition is submitted.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons.

Issues specifically excluded from the Petition Scheme

The following matters are specifically excluded under the Petitions Scheme and will not be considered under the scheme:

- Any matter relating to a planning application or decision
- Any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005.
- Where any matter is currently or imminently subject to a consultation exercise, a decision as to whether the Petition can be dealt with under the Council's Petitions Scheme will be made by the Head of Paid Service having received the advice of the Monitoring Officer on the matter.
- Any matters relating to complaints against Councillors under the Code of Conduct.
- Any matter where there is an existing right of appeal.
- Statutory petitions such as requesting a referendum on having an elected mayor.
- Any matter which is substantially the same as a petition submitted in the previous 12 months.
- Any matter which is considered to be vexatious, discriminatory, abusive or otherwise inappropriate.
- Any matter which is considered to be "exempt" under the Local Government Act 1972, Access to Information Act 1985, the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

We will notify you of the reasons for your petition not being dealt if it is excluded under one or more of the above grounds.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. The petition will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

How will the Council respond to petitions?

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

- writing to the petition organiser setting out our views about the request in the petition.
- considering the petition at a Council meeting (where there are over 1000 signatures);

The Council may take other actions, such as holding public meetings or consultations, explore options to tackle the matter in conjunction with our local partners, or we may refer the petition for consideration by one of the Council's Scrutiny Committees.

Scrutiny committees are committees made up of Councillors who are responsible for scrutinising the work of the Council – in other words, a committee that has the power to hold the Council's decision makers to account.

Where a petition relates to specific wards or area the relevant ward members will be informed when a petition is received and how it will be considered.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible we will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full Council Debates

If a petition contains more than 1,000 signatures it will be debated by the full Council unless it is a petition asking for a senior Council Officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.

The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of up to 30 minutes.

The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the Council's Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Where the Council has received several different petitions it may be necessary to limit the number to be heard at a particular meeting of the Council but we will inform you if this is the case.

Officer Evidence

Your petition may ask for a senior Council Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council Officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 600 signatures, the relevant senior officer will give evidence at a public meeting of one of the Council's Scrutiny Committees. The senior staff that can be called to give evidence include:

- Directors
- Heads of Service
- Monitoring Officer
- Chief Finance Officer

You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Portfolio Member, ward member or other appropriate member to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Overview and Scrutiny Manager on 01246 217060 or email scrutiny@ne-derbyshire.gov.uk up to five working days before the meeting.

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

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that one of the Council's Scrutiny Committees review the steps that the Council has taken in response to your petition. This will be the relevant Scrutiny Committee when your matter has been considered by Council, or an alternate Scrutiny Committee when your matter has been dealt with by the relevant Scrutiny Committee. It is helpful for everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate. To request a review, please contact the Monitoring Officer on (01246) 217057 or email her on MonitoringOfficer@ne-derbyshire.gov.uk within 28 days of the response you have received to the petition.

The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, referring the matter to the corporate complaints procedure, making recommendations to the Council's Executive (Cabinet) and arranging for the matter to be considered at a meeting of the full Council.

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

Scrutiny Rules

These rules set out how the Scrutiny function is undertaken and the structure of the Scrutiny Committees.

1 Arrangements for Overview and Scrutiny.

The Scrutiny function will be undertaken and directed by the Chairs and Vice Chairs of the Scrutiny Committees. The four themed Scrutiny Committees will each comprise of nine members. The rules of political balance will apply. Such Committees may appoint Sub-Committees and Working Groups as they consider appropriate.

A protocol setting out the working relationship between Cabinet and the Scrutiny Committees is attached as an appendix to these Scrutiny Rules.

2 Appointment of Scrutiny Committees.

All Councillors, except Members of the Cabinet, may be Members of a Scrutiny Committee. Members of the Scrutiny Committees will be appointed annually by the Council Meeting.

3 Meetings of the Scrutiny Committees

The Scrutiny Committees' work may be project based, and they may need to meet in addition to their scheduled meeting dates included in the Council's *Calendar of Meetings*. The Scrutiny Committees will process the work efficiently against output targets and timetables will be drawn up to monitor action in respect of the work. A special meeting of any Scrutiny Committee may be requisitioned by not less than four Members of that Committee, on giving 10 working days written notice, setting out the item required for the agenda.

4 Quorum

The quorum for the Scrutiny Committees shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

5 Chairing Scrutiny Committees

The Chairs and Vice Chairs of each Scrutiny Committee will be appointed by the *Council Meeting*.

6 Work Programme

The four Scrutiny Committees will deal with policy review and development work on a project by project basis. The work programme will be formulated in consultation with the four Scrutiny Chairs, the Directors, the Head of Corporate Governance and Monitoring Officer and Overview and Scrutiny Manager who will have already taken suggestions

on the programme from the Strategic Alliance Management Team. The Committee work programmes will be referred to Cabinet for noting.

Elements of the work programme will be undertaken by the appropriate Scrutiny Committee. The relevant Portfolio Member will be informed of the work carried out.

This section needs to be read in conjunction with Article 7 in Part 2 of the Constitution which refers to the role of the Audit and Corporate Governance Scrutiny Committee in more detail.

7 Agenda Items

Any Member of a Scrutiny Committee shall be entitled to give notice to the Overview and Scrutiny Manager that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Overview and Scrutiny Manager will ensure that it is included on the next available agenda.

The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests to review particular areas of Council activity as mentioned in paragraph 6 above. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or the Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee at their next available meeting.

8 Policy Review and Development

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

9 Reports from Scrutiny Committees

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg if the recommendation(s) would require a departure from or a change to the agreed budget and policy framework).
- (b) The Council or Cabinet shall consider the report of a Scrutiny Committee at their first available meeting after it being submitted to the Monitoring Officer.

10 Rights of Scrutiny Committee Members to Documents

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

11 Members and Officers Giving Account

- (a) In carrying out their work, Scrutiny Committees may require the attendance at particular meetings of any Member with executive responsibilities and/or any Senior Officer to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) service performance.and it is the duty of those persons to attend if so required.
- (b) Where any Member or Senior Officer is required to attend a Scrutiny Committee under this provision, the Chairman of that Committee will inform the Overview and Scrutiny Manager, stating the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.
- (d) Junior officers may be invited to attend to give evidence at a Scrutiny Committee but should not be required to attend.

12 Attendance by Others

A Scrutiny Committee may invite people other than those people referred to in paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

13 Call-In of Key Decisions

- (a) 'Call-in' should not be confused with the scrutiny of anticipated decisions before they are made (i.e. matters on which Scrutiny Committees can formulate proposals and recommendations.) 'Call-in' refers to the calling in of a decision after it is made but before it is implemented.
- (b) Call-in should only be used in exceptional circumstances and only applies to Key Decisions. These are where Members have evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in Article 11.1 of this Constitution; where a key decision has been taken which was neither published in accordance with the requirements for the list of Key Decisions, not subject to the 'general exception' or 'special urgency procedures' set out in this Constitution or where a decision is outside the policy or budgetary framework.
- (c) When a Key Decision is made by the Cabinet the decision shall be published electronically and shall be available at the main offices of the Council within 2 working days of being made. Copies of the notice of decision will be provided to all Members within the same timescale.
- (d) All Key Decisions will come in to effect 5 working days after the publication of the decision, unless a Chairman or Vice-Chairman of a Scrutiny Committee together with 3 other Members of Scrutiny objects to it and calls it in using the appropriate form and submitting it prior to the close of the Call-In period.
- (e) The Call-in request must be on a completed Call-In Request Form (attached to the Scrutiny Rules) and include the names and signatures of the four signatories, the decision to be called in, and the decision making principles it is believed have been breached and the reasons for this.

- (f) On receiving a call-in request, and on the Monitoring Officer being satisfied that the reasons for the call-in satisfy the requirements of this Constitution as set out at paragraph 13(b) above, the Monitoring Officer shall notify the decision-taker of the call-in.
- (g) The Monitoring Officer may reject it if:
- It relates to a non-executive decision or is a decision where a statutory appeal is available;
 - Insufficient information has been provided;
 - It is vexatious, malicious or politically motivated;
 - It contains insufficient evidence as to how the decision-making principles have been breached;
 - The decision has previously been called in; or
 - The reasons have been addressed in a previous call-in.

Reasons for refusal shall be given in writing.

- (h) The Monitoring Officer shall call a meeting of the relevant Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee and in any case within 10 days of the decision to call-in. If the Monitoring Officer is felt to have a conflict of interest when assessing the reasons for call in, then the Deputy Monitoring Officer may act in his/her place.
- (i) Those Members who have called in a decision will be invited to attend the meeting of Scrutiny to which the call-in will be presented. They may answer questions from the Committee, but will not be entitled to vote unless they are a Member of the Committee considering the matter. The relevant Cabinet Member/ decision making officer will also be entitled to attend the meeting to address the committee and answer questions.
- (j) If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or (if the decision appears to be outside the Policy Framework) refer the matter to the Council Meeting. If referred to the decision maker that person or body shall then consider amending the decision or not, before adopting a final decision.
- (k) If following an objection to the decision, the Scrutiny Committee does not meet within 10 days of the decision to call-in or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of that 10 day period whichever is the earlier.
- (l) If the matter was referred to the Council Meeting and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective. However, if the Council Meeting does object, it has no right to make decisions in

respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council Meeting will refer any decision to which it objects back to the decision-making person or body, together with the Council Meeting's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

- (m) If the Council Meeting does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (n) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the relevant Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman of the relevant Scrutiny Committee the Chairman or Vice-Chairman of the Council's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (o) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

14 Procedure at Scrutiny Committee Meetings

- (a) Scrutiny Committees and Sub-Committees shall consider the following business:-
 - (i) minutes of the last meeting;
 - (ii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
 - (iii) responses of the Cabinet to reports of the Scrutiny Committees; and
 - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Where the Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

15 Matters within the Remit of more than one Scrutiny Committee

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

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

Appendix A to Scrutiny Rules

North East Derbyshire District Council Cabinet/Scrutiny Protocol

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

- Cabinet Portfolio Holder attendance at Scrutiny meetings;
- The submission of Scrutiny reports to the Cabinet (and full Council);
- Responding to Scrutiny recommendations;
- Scrutiny attendance at Cabinet meetings;
- Referral of items by Cabinet to Scrutiny.

Cabinet Portfolio Holder attendance at Scrutiny meetings

- (1) Members of the Council and Cabinet may attend meetings of a Scrutiny Committee to observe proceedings.
- (2) Cabinet Members may speak at Scrutiny Committee meetings at the invitation of the Chairman.
- (3) Cabinet Members are only required to attend Scrutiny Committee meetings when invited to give evidence, provide views and answer questions.
- (4) Cabinet Members will be informed at an early stage about Scrutiny reviews and agenda items that are wholly or partly within the remit of their Portfolio.
- (5) When attendance is required at least 10 days (where possible) written notice (includes email) will be given and the purpose of the attendance explained.

The submission of Scrutiny reports and recommendations to the Cabinet (and full Council).

- (1) The relevant Cabinet Portfolio Holder and lead officer will be informed of the scope and timing of the Scrutiny review at an early stage.
- (2) Prior to finalising their reports, Scrutiny Committees will discuss their emerging recommendations with the Portfolio Holder and lead officer.
- (3) The relevant Portfolio Holder and lead officer will be invited to attend the Scrutiny meeting that considers the review report.
- (4) Scrutiny review reports will be considered by SAMT before their submission to Cabinet, in order to provide a view on the feasibility of recommendations, including information on the costs, risks and benefits.

- (5) The relevant Cabinet Portfolio Holder will be briefed by the lead officer and/or the Overview and Scrutiny Manager prior to the submission of the report to Cabinet.
- (6) The Chairman of the relevant Scrutiny Committee will be invited to the Cabinet (full Council) meeting to present Scrutiny review reports.

Responding to Overview and Scrutiny recommendations

- (1) Cabinet will respond to recommendations from Scrutiny as soon as possible and within a maximum of two months. Any extension to the timescales will be agreed with the Chairman of the relevant Scrutiny Committee.
- (2) If Cabinet fails to consider the recommendations or agree extensions to timescales, the report will be submitted to the next meeting of Council for consideration.
- (3) Cabinet's response will indicate whether each Scrutiny proposal/recommendation is accepted, rejected or deferred, giving reasons for that decision.
- (4) Cabinet's decision on the recommendations will be reported to the next scheduled meeting of the relevant Scrutiny Committee for consideration.
- (5) The lead officer will prepare an action plan for implementation of any agreed recommendations, for approval by Cabinet.
- (6) The Scrutiny Committee will consider Cabinet's response and action plan and agree a timetable for monitoring progress and impact in implementing agreed recommendations.
- (7) The relevant Portfolio Holder and lead officer will prepare a progress report in line with the agreed timescale and will attend the Scrutiny Committee meeting to present it.

Overview and Scrutiny attendance at Cabinet meetings

- (1) Members of a Scrutiny Committee may attend meetings of the Cabinet to observe proceedings.
- (2) Members of a Scrutiny Committee may speak at Cabinet meetings at the invitation of the Leader.
- (3) The Chairman or Vice Chairman of the relevant Scrutiny Committee will be invited to attend the Cabinet meeting to present scrutiny reports and recommendations.

Referral of items by Cabinet (or Council) to Scrutiny

- (1) In making a referral to Scrutiny, the Portfolio Holders, Cabinet or Council should:-
 - Direct the referral to the Chairman of the relevant Scrutiny Committee;
 - Specify the reasons for the referral;
 - Indicate what type of response is being sought (e.g. spotlight review);
 - Provide information on any relevant timescales.
- (2) The relevant Scrutiny Committee Chairman will determine which meeting of the Committee will receive and consider the referral and report back its decision to the Portfolio Holder, Cabinet or Council within agreed timescales.
- (3) Extensions to timescales will be by mutual agreement with the Portfolio Holder.



**North East
Derbyshire**
District Council

Notice of Call-In Request

In accordance with Rule 13 of the Scrutiny Rules, that are contained within the Council's Constitution, we the undersigned hereby give notice that we wish to call-in the following Key Decision:

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

We believe that the following principles of decision-making have been breached by the making of this decision:

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

Lead signatory:

Name: Date:.....

Signed:

Name: Date:.....

Signed:

Name: Date:.....

Code for *Councillors* representing the Council on outside bodies

- 1 Members are appointed formally by the Council and the *Cabinet* annually but for varied periods to serve on a range of outside bodies including voluntary organisations, local government associations and companies.
- 2 Sometimes, when Members will become directors of such bodies, the leadership offered by them forms a strong driver to achieve the shared objectives of the Council and the body.

In carrying out these roles Members act as both individuals and as representatives of the Council. What does that entail?

(a) Positively

- It entails acting according to the rules and constitution and framework set by the outside body;
- It entails making independent and personal judgements in line with the Members' duty of care to the outside body.
- It entails reporting back at intervals to be agreed by the Council;
- It entails behaving ethically and following as far as is applicable in accordance with the Council's Code of Conduct and other codes and protocols;
- It entails taking on active and informed roles in the management of the outside body's affairs.

(b) Negatively

- It does not entail representing the political party to which the member owes his/her political loyalty;
- It does not entail avoiding taking part in the outside body's discussions and decisions - that is what the member is there for.
- It does not entail looking at things simply from this Council's perspective.

- 3 Members should claim travel and other expenses from the outside body if that is possible, if not, from this Council where the duty is an approved duty. In those circumstances Members should not be reimbursed more than once for any expenditure incurred.

Councillor Code of Conduct

This section contains the Code of Conduct which must be followed by all *Councillors* and any co-opted members of the Council.

Introduction

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

This Code is based upon the “Nolan Principles – the seven principles of public life” which are set out below:

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

The Seven Principles

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 declare and resolve any interests and relationships.

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

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

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

HONESTY: Holders of public office should be truthful.

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

General Conduct

As a Member of North East Derbyshire District Council, I will ensure my conduct is in accordance with the statutory principles of this Code of Conduct by:

- Dealing with people, representations or enquires from residents, members of our communities and visitors fairly, appropriately and impartially.
- Behaving in accordance with the Council's legal obligations, alongside any requirements contained within North East Derbyshire District Council's policies, protocols and procedures, including on the use of the Authority's resources.
- Acting in accordance with the Council's ICT policies, ensuring that ICT resources are not used improperly and having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of North East Derbyshire District or the good governance of the Authority in a proper manner.
- Complying with the requirements of the Council's Protocol on Gifts and Hospitality by registering with the Monitoring Officer any item of hospitality that I receive of the value of £25 or more.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member or co-opted member of my Authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making the Council's decision-making processes as open and transparent as possible. I will do this by allowing residents to access information they are entitled to by law, helping them to understand the reasoning behind the decisions taken and enabling them to be informed when holding me and other members to account.
- Restricting access to information when the wider public interest or the law requires it.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.

- Providing leadership through behaving in accordance with these principles when championing the interests of the community, with other organisations, as well as within this Authority.
- Promoting equality by not discriminating against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability
- Promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirement, by leadership and example.
- Acting in accordance with the requirements set out in the Social Media Guidance for Councillors.
- Must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.
- Report a safeguarding issue to the appropriate authority

Training

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

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

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

You must attend training if you are instructed to do so by a Standards Hearing Sub-Committee. If you fail to do so after 3 months or having been offered training on two occasions the fact of your failure will be reported to the Committee.

Pre determination or bias

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

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

- (a) your Authority's Chief Finance Officer; or

- (b) the Monitoring Officer, where that officer is acting pursuant to his or her statutory duties.

Members Interests

As a public figure, your public role, may, at times, overlap with your personal and/or professional life and interests, however, when performing your public role as a member, **do** act solely in terms of the public interest and **do not** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests

Disclosable Pecuniary Interests (under the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012)

The Regulations detailing the precise nature and circumstances where a specified pecuniary interest must be disclosed are set out in **Appendix B** of this Code.

1 Notification of disclosable pecuniary interests

You must

- (a) Within 28 days of taking office as a Councillor or co-opted member, notify the Monitoring Officer of any 'disclosable pecuniary interests'
- (a) Ensure that your register of interest is kept up to date and notify the monitoring officer in writing with 28 days of becoming aware of any changes in respect of your disclosable pecuniary interest.
- (c) Make verbal declarations of the existence and nature of any Disclosable Pecuniary Interest at any meeting you are present which affects or relates to the subject matter of that interest is under consideration, or before the consideration of the item or as soon as the interest becomes apparent.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, 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) within the following descriptions:

('M' means you and 'relevant person' means you and your partner, as above)

2 Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

3 Sensitive interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the

register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

4 *Non participation in case of disclosable pecuniary interest*

- (a) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
- You may not participate in any discussion of the matter at the meeting.
 - You may not participate in any vote taken on the matter at the meeting.
 - If the interest is not registered, you must disclose the interest to the meeting.
 - If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Procedure Rule 18A.1 requires you to leave the room where the meeting is held while any discussion or voting takes place.

- (b) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

5 *Dispensations*

The authority may grant you a dispensation to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Requests for dispensation must be made, in writing to the Monitoring Officer, on one of the following grounds:

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

6 *Offences*

It is a criminal offence to:

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such an interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level five on the standard scale and disqualification from being a councillor for up to five years.

Other Interests

7 *Notification of interests*

You must, within 28 days of this Code being adopted by or applied to your authority; or within 28 days of your election or appointment to office (where that is later):

- (a) notify the Monitoring Officer in writing of the details of your other interests, where they fall within the following descriptions, for inclusion in the register of interests.
- (b) You have an other interest in any business of your authority where
 - (i) it relates to or is likely to affect—
 - (aa) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (bb) any body:-
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (c) You also have an other interest in any business of your authority:
 - (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
 - (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.
- (d) In sub-paragraph 7(c)(i), a *relevant person* is:
 - (i) a member of your family or any person with whom you have a close association; or
 - (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (iv) any body of a type described in paragraphs 7(b)(i)(aa) or (bb).
- (e) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph 7(a), or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

Licences

You must within 28 days of your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of any licences held by yourself or your partner such as any premises, hackney carriage, private hire vehicle or similar related licences which you or their spouses hold from the Council or from other local authorities.

8 *Disclosure of interests*

- (a) Subject to sub-paragraphs 7(b) and (c), where you have an other interest in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the other interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent, where it is not on your register of interests.
- (b) Where you have an other interest but, by virtue of paragraph 10, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have an other interest, but need not disclose the sensitive information to the meeting.

9 *Register of interests*

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

10 *Sensitive interests*

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

11 *Non participation in case of significant other interest*

- (a) Where you have an other interest in any business of your authority you also have a significant other interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:
 - (i) affects your financial position or the financial position of a person or body described in paragraphs 7(d); or
 - (ii) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 7(d).

- (b) Subject to paragraph 11(c) and (d), where you have a significant other interest in any business of your authority:
- (i) You may not participate in any discussion of the matter at the meeting.
 - (ii) You may not participate in any vote taken on the matter at the meeting.
 - If the interest is not registered, you must disclose the interest to the meeting.
 - If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition Procedure Rule 18 requires you to leave the room where the meeting is held while any discussion or voting takes place.

- (c) Where you have a significant other interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (d) Where your significant other interest arises as the result of your nomination to a body by the Council and following declaration of the interest you may stay to present the report and answer questions provided that:-
- You have stated your intention to remain in the Chamber at the time of making your declaration.
 - Your contribution is limited to presenting the report and answering any questions.
 - You do not become involved in the debate.
 - You do not attempt to move a motion
 - You leave the Chamber before a vote is taken.
- (e) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a significant other interest that relates to the functions of your authority in respect of:-
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

12 *Interests arising in relation to scrutiny committees*

In any business before a scrutiny committee of your authority (or of a sub-committee of such a committee) where:-

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

*Appendix A**Essential Training*

Training	Scope	Frequency
Planning Committee	<p>Planning legislation and case law. Local Plan policies. Procedures. Role on Planning Committee.</p> <p>Role of a Member of Local Planning Authority</p> <p>Planning Code of Good Practice</p> <p>Relationship to Members' Code of Conduct</p> <p>Development proposals and Interests under Members' Code of Conduct</p> <p>Fettering Discretion in the Planning Process</p> <p>Lobbying of and by Councillors</p> <p>Contact with applicants, developers and objectors</p> <p>Role of Officers</p> <p>Decision Making</p> <p>Public Speaking at Meetings</p> <p>Site Visits</p> <p>How to determine Planning Applications</p>	Prior to sitting on Planning Committee minimum of every two years. Refresher training may be given more frequently.
General Licensing Committee and Licensing and Gambling Acts Committee and their sub-committees	<p>Licensing legislation, policies and procedures relevant to the remit of the Committee and its Sub-Committees.</p> <p>General Principles of each Act</p> <p>Role of Members</p> <p>Ward Member Role</p> <p>Licensing Objectives</p> <p>Determining Licensing Applications</p>	Prior to sitting on the Committee or its Sub-Committees minimum of every 12 months.
<p>Employment and Appeals Committee and its Sub-Committees</p> <p>Employee Appeals Committee</p>	<p>Recruitment and selection.</p> <p>HR Legislation, policies and practice within the remit of the Committee and its Sub-Committee</p>	Prior to sitting on the Committee or its Sub-Committee occasional refresher training may be given.

Standards And its Sub-Committees	Legislation, case law, policies and procedures relevant to the remit of the Committee and its Sub-Committees	Prior to sitting on the Committee or its Sub-Committees minimum of every four years.
Code of Conduct / Ethical Governance	Understanding of the Members' Code of Conduct and the governance of the Council. Responsibilities and role as a Councillor. Outline of Constitution Promoting and maintaining high standards of conduct by Members Code of Conduct (including Gifts and Hospitality) The Register of Interests Protocols Guidance Dispensations Political Publicity – rules Data Protection Freedom of Information	At the point of election and on subsequent re-election(s)
Equalities and Diversity	To tackle discrimination and social exclusion, promote equality of opportunity and foster good relations between all.	After each election
Safeguarding	To provide guidance and advice to elected Members on; <ul style="list-style-type: none"> • roles and responsibilities in relation to safeguarding children and vulnerable adults and • how Members should raise any concerns and receive assurance about children and adults who may be at risk 	Every 2 years.
Lone Worker	Ensuring Members keep themselves safe	After election or re-election. Refresher (online) annually.
Fraud Awareness	To raise awareness of where fraud may occur in District Councils and what actions should be taken.	After each election and bi-annually thereafter
Chairperson (if appointed as a Chair)	To ensure that Members appointed to Chairmanships have the required knowledge, skills and attributes needed to become an effective Chairman.	Following initial appointment to position and subject to previous training or experience.
Audit Committee / Budget	Understanding of Local Government Finances	Prior to sitting on the Committee or its Sub-Committees

Scrutiny Committee	Legislation, case law, policies and procedures relevant to the remit of the Committee and its Sub-Committees	minimum of every four years.
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RESTRICTED

Appendix B – Disclosable Pecuniary Interest

This note explains the requirements of the Localism Act 2011 (Sections 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 in relation to disclosable pecuniary interests. These provisions are enforced by criminal sanction.

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

RESTRICTED

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

MEMBER OF THE COUNCIL

Key Responsibilities

- To act collectively as a Member of Council in policy making and carrying out a number of strategic and corporate management functions.
- To represent your communities and bring your views to the Council's decision making process, acting as an advocate of and for their communities.
- To work to balance different interests within your Ward and represent the Ward as a whole fairly and honestly.
- To deal with individual casework and act to forward the issues raised to the relevant Council Directorate ensuring that the matter is progressed.
- To contribute to the good governance of the District and encourage community and public involvement in the Council's decision making process.
- To be involved in the Council's decision making process.
- To maintain the highest standards of conduct and ethics.
- To attend and take part in the business of the meetings of any Council Committees or Working groups appointed to.
- To represent the Council on any outside bodies appointed to.
- To be responsible for personal development as a Councillor.

Relevant Core Skills

There are six core skill areas for all Councillors. All six are relevant to the role of Member of the Council, these are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Scrutiny and Challenge;
- Regulating and Monitoring.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

CHAIRMAN AND VICE CHAIRMAN OF THE COUNCIL

Role purpose:

Chairman:

- To meet the responsibilities of a Member as a community representative.
- To Chair Council meetings.
- To lead the Council on civic and ceremonial matters.
- To carry out civic and ceremonial responsibilities.

Vice Chairman:

- The Vice Chairman will support and assist the Chairman and will undertake the duties of Chairman of the Council in the absence of the Chairman and carry out their civic and ceremonial duties at the direction of the Chairman.

Key Responsibilities

In addition to carrying out the functions set out in the role profile for a Member:

- To chair meetings of the Council with fairness and equality having regard to the Council's Constitution and rules of debate.
- To preside over civic functions, including hosting the annual civic service and the reception following the annual meeting.
- To act as an ambassador for the Council in promoting North East Derbyshire and the Council's aims.
- To represent the Council at events.
- To encourage public participation and community engagement with the Council through chairing Council meetings in an open and accessible way.
- To observe civic protocols when undertaking the civic and ceremonial role.
- To participate in any relevant training/development activities required to support them in their role as Chairman/Vice Chairman of the Council.

Relevant Core Skills

There are six core skill areas for all Councillors. All six are relevant to the role of Chairman and Vice Chairman of the Council, these are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Scrutiny and Challenge;
- Regulating and Monitoring.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

LEADER AND DEPUTY LEADER

Role Purpose:

Leader:

- To meet the responsibilities of a Member as a community representative.
- To provide political leadership in building support for Council strategies and policies.
- To provide clear leadership in the co-ordination of policies, strategies and service delivery.
- To work in partnership with others to deliver the Council's vision for the communities which the Council represents and serves.

Deputy Leader:

- The Deputy Leader will support and assist the Leader of the Council and carry out their role in the absence of the Leader.

Key Responsibilities

In addition to carrying out the functions set out in the role profile for a Member:

- To appoint Members to the Cabinet and define their portfolio roles.
- To chair meetings of the Cabinet – in accordance with the requirements of the Council's Constitution.
- To fulfil the role of a Portfolio Holder by providing effective leadership within the portfolio.
- To manage and lead the work of the Cabinet by ensuring its work meets the Council's policy objectives and is in accordance with any relevant legal requirements as set out in statute/common law or the Council's Constitution.
- To support individual and collective performance within the Cabinet and facilitate future development of colleagues by appropriate Member Development and by advising and mentoring colleagues.
- To encourage Member involvement in training and development and also to provide support and mentoring to individual Members of their group.
- To work closely with other Cabinet Members by providing leadership and support to ensure the continuing development of effective Council policies that deliver high quality services to local people.

- To support and provide continuing commitment to high standards of behaviour and governance in accordance with the requirements of the Members Code of Conduct.
- To work with the Council's Strategic Alliance Management Team in relation to the strategic vision of the Council, and the achievement of the Council's Strategic Objectives.
- To show due care and respect in all working relationships as required by the Members Code of Conduct and the Officer/Member Protocol.
- To provide leadership when working with the Council's partners and when liaising with various community groups in the District.
- To act as a leader for the local community by showing integrity, honesty and desire to provide solutions for the general benefit of the public the Council serves.
- To represent the Council both locally within the District, regionally and nationally as appropriate.

Relevant Core Skills

There are six core skill areas for all Councillors. Five are relevant to the role of Leader and Deputy Leader of the Council, together with the three additional ones listed:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Regulating and Monitoring;
- Providing Vision;
- Managing Performance;
- Excellence in Leadership.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

LEADER OF THE LARGEST OPPOSITION GROUP

Role purpose:

- To provide effective leadership and strategic direction for the Main Opposition Group.
- To ensure constructive challenge of the Council's strategies and policies.
- To provide leadership in building a political consensus for the communities which the Council represents and serves.

Key Responsibilities:

In addition to carrying out the functions set out in the role profile for a Member, responsibility for the following:-

- To provide leadership for the Opposition Group and be the principal political spokesperson for the Group.
- To appoint Members to the Shadow Cabinet and define their roles, as well as prepare for Shadow Cabinet meetings and chair them.
- To ensure effective communication between Opposition Group Members, including preparation of agendas and associated paper work for Opposition Group meetings, in addition to chairing Opposition Group meetings.
- To ensure effective communication between the Opposition Group, other political groups, officers of the Council and, where relevant, other people from the community, partners and organisations.
- To have a strategic awareness of issues facing the Council and co-ordinate Opposition Group Members in order to provide appropriate challenge and constructive proposals.
- To act as a representative of their political group, e.g. at County Leaders Forum and as an Opposition Group Leader at East Midlands Councils.
- To encourage Member Involvement in training and development and also to provide support and mentoring to individual Members of their Group.

Relevant Core Skills

There are six core skill areas for all Councillors. All six are relevant to the role of Leader of the Main Opposition Group, these are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Scrutiny and Challenge;
- Regulating and Monitoring.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

CABINET MEMBER

Role Purpose:

- To meet the requirements of a Member as a community representative.
- To undertake duties and responsibilities allocated to Cabinet Members.

Key Responsibilities:

In addition to carrying out the functions set out in the role profile for a Member, responsibility for the following:-

- To work as a member of the Cabinet team in accordance with the principle of collective responsibility for Cabinet decisions.
- To work closely with the relevant Director to ensure that the work within the Portfolio supports the achievement of the Council's Corporate Objectives.
- To give political direction to and work with officers within the Portfolio(s) for which they have responsibility.
- To provide leadership within the Portfolio(s) for which they have responsibility.
- To work closely with the relevant Director to ensure close liaison and a clear understanding of each other's roles.
- To work with officers to formulate policy documents both strategic and statutory.
- To work with stakeholders and support the work of their Portfolio in discussion with stakeholders.
- To report to the Leader, Cabinet, Council and appropriate Scrutiny Committee(s), providing information and details as appropriate regarding the work of the Portfolio(s).
- To recognise and contribute to work which cuts across portfolios, or which involves matters of collective responsibility.
- To act as a representative of the Cabinet, explaining the work of their Portfolio by liaising closely with the local community, attending meetings and working with partners to pursue common aims and objectives.

Relevant Core Skills

There are six core skill areas for all Councillors, together with two more for Cabinet Members (Providing Vision and Managing Performance). The core skill areas relevant for a Cabinet Member are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Regulating and Monitoring;
- Providing Vision;
- Managing Performance.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

CHAIRMAN AND VICE CHAIRMAN OF A SCRUTINY COMMITTEE

Role Purpose:

- To meet the responsibilities of a Member as a community representative.
- Responsibility for effective Scrutiny in North East Derbyshire.
- Leading and promoting the Scrutiny function.
- Managing and co-ordinating scrutiny work in conjunction with the Overview and Scrutiny Manager
- Supporting the continuing development of Scrutiny.

Key Responsibilities:

In addition to carrying out the functions set out in the role profile for a Member, responsibility for the following:-

Leading and promoting scrutiny:-

- To develop a constructive working relationship with all Cabinet Portfolio Holders.
- To develop and maintain a constructive working relationship with the Directors/Heads of Service in the areas that the Committee scrutinises.
- To represent the Scrutiny Committee on relevant boards and panels of the Council.
- To ensure that Scrutiny is publicised and communicated to build understanding of its role both within and outside the Council.
- To represent North East Derbyshire District Council when required at regional and national Scrutiny events.

Managing and co-ordinating overview and scrutiny:-

- To chair meetings of the Scrutiny Committee.
- To ensure that Scrutiny procedure rules and the Council's Code of Conduct are adhered to.
- To ensure that all members of the Scrutiny Committee are engaged and have the opportunity to contribute to the Scrutiny process.

Supporting the continuing development of scrutiny:-

- To maintain an overview of Scrutiny in North East Derbyshire District Council and learn from best practice elsewhere.

- To ensure the continuing development of Scrutiny in North East Derbyshire District Council through improving both how it is organised as well as the practice.
- To develop an awareness and understanding of the cross-cutting themes and priorities which may arise in the work of the Scrutiny Committees.
- To encourage the involvement of all interested parties and stakeholders, individuals, voluntary and community groups in Scrutiny matters.
- To participate in relevant training/development activities required to support roles of Chairman/Vice Chairman.
- To support and encourage all Members in their Scrutiny work and to ensure that it is focused on supporting the achievement of the Council's Corporate Priorities.
- In conjunction with the Portfolio Member for Member Development, to encourage and support colleagues to participate in Member Development/Training activities relevant to the work of Scrutiny.

Relevant Core Skills

There are six core skill areas for all Councillors. Five are relevant for the role of Chairman and Vice Chairman of a Scrutiny Committee, these are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Scrutiny and Challenge.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

CHAIRMAN AND VICE CHAIRMAN OF A REGULATORY COMMITTEE (GENERAL LICENSING AND LICENSING AND GAMBLING ACTS COMMITTEE AND PLANNING COMMITTEE)

Role Purpose:

- To meet the responsibilities of a Member as a community representative.
- To lead the work of the Regulatory Committees/Sub-Committees.

Key Responsibilities:

In addition to carrying out the functions set out in the role profile for a Member:-:

- To Chair the Committee/Sub-Committee, including:-
 - (a) Providing confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
 - (b) Ensuring that applicants or other interested parties are satisfied as to the transparency of the regulatory process.
 - (c) Demonstrating integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
 - (d) Delegating (through the Committee) actions to sub-committees as appropriate.
- To act as an ambassador for the regulatory committee, facilitating understanding of the role and responsibilities.
- To follow the technical, legal and procedural requirements and to oversee the functions of the Committee(s) correctly and fairly.
- To ensure thoroughness and objectivity by the Committee(s), receiving and responding to professional advice in the conduct of meetings and in individual cases/applications at committee/sub-committee meetings.
- To develop and maintain the integrity of the Committee(s) and the decision making process.
- To understand the respective roles of Members, officers and external parties operating within the regulatory committee's area of responsibility.
- To promote and support good governance by the Council.
- To undertake any relevant training/development activities required as part of the role as Chairman/Vice Chairman of a Regulatory Committee(s).

The Vice Chairman will work with and support the Chairman and will undertake the duties and responsibilities of the Chairman in the absence of the Chairman.

Relevant Core Skills

There are six core skill areas for all Members. Five are relevant for the role of Chairman and Vice Chairman of a Regulatory Committee (the Licensing and Planning Committees), these are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Regulating and Monitoring.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

ROLE PROFILE

CHAIRMAN AND VICE CHAIRMAN OF STANDARDS COMMITTEE

Role Purpose:

- To meet the responsibilities of a Member as a community representative.
- To lead the work of the Standards Committee and chair its meetings.

Key Responsibilities:

In addition to carrying out the functions set out in the role profile for a Member:-:

- To Chair the Committee, including:-
 - (a) Providing confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
 - (b) Ensuring that interested parties are satisfied as to the transparency of the regulatory process.
 - (c) Demonstrate integrity and impartiality in decision making which accords with legal and constitutional requirements.
 - (d) Delegating (through the Committee) actions to sub-committees as appropriate.
 - (e) Promote high standards of Member and Co-opted Member Conduct across the Council and amongst Town and Parish Councils in the District.
- To act as an ambassador for the Standards Committee, facilitating understanding of its role and responsibilities.
- To follow the technical, legal and procedural requirements and to oversee the functions of the Committee correctly and fairly.
- To ensure thoroughness and objectivity by the Committee, receiving and responding to professional advice in the conduct of meetings and in individual cases at committee/sub-committee meetings.
- To develop and maintain the integrity of the Committee and the decision making process.
- To understand the respective roles of Members, officers and external parties operating within the Committee's area of responsibility.

- Working in conjunction with the Chairman of the Member Development Working Group to promote participation in any training/development activities relevant to the Committees role.

The Vice Chairman will work with and support the Chairman and will undertake the duties and responsibilities of the Chairman in the absence of the Chairman.

Relevant Core Skills

There are six core skill areas for all Members. Six are relevant to the role of Chairman and Vice Chairman of the Standards Committee, these are:-

- Local Leadership;
- Partnership Working;
- Communication Skills;
- Political Understanding;
- Scrutiny and Challenge;
- Regulating and Monitoring.

Members' Allowance Scheme

1 The Scheme

This scheme applies from 1 April 2019

In this scheme,

"Member" means a councillor of North East Derbyshire District Council

"Year" means the 12 months ending with 31 March

2 Basic Allowance

Subject to paragraph 4, for each year a flat rate basic allowance of £5,488.39 per annum shall be paid to each *Councillor*. The allowance will be increased with effect from each subsequent 1 April by the same percentage increase as applied to staff salaries. This allowance is designed to cover the time commitment of all *Councillors* in meetings with *Officers* and constituents and attendance at political group meetings. It is also intended to cover incidental costs.

3 Special Responsibility Allowances

Subject to paragraph 4, for each year a special responsibility allowance shall be paid to those *Councillors* who perform the special responsibilities in relation to the Authority that are specified in Schedule 1 to this scheme. These allowances will be increased with effect from 1 April each year by the same percentage increase as applied to staff salaries.

4 Renunciation

A *Councillor* may, by notice in writing given to the Section 151 Officer, elect to forego any part of his or her entitlement to an allowance under this scheme.

5 Part-Year Entitlements

5.1 The provisions of this paragraph shall have effect to regulate the entitlements of a *Councillor* to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that *Councillor* becomes, or ceases to be a *Councillor*, or accepts or relinquishes responsibility in respect of which a special responsibility allowance is payable.

5.2 If an amendment to this scheme changes the amount to which a *Councillor* is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods –

- (a) beginning with the 1 April and ending with the day before that on which the first amendment in that year takes effect; or
- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the 31 March;

the entitlement to an allowance shall be in the same proportion of the total allowance as the number of days for which the allowance is payable bears to the total number of days in the year.

- 5.3 Where the term of office of a *Councillor* begins or ends otherwise than at the beginning or end of a year, the entitlement of that *Councillor* to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his or her term of office subsists, bears to the number of days in that year.
- 5.4 Where this scheme is amended, as mentioned in paragraph 5.2, and the term of office of a *Councillor* does not subsist throughout the period mentioned in sub-paragraph 5.2(a), the entitlement of any such *Councillor* to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his or her terms of office as a *Councillor* subsists bears to the number of days in that period.
- 5.5 Where a *Councillor* has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that *Councillor's* entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.
- 5.6 Where this scheme is amended, as mentioned in paragraph 5.2, and a *Councillor* has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 5.2(a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that *Councillor's* entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

6 Childcare and Dependent Carers Allowance

Subject to paragraph 4, for each year a childcare and dependent carers allowance shall be paid to those *Councillors* who incur expenditure as referred to in Schedule 2 to this scheme. An amount shall be paid equivalent to the national minimum hourly rate for adults (£8.21 per hour).

- 7 A co-optees allowance of £547.75 per annum shall be paid to co-opted members.
- 8 The changes in the allowances shall be backdated in accordance with Regulation 10(6) of Statutory Instrument No. 1021-2003 to 1 April 2012 in the case of the Leader of the Main Opposition Group and 9 July 2012 in the case of the Chairman and Vice Chairman of Standards Committee.
- 9 The future level of allowances included in the Members Allowance Scheme shall be subject to index linking for the maximum period of four years with effect from 1 April 2017 at an amount equivalent to the annual pay award for employees.

Members' Allowance Scheme – Schedule 1**Special Responsibility Allowances as at 1 April 2019**

Post		No	Relative Responsibility £
<i>Cabinet</i>	<i>Leader</i>	1	18,866.58
	<i>Deputy Leader</i>	1	13,557.18
	Other Cabinet Members	5	8,646.91
Scrutiny Committee	Chairman	4	4,128.23
	Vice Chairman	4	1,373.19
Standards Committee	Chairman	1	4,128.23
	Vice Chairman	1	1,373.19
Planning Committee	Chairman	1	8,256.43
	Vice-Chairman	1	1,373.19
Council	Chairman	1	5,216.13
	Vice-Chairman	1	833.95
Main Opposition Group	Leader	1	5,216.13

NB If, at any point in the future, the two main opposition groups have the same number of members, the special responsibility allowance for Leader of the Main Opposition Group shall be divided equally between the leaders of those groups.

No member should be in receipt of more than one special responsibility allowance at any one time. Where a member is entitled to two or more special responsibility allowances then only the highest will be payable.

Members' Allowance Scheme – Schedule 2

Childcare and Dependent Carers' Allowances

The scheme of allowances includes the payment of a childcare and dependent carers' allowance to those *Councillors* who incur expenditure for the care of children or dependent relatives whilst undertaking particular duties. These duties are specified in the Regulations and are as follows:

- a meeting of the *Cabinet*
- a meeting of a committee of the *Cabinet*
- a *Council Meeting*
- a meeting of a committee or sub-committee of the Council
- a meeting of any other body to which the Council makes appointments or nominations, or
- a meeting of a committee or sub-committee of any other body to which the Council makes appointments or nominations
- a meeting which has both been authorised by the Council, a committee or sub-committee of the Council or a joint committee of the authority and one or more other authorities, or a sub-committee of a joint committee *and* to which representatives of more than one political group have been invited (if the authority is divided into several political groups) or to which two or more *Councillors* have been invited (if the authority is not divided into political groups)
- a meeting of a local authority association of which the Council is a member
- duties undertaken on behalf of the Council in pursuance of any standing order made under Section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened
- duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises
- duties undertaken on behalf of the Council in connection with arrangements made by the authority for the attendance of pupils at a school approved for the purposes of Section 342 of the Education Act 1996.

Members' Travel and Subsistence Policy

Travel and subsistence expenses are payable to members for all Council approved duties.

Where members are travelling outside the District, consideration should be given to using public transport or car sharing. Where a member is a member of more than one authority then only one claim may be made per meeting. Claims for subsistence should be supported by receipts where possible. All references to members in this section, except PC consumables, include co-opted members.

Mileage

Mileage will be paid at the following rates:

	First 10,000 business miles in the tax year	Each business mile over 10,000 in the tax year
Cars and vans	45p	25p
Motor cycles	24p	24p
Bicycle	20p	20p

Subsistence

Subsistence will be paid on the following basis where the member is on Council duty for four hours or more:

	<i>Hours of claim</i>	<i>Maximum claim</i>
<i>Breakfast</i>	Before 11am	£5.61
<i>Lunch</i>	12-2pm	£7.73
<i>Tea</i>	3-6pm	£3.04
<i>Evening Meal</i>	After 7pm	£9.37
<i>Overnight allowance</i>	N/A	£79.82
<i>Overnight allowance (LGA)</i>	N/A	£91.04

Approved Duties

The following are approved duties for which members may claim travel and subsistence expenses:

- (1) Any meeting of the Council;
- (2) Any meeting of a committee (including Cabinet), joint committee, sub-committee, advisory group or site visits group to which the member has been appointed;
- (3) Any pre-agenda meeting, briefing, forum or site visit to which the member has been asked to attend by an officer;
- (4) Any meeting or event of an outside body to which the member has been appointed as the Council's representative;
- (5) Any activity to which the member has been asked to attend in connection with member development;
- (6) Any conference or seminar approved by the Council or Member Development Working Group;
- (7) Any meeting to which the member has been requested to attend by the Management Team.
- (8) Any evidence gathering activity within a reasonable distance connected with a review being undertaken by a scrutiny committee;
- (9) Any hearing or tribunal to which the member has been asked to attend to give evidence;
- (10) In the case of the Chairman or Vice Chairman of the Council, any duties connected with their role as the Council's civic ambassador and up to one day per week in connection with the signing of legal documents;
- (11) In the case of the Leader and Deputy Leader, up to five days per week in connection with Council business;
- (12) In the case of other Cabinet portfolio holders, up to three days per week in connection with Council business;
- (13) In the case of chairs or vice chairs of scrutiny committees, one day per week in connection with the work of their committee;
- (14) In the case of the leaders of opposition groups, one day per week in connection with Council business;
- (15) In the case of the Chairman of Standards Committee, one day per week in connection with the work of their Committee.

The following are not approved duties and claims may not be made for them:

- (1) Any meetings or site visits with individuals, officers or groups of electors to discuss issues in connection with a member's ward;
- (2) Any duty undertaken for party political purposes;
- (3) Any duty in connection with being a school governor;
- (4) Any meeting or event organised by other organisations including town and parish councils.

PC consumables

The following items are payable where used in connection with Council duties:

- (1) Broadband subscriptions where the member has not taken advantage of an I-Pad or Broadband subscription offered directly through the Council;
- (2) Printer cartridges and paper.

All claims should be made within two months and are reported on the website and in 'The News' on an annual basis.

Officer Code of Conduct

Introduction

This code has been drawn up broadly in line with the Local Government Management Board's Code of Conduct for local government employees, with variations to reflect North East Derbyshire's conditions and circumstances.

This code has been formulated by the Council to provide a set of standards of conduct expected of employees at work and the link between that work and their private lives.

The code takes into account the requirements of the law and the provisions on official conduct in the appropriate National Conditions of Service.

The code applies to all Council employees. Those employees involved in processing applications for services or resources, licences or statutory consents and those involved in the procurement of goods and services need to pay particular attention to the code.

The code will be made readily accessible in all work places to all employees for reference purposes.

Investigations of alleged breaches of this code will be dealt with under the Council's Disciplinary Procedure.

If employees are in any doubt whether they may be in breach of this code they should seek advice from their Senior Officer or Senior Manager

Standards

Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to other employees and members with impartiality and courtesy.

Employees should bring to the attention of their Line Manager any deficiency in the provision of service and must report any impropriety or breach of procedure.

Disclosure of Information

- 1 The law requires that certain types of information must be available to Members, Auditors, Government Departments, Service Users and the public.
- 2 Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to Committee Reports and background documents.
- 3 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor shall they pass it onto others who might use it in such a way.
- 4 Only employees authorised by their Senior Officer or Senior Manager to do so may talk to the Press or otherwise make public statements on behalf of their Service or

Directorate. Generally, an employee contacted by the Press should refer the matter to the Communications Team who will deal with it as appropriate.

Political Neutrality/Activity

- 1 Employees serve the Council as a whole. It follows, therefore, that they must serve all Members not just Members of any controlling Group and must ensure that the individual rights of all Members are respected.
- 2 Some senior employees will be expected, within the Council's guidelines, to advise political groups. These employees have a duty to advise minority groups as well as the majority group.
- 3 Some employees, who are normally those in more senior positions, are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules about claiming exemption, but any employee who is in any doubt about their position should contact their Senior Officer or Senior Manager.
- 3.1 Political restriction is linked to the particular role of the employee and includes:
 - Head of the Paid Service
 - Statutory Chief Officers
 - Non-statutory chief officers
 - Deputy Chief Officers
 - Monitoring Officer
 - Chief Finance Officer
 - Officers exercising delegated powers
 - Assistants to political groups
 - A sensitive post which meets one or both of the following duties – related criteria:
 - Giving advice on a regular basis to the Authority (including Committees, Sub-Committees, Joint Committees, Executive of an authority or committee of the Executive).
 - Speaking on behalf of the Authority on a regular basis to journalists or broadcasters.
- 4 The political activities which are restricted for these Officers mainly cover the following areas:-
 - (a) Standing as a candidate for election to the House of Commons, European Parliament or a Local Authority (other than a Parish Council)
 - (b) Holding office in a political party at any level, except in limited roles concerned only with the internal membership of the party.
 - (c) Canvassing at an election.
 - (d) Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

- 5 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

Relationships

1 Members

Some employees are required to give advice to Members as part of their job. Mutual respect between employees and Members is essential to good Local Government but close personal familiarity between employees and individual members can damage the relationship and prove embarrassing to other employees and should therefore be avoided.

2 The Local Community and Service Users

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

3 Contractors

All relationships with contractors or potential contractors must be made known to the appropriate Senior Officer or Senior Manager. Orders and contracts must be awarded on merit, by fair competition against other tenders and no favouritism should be shown to businesses run by current or recent employees or their partners, close relatives or associates.

Employees who engage or supervise contractors and have an official relationship with contractors or have previously had or currently have a relationship in a private, financial or domestic capacity, must declare that relationship to their Senior Officer or Senior Manager.

Appointment and other Employment Matters

Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a personal relationship outside work with them.

Similarly employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

Outside Commitments

- 1 Employees off duty hours are their personal concern but they must not subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict.

The Council would not wish to preclude employees unreasonably from undertaking additional work unless that work conflicts with or detrimentally affects the Council's interests or in any way weakens public confidence in the conduct of the Council's business or in any other way affects their ability to undertake their Council work.

- 2 However Officers above SCP28 are expected to devote the whole of their service to the work of the Council and must not engage in any other business or take up any other additional appointment without the agreement in advance of their Senior Officer or Senior Manager (see the Functions Scheme in Part 3 of the Constitution).
- 3 If agreement is given employees must be made aware that no outside work of any sort should be undertaken in the workplace and use of facilities e.g. telephones, photocopying etc for this is forbidden, unless this is previously authorised and paid for.

Personal Interests

- 1 Employees must declare to their Line Manager non-financial interests that they consider could bring about conflict with the Council's interest. This could include involvement with an Organisation receiving Grant Aid from the Council, Membership of an NHS Trust Board, involvement with an Organisation or Pressure Group which may seek to influence their Authority's policies. Membership of a Trade Union is exempted from this requirement.
- 2 Employees must declare any financial interests which could conflict with the Council's interest.
- 3 Employees must declare to their Senior Officer or Senior Manager membership of any Organisation not open to the public - with a formal membership and a commitment of allegiance and which has secrecy about its rules or membership or conduct e.g. Freemasons.
- 4 Employees who have an interest, financial or non-financial, should not involve themselves in any decision on allocation of Council services or resources from which they, their friends or family might benefit, and should ensure that the matter is referred immediately to their Senior Officer or Senior Manager.

Equality issues

Employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with as well as the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

Separation of roles during tendering

- 1 Employees should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 2 Employees in contractor or provider units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

- 3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- 4 Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses by them or employing them in a senior or relevant managerial capacity.

Corruption

It is a criminal offence for an employee to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Use of financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner ensuring value for money to the local community and avoiding legal challenge to the Council.

Hospitality

- 1 Employees must treat with extreme caution any offer, gift, favour or hospitality made to them personally.
- 2 If there is a genuine need as a legitimate part of an employee's job to accept offers of hospitality this may be allowed. The decision whether to accept is one of common sense, however, any employee who is in doubt about the legitimacy of any offer of hospitality must ask his/her Senior Officer or Senior Manager for advice.
- 3 When considering whether or not to accept hospitality employees must be sensitive to the timing of decisions for letting contracts for which the provider may be bidding and must never accept hospitality from a contractor during a tendering period.
- 4 Acceptance by employees of hospitality at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal.
- 5 Any offer, gift, favour or hospitality as described in the above paragraphs should only be accepted where the employee is satisfied that any purchasing, planning or other Council decisions are not compromised. Employees should not place themselves in a position where their own integrity and the integrity of the Council may be called into question.
- 6 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 7 Employees must not accept significant personal gifts from contractors and outside suppliers. Insignificant tokens such as pens or diaries may be accepted.

- 8 A register is maintained by the *Monitoring Officer* which is open to inspection by the Standards Committee of the Council. This register should be used by any employee of the Council who accepts any gift, favour or hospitality made to them of the value of £25 or more and accepted by them personally or on behalf of the Council.

Sponsorship - Giving and Receiving

- 1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 2 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate Senior Officer or Senior Manager of any such interest. Similarly where the Council through sponsorship, grant aid, financial or other means gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

Protocol for *Councillor* – Officer Relations

1 INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and employees of the Council in their relations with one another.
- 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 most commonly arise.
- 1.3 This protocol also seeks to reflect the principles set out in the respective codes of conduct which apply to Members and employees. The shared objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and it, therefore, demands very high standards of personal conduct.
- 1.4 The protocol reflects good practice. It aims to provide an open and honest working relationship between Members and employees which ensures the delivery of the Council's statutory and other proper functions in a transparent and accountable way.

2 PRINCIPLES

- 2.1 The provisions of the Code of Conduct apply to all Members. Breach of those provisions can be the basis for a complaint to the Monitoring Officer. The employees Code of Conduct is part of the terms of conditions of their employment. Employees are accountable to their Senior Manager and while employees will seek to assist any Member they must not be asked by Members to go beyond the bounds of whatever authority they have been given by their Senior Manager.
- 2.2 Any dispute over any provision of this protocol in relation to employees should be referred in the first instance to the responsible service manager or the *Head of Paid Service*. If agreement cannot be reached the *Head of Paid Service* will seek to resolve the issue in conjunction with the *Leader* of the Council and/or the *Leader* of the appropriate party group. Issues relating to employee conduct will be dealt with under disciplinary procedures. Any unresolved dispute relating to Member conduct under this protocol will be determined in accordance with the Councillor Complaints Procedure.
- 2.3 This protocol is also read in conjunction with the Planning Code/Protocol and the Protocol on Hospitality and any other policies of the Council, for example the Whistle-Blowing Policy (Public Interest Disclosure) and the Harassment and Bullying Policy.

3 MEMBERS' CODE OF CONDUCT

Members of North East Derbyshire District Council are committed to:-

- Dealing with people fairly, appropriately and impartially.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between everyone that is essential to good local government.
- Always treating people with respect, including the organisations and public they engage with and those the member works alongside.

4 EMPLOYEE CODE OF CONDUCT

4.1 The Employee Code of Conduct was drawn up broadly in line with the Local Government Management's Board Code of Conduct for local government employees with variations to reflect North East Derbyshire's conditions and circumstances.

(1) Standards

Employees are expected to give the highest possible standard of service to the public and where it is part of their duties to provide appropriate advice to other employees and Members with impartiality and courtesy.

(2) Disclosure of Information

- (i) The law requires that certain types of information must be made available to Members, Auditors, Government Departments, Service Users and the public.
- (ii) Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to committee reports and background documents.
- (iii) Employees must not use any confidential information obtained in the course of their employment for personal gain or benefit nor shall they use it to pass onto others who might use it in such a way.
- (iv) Only employees authorised by a Senior Officer or Senior Manager to do so may talk to the press or otherwise make public statements on behalf of their Service or Directorate. Generally an employee contacted by the press should refer the matter to the Communications Team who will deal with it as appropriate."
- (v) The Local Authorities (*Executive Arrangements*) (Meetings and Access to Information) (England) Regulations 2012 provide additional rights of access to documents for Members of Scrutiny Committees.

(3) Political Neutrality/Activities

- (i) Employees serve the Council as a whole. It follows, therefore, that they must serve all Members, not just the Members of any controlling group and must ensure that the individual rights of all Members are respected.

- (ii) Some senior employees will be expected within the Council's guidelines to advise political groups. These employees have a duty to advise minority groups as well as the majority group.
- (iii) Some employees who are normally those in more senior positions are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules about claiming exemption but any employee who is in doubt about their position should contact a Senior Officer.

(4) Relationships

- (i) Both Members and Officers are servants of the public, and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, its committees and sub-committees and the Cabinet.
- (ii) Members must not do or threaten to do anything which compromises or which is likely to compromise the impartiality of an employee of the Council.
- (iii) In line with the Council's Codes' reference to "mutual respect", it is important that any dealings between Members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or be hostile to the other.
- (iv) Mutual respect between employees and Members is essential to good local government but close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and should, therefore, be avoided.
- (v) It is important that in any dealings between Members and Officers that neither party should act discriminatively against the other in regard to all elements covered by the Equalities Act 2010 including: Race, Religion, Gender, Sexual Orientation and Disability.
- (vi) In their dealings with Chief Officers and Officers (especially junior Officers) Members need to be aware that it is easy for the Officers to be overawed and feel at a disadvantage. Such feelings can be intensified when Members hold additional official and/or political office. A Member should not apply undue pressure on an Officer either to do anything that he/she is not empowered to do or to undertake work outside normal duties or normal hours or to allow or aid the Member to do something which the Member is not authorised to do. Particular care needs to be taken in connection with the ease of use of Authority property and services.
- (vii) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in their favour nor raise personal

matters to do with their job nor make claims or allegations about other staff. The Authority has formal procedures for consultation, whistleblowing, grievance and discipline. As an exception to this provision an officer may raise issues (other than those relating to the officer's employment or engagement with the Council) relating to Authority business where the Member is the local ward Councillor of the officer concerned.

- (viii) Whilst the Chairman of a committee or sub-committee or Leader of the Cabinet will routinely be consulted as part of the process for drawing up the agenda for a forthcoming meeting it must be recognised that in many situations an officer will be under a duty to submit a report on a particular matter. Similarly, an officer will always be fully responsible for the contents of any reports submitted in his or her name. Any issues which cannot be resolved as the result of a decision/negotiation between the relevant Chairman and an officer in this area should be referred to the Head of Paid Service for resolution. Where individual Members wish to place an item on an agenda they should notify the appropriate meeting Chairman or Head of Paid Service and comply with the Council's Constitution.

5 ADVICE AND SUPPORT TO POLITICAL GROUPS

- 5.1 There is now statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by political groups.
- 5.2 Political group meetings form part of the preliminaries to Council decision making and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions. Members must not ask employees to implement a party group decision unless and until that decision has been properly taken in accordance with the Council's Constitution.
- 5.3 Similarly, where Officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 5.5 Officers must respect the confidentiality of any political group discussions at which they are present and should not relay the content of any such discussion to another political group.
- 5.6 The support provided by officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesperson prior to a Committee meeting to a presentation to a full political group meeting. Whilst in practice such officer support

is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.

- 5.7 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role of Members of the Council. Such support services must, therefore, only be used on Council business. They should never be used in connection with party political or campaigning activities or for private purposes.
- 5.8 Any particular cases of difficulty or uncertainty in this area of employee advice or support to party groups should be raised with the *Head of Paid Service* who will discuss them with the relevant group *Leaders*.

6 MEMBERS' ACCESS TO INFORMATION, COUNCIL DOCUMENTS AND EMPLOYEE ADVICE

- 6.1 Members will need in the discharge of their duties to access information from employees, this will usually be most efficiently achieved through the Senior Managers who are able to provide an overview or direct the Member to the most appropriate employee. For individual cases Members may approach case officers, but junior staff are entitled to refer the Member to the responsible Senior Manager.
- 6.2 Members who wish to obtain information from employees should request it as early as possible recognising that employees may require reasonable time to collate or research the information. Members will state any deadline for the provision of this information. This also applies where a Member wishes to obtain information to supplement a report after the agenda for a meeting has been issued.
- 6.3 Employees will make every reasonable effort to provide Members with accurate factual information and professional advice in a timely manner, unless this would exceed the officer's authority or there are lawful reasons to prevent disclosure of the information.
- 6.4 Members have the same statutory right as any member of the public to inspect any Council document which contains material relating to any business which is to be transacted at a Council or Committee meeting or a meeting of *Cabinet* and any relevant background papers. This right applies irrespective of whether or not the Member is a Member of the Cabinet, Committee or Sub-Committee concerned or acting as a substitute. This right does not, however, apply to documents relating to items containing information which is exempt from publication. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 6.5 Correspondence held by the *Monitoring Officer* in relation to his/her duties is similarly exempt unless released by him/her in the interest of furthering any enquiry.
- 6.6 The common law right of Members is much broader and based on the principle that any Member has a *prima facie* right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member to perform

properly his/her duties as Member of the Council. This principle is commonly referred to as the 'need to know' principle

- 6.7 The exercise of this common law right depends, therefore, upon the Member's ability to demonstrate the necessary "Need to Know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "Need to Know". This question will be determined by the particular Director or Head of Service as appropriate whose staff holds the document in question (with advice from the Monitoring Officer). It follows from this that the Member must give the reason for the enquiry. Written reasons will be provided on request. In the event of dispute, the question falls to be determined by the relevant Committee - i.e. the committee in connection with whose functions the document is held or the Cabinet.
- 6.8 A Member who requests to inspect documents which contain personal information about third parties will normally be expected to justify their request in specific terms.
- 6.9 A Member of one party group will not have a 'need to know' and, therefore, does not have a right to inspect any document which forms part of the internal workings of another party group and is in the possession of the Council or of an individual employee.
- 6.10 More detailed advice regarding Members' rights to inspect Council documents may be obtained from the *Monitoring Officer*.
- 6.11 Any Council information is provided to a Member on the basis that it must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. This forms part of the Council's data protection requirements. This obligation for confidentiality is part of the Code of Conduct.

7 RELATIONSHIPS BETWEEN OFFICERS AND CABINET MEMBERS/ CHAIRS OF COMMITTEES/LEADER

- 7.1 It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the *Cabinet*, Senior Officers and Senior Managers and between the Chairman of a committee and the lead officer and other senior officers who deal with matters within the terms of reference of that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.
- 7.2 Senior Officers and Senior Managers frequently write reports having undertaken background research and professional and technical appraisals of proposals.
- 7.3 These reports are then presented by the *Cabinet* Member with Portfolio.
- 7.4 Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of the report submitted in the Member's name.

- 7.5 Where an officer wishes to consult a Cabinet Member or Chairman as part of the preparation of a report to a decision making body within the Council's Constitution, the following principles will apply. The *Cabinet* Member or Chairman may ask the report author:
- (1) To include particular options;
 - (2) To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;
 - (3) To check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;
 - (4) To check or correct any typing errors, omissions or duplications;
 - (5) To check any estimate of costs or savings.
- 7.6 The *Cabinet* Member or Chairman may not ask officers:
- (1) To exclude any option contained in the draft report;
 - (2) To exclude or alter the substance of any statement in the draft report of any officers' professional opinion.
 - (3) To alter the substance of any recommendations that compromises the officer's integrity or would result in illegality;
 - (4) To exclude any statement that a course of action would be a "key decision" or would be contrary to a policy or budget or to exclude any statement regarding legality, fairness or financial prudence, made by officers exercising their designated functions under Article 10 of the Council's Constitution;
 - (5) To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.
- 7.7 Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.
- 7.8 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward members should be notified at the outset of the exercise.
- 7.9 In relation to action between meetings, it is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken by a Committee, a Sub-Committee or an Officer and in relation to Executive functions by the Cabinet or an Officer. Legislation allows for Members to take individual decisions where the Council decides that this should happen and as set out the Functions Scheme. These decisions can only be taken in specific circumstances following appropriate advice and the decision must be recorded. This does not mean that any decision can be taken by a Member. The rules relating to decision making where it is a Committee or Sub Committee or officer decision remain unchanged.
- 7.10 The Council's delegation scheme is contained within the Constitution. This contains the majority of delegations to officers. From time to time the Cabinet, Committees

and the Council give additional delegations which are added to the Constitution as it is updated annually.

- 7.11 Finally, it must be remembered that Officers within any department are directly accountable to their relevant Director. Whilst Officers should always seek to assist a Chair (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given.

8 SCRUTINY ARRANGEMENTS

- 8.1 The principles of the Employee's Code of Conduct remain in place under the *Cabinet* arrangements. However, these arrangements raise particular issues for local authority employees because:-

- (a) The advice which officers have given to the *Cabinet*, its Members or to any group may now be subject to scrutiny and examined by a Scrutiny Committee.
- (b) Officers may have written reports for presentation by a Cabinet Member with Portfolio or provided advice to the *Cabinet*. Where such a decision is subject to Scrutiny by a Scrutiny Committee in their scrutiny roles, or when a decision is called-in, an officer may provide information or advice to a Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.
- (c) Scrutiny Committees or their members will need active assistance from officers if they are to perform their role of scrutinising the *Cabinet* effectively.

These factors will require understanding by Members of the role that officers have to perform.

9 PUBLICITY AND CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member generally. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.
- 9.3 Where Members send correspondence in their own name as a Member of the Council, such correspondence may be sent on Council headed notepaper headed with the words "from the Office of [Name of Councillor]"
- 9.4 The Council abides by the provisions of the DETR Local Authority Publicity Code (April 2001).

- 9.5 Information on Council services will be produced in collaboration with the Communications Unit and will be impartial reflecting Council approved policy.
- 9.6 All news releases will be written and issued by the Communications Team following consultation with the Senior Officers and Portfolio Member concerned.
- 9.7 Publicity will not be party political and will report on and reflect Council policy.
- 9.8 Media requesting political comments will be referred to the political group *Leaders*.
- 9.9 It is the intention of the Council to make public information available on the website accessible to Members and residents as resources allow.

10 THE ROLE OF THE HEAD OF THE PAID SERVICE

- 10.1 The *Head of Paid Service* has a specific statutory function in relation to employees, appointment, discipline, terms and conditions of employment and collective bargaining. Members will recognise and respect those responsibilities and duties.

Appendix to the Protocol for Member/Officer Relations

What Members Can Expect From Officers	
Officers Do	Officers Don't
Pursue lawful policies and comply with the Officers' Code of Conduct	Deviate from the Constitution, legal or contractual obligations
Promote equality, serve all Members equally with dignity, respect and courtesy, regardless of political group or position	
Comply with legal duty to provide professional advice, impartiality and implement Council policy	Allow their personal or political opinions to interfere with their work or professional judgement and advice
Avoid close personal familiarity with Members and follow guidelines on Personal Relationships	Form friendships, close relations with Members
Follow Council procedures for dealing with Member enquires effectively, efficiently and within set timescales.	
Act with integrity and appropriate [<i>not absolute</i>] confidentiality	<ul style="list-style-type: none"> • Seek to improperly to influence Members; • Improperly disclose information received from one Member to another; or • Raise their personal circumstances or those of another directly with Members. Personal issues that might be raised with a Ward Member should be raised in a private capacity outside of work time.
Respect each other's free (i.e. non-Council) time	
Be prepared to justify and give reasons for decisions made under delegated powers;	
Report the least suspicion of fraud, corruption or impropriety	Conceal any information which it is proper for them to disclose (particularly where they have a duty to reveal it);

What Officers can expect from Members	
Members Do	Members Don't
Comply with the Members' Code of Conduct – ensuring the highest standards of behaviour	
Promote equality and treat all Officers with dignity and respect. Members are to comply with the equality laws prohibiting discrimination, harassment and victimisation Chairs of meetings are expected to apply the rules of debate/procedures to prevent abusive or disorderly conduct	Subject individuals to unreasonable or excessive personal attack Undermine respect for Officers in public meetings, the media or at any other time when dealing with Council business;
Only ask Officers to provide professional advice on matters that clearly arise from being an elected Councillor; Respect impartiality and integrity of Officers and do not compromise it Respect Officers' free (i.e. non-Council) time.	Ask Council Officers to improperly spend Council time or resources for political purposes. Insist an Officer changes his/her professional advice
Provide political leadership and direction, making timely decisions	Get involved in day to day management Ask Officers to breach Council procedures or policy when acting on behalf of constituents Put pressure on an Officer on matters which have been delegated for Officer decision. A Member who behaves in this way may lead Officers to make decisions that are not objective and that cannot be accounted for
	Not to seek special or adverse treatment for themselves or any individual by use his/her position as a Member nor improperly to gain an advantage or disadvantage for his/herself or any other person when dealing with Council Officers

Apply appropriate confidentiality to information	
Report the least suspicion of fraud, corruption or impropriety	Instruct Officers to take actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code Of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
Where relevant to casework or a decision, declare any special relationships/personal interests with constituents to relevant Officers and/or constituents. Where the relationship causes a conflict of interests, Members will ask another Ward Member to assist.	

When acting in their role as employer as part of the Council, Members:

Do	Don't
Observe the law, standing orders, policies and procedures in relation to all appointments, discipline and Dismissal of Officers.	
Declare any interest they have and ensure that they act to protect the public interest	Take part in any process where friends, relatives or Members of their household are somehow involved
Maintain appropriate confidentiality	
Attend relevant learning and development	
Make decisions based on merit and with access to all the facts	Seek improperly to influence decisions
Promote equality	Canvass support for any candidate for a job
Take continuing responsibility for their appointment decisions once the post holder is in place.	

Protocol on gifts and hospitality

This protocol has been adopted by the Council to give guidance to *Councillors* and officers about registering gifts and hospitality.

- 1 This Protocol relates to offers of gifts, favours or hospitality worth £25 or more that are made, given, or afforded to you in your capacity as a Member/officer whether you accept it or not. It is not intended to cover the ordinary social relationships which people enjoy with friends, provided that the friend is not applying to the Council for anything, seeking to do business with the Council, or involved in an ongoing business relationship with the Council.
- 2 Depending on the nature and value of the gift, favour or hospitality, it may be advisable for officers to consult their line manager and/or the *Monitoring Officer* for advice, in accordance with the officer code of conduct.
- 3 You must declare either in writing or electronically to the *Monitoring Officer* within 28 days of being offered or receiving it any gift or hospitality worth £25 or more. Such a declaration will be recorded in a register which will set out the date of declaration, the date on which the Member/officer received the hospitality, the name of the Member/officer, the nature of the gift or hospitality and, if a gift, what was done with it. The register will be signed or authorised electronically by the *Monitoring Officer*.

Protocol on planning

1 Introduction

- 1.1 Town and Country Planning relies on informed judgement within a firm policy context. It can be highly contentious because decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. The key purposes of the planning system are to steer and control development in the public interest. It necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their setting. It is important therefore that the Authority should make decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.
- 1.2 Members and officers are both involved in operating the planning system. They have different, but complementary, roles. Both serve the public, but Members are responsible to the electorate, while officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members, and it follows that instructions may only be given to officers through a Council or Committee decision. They must always act impartially. The successful operation of the planning process relies on mutual trust and understanding of each other's role. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so. Decision making needs to be open and transparent.
- 1.3 The Authority endorses the Royal Town Planning Institute (RTPI) Code of Conduct (**Appendix A**), and in particular that RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions. All officers advising on planning matters are expected to act in accordance with the RTPI 'Code of Conduct' whether or not they are RTPI members. Members should respect these professional responsibilities at all times.

2 Role of Members

- 2.1 Members set the Authority's planning policy and determine planning applications and enforcement issues within the context of that policy. It is a requirement of the Members' Code of Conduct that Members must not in their official capacity, or in any other circumstances, use their position improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
- 2.2 In carrying out their representational role Members will be approached by applicants and objectors. In responding to these approaches Members may give a view but should ensure that they retain an open mind in advance of consideration of the application by Planning Committee. Where Members express an opinion they should make it clear that they will only be able to decide whether to support or oppose an application after having heard all the relevant evidence and arguments at Committee.
- 2.3 While Members representational role primarily relates to their electoral area, as members of the Planning Committee they assume wider responsibilities for the whole of the District. It is important in pursuit of consistency and certainty of decision making

that planning policies are equitably and evenly applied. Planning Committee members should ensure that their individual electoral duties are subsumed within these wider considerations.

2.4 When Members come to make a decision on a planning matter, they must:-

- act fairly and openly;
- approach each case with an open mind;
- use adopted policies and guidance as starting and reference points for decision making;
- carefully weigh up all relevant issues before reaching a view on a particular case;
- determine each case on its own merits;
- ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

2.1 When an application is put before the Committee where the site is situated in a Planning Committee (or Substitute) Member's ward, that Member should withdraw from Committee benches. This will allow them to speak on behalf of the residents they represent if required. Planning Committee members should not vote on applications within their electoral ward.

3 Role of Officers

3.1 The function of officers is to advise and assist Members in matters of planning policy and in their determination of planning applications and enforcement issues by:-

- providing impartial and professional advice;
- making sure that all the available information necessary for the decision to be made, including details of representations, is given;
- providing clear and accurate analysis of the issues;
- using adopted policies and guidance as starting and reference points for decision making;
- taking into account material considerations;
- giving a clear recommendation;
- carrying out the decisions of the Authority

3.2 Where Council have delegated certain planning decisions to officers, officers will be bound to act in accordance with the principles for Members set out above in this Code of Practice.

4 Discussions with Applicants

Officers

- 4.1 Pre-application meetings or other meetings with applicants are encouraged to ensure beneficial development, to resolve matters which might otherwise lead to the refusal of planning permission, or to advise that permission is unlikely to be granted. These meetings are normally held by officers and to avoid such meetings being misunderstood:
- potentially contentious meetings will, where possible, be attended by at least two officers, including a principal officer;
 - it will be made clear at the outset that the discussion will not bind the Authority to making a particular decision and that any views expressed are personal and/or provisional. If necessary officers will refrain from expressing a view until they have considered the matter further or consulted colleagues;
 - the advice will be consistent and based upon the Development Plan and material considerations. There should be no significant difference in the interpretation of planning policies among planning officers. Officers must seek advice when necessary from Senior Officers to ensure that their assessment of a case is sound;
 - where possible, a note of the discussion will be taken and placed on file and made available for public inspection at the appropriate time;
 - for major or contentious applications, where possible, a follow-up letter will be sent by officers re-emphasising the non-binding nature of discussions.

Members

- 4.2 Applicants may from time to time seek to meet Members. If attending such meetings Members will need to ensure that they make clear that any opinions they express are only provisional and it will not be until all relevant evidence and arguments have been heard by them at the Planning Committee that they will be able to reach a firm conclusion. Formal pre-arranged meetings with Members should also be attended by an officer with an invitation extended to the Chairman of the Planning Committee or his/her nominee.

5 Lobbying

- 5.1 Lobbying is a normal and perfectly proper part of the political process and it is quite common for applicants or other interested parties to want to discuss a proposed development with Members, or distribute written material to Members before a planning application is determined. This can help Members' understanding of the issues and concerns associated with an application.
- 5.2 However, such lobbying can lead, unless care and common sense is exercised by all the parties involved, to the impartiality of a Member being called into question. Members are under an obligation to determine matters on their planning merits. That means that they must not make up their minds before receiving and reading the

officer reports or before hearing all proper debate on the matter out of which new information may arise.

- 5.3 Members must act in the public interest and not at the behest of any individual or interest. If the Member feels that he/she no longer retains an open mind on the matter, but that his/her impartiality has been compromised, he/she will need to decide whether to withdraw from the decision making process.

6 The Party or Other Whip

- 6.1 Members cannot accept an instruction from anyone to determine an application in a particular way, as they must determine the issue on its merits. Whilst they may give appropriate weight to the views of other Members whether expressed in the Committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor which they are not prepared to state in open Committee. As a result it is not appropriate for any Party or other group of Members to instruct Members to vote in a particular manner on any application or to apply or threaten to apply any sanction to any Member who voted contrary to the group's collective view. Where such a whip has been applied, Members should declare it in exactly the same manner as they would declare any other attempt at lobbying.

7 Membership of another Local Authority

- 7.1 A member of a parish or other council can discuss a planning matter at that level and then also participate at the Authority's Planning Committee. However, if at the other council's meeting, or indeed elsewhere, the Member had given the impression that they had made their mind up on the application before hearing all the arguments (particularly those presented later at the Planning Committee) then they could be considered to have predetermined the matter.

8 Applications affecting a Member's Interests

- 8.1 Members must consider each particular situation on its merits as the need to declare an interest will depend upon the nature, scale and impact of a particular application.

9 Officers' Reports to Committee

- 9.1 Decisions on planning applications have to be taken in accordance with the provisions of the development plan and the Authority's statutory duty under Section 54A of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.

Officers' report to the Planning Committee will refer to:-

- the history of the site;
- the proposal;
- the substance of any written representations received including consultees;
- the relevant policies applicable to the application;
- any other material considerations;

- a professional appraisal of the application which clearly justifies the recommendation;
- any material considerations that justify a departure from the development plan;
- a clear recommendation;

9.2 Where a Member receives relevant information in respect of an application which is not contained in the Committee report on the application, the Member should advise officers as soon as possible so that the information can be tested. If new information is introduced into the debate at the Committee the opportunity should be provided for comments or a response to be made as otherwise it might lead to the Committee taking a decision on the basis of information which subsequently proves to be incorrect.

10 Decisions Contrary to Officer Recommendations

10.1 From time to time, Members of the Planning Committee will disagree with the professional advice given by or on behalf of the Planning Manager – Development Management. Development Management is not an absolute science and there can be genuine disagreement about the implications of a particular proposal, and about the weight to be attached to relevant issues. Officers will be present at the Committee making the decision and will be able to advise if the Committee is in danger of acting unreasonably either because matters under consideration are not relevant planning issues or because the facts simply cannot support the conclusion which the Members have drawn and the Committee is in danger of acting unreasonably. Members may also consult officers prior to the Committee meeting to assist in formulating their views.

10.2 In cases where the Planning Committee decides for good and valid reasons to depart from the officer's recommendation, the Committee must define the reasons for rejecting the officer's recommendation including the reasons for imposing certain conditions prior to the vote being taken and those reasons must be recorded in the minutes of the meeting.

10.3 Where an appeal arises against a decision to refuse an application contrary to officers recommendation, officers will give support to the Committee in preparing evidence for the appeal, but it may be necessary in support of the Council's position for Members of the Planning Committee making the decision to appear at any appeal hearing and give evidence of the reasons for the Committee's decision. Officers should not compromise their professional judgement during this process and should make it clear when they are advising on views that are not their own. In such circumstances the Council may consider the appointment of Consultants where technical or professional evidence is required to assist their position at a hearing or inquiry.

11 Site Visits

11.1 Site visits by Committee Members can be useful to identify features of a proposal which may be difficult to convey in a written report, but site visits can delay the decision on an application and should be requested as early as possible. The possible reasons for site visits are set out in 12.2, 12.4 and 12.6.

- 11.2 Cases may be referred to a site visit by Members or by officers who may judge that a Member site visit is the most appropriate means of ensuring Members get a clear understanding of the proposal and the issues raised.
- 11.3 The reasons for a decision to carry out a site visit will be set out in the report presented to Committee.
- 11.4 Site visits are:-
- fact finding exercises;
 - to enable officers to point out relevant features;
 - to enable questions of fact by Members or Parish Council representatives to be asked on site for clarification;
 - not part of the formal consideration of the application and therefore public rights of attendance do not apply.
- 11.5 The Planning Committee undertake the site visit as a formal group and will enter and leave the site as such. Members should not enter into discussions with applicants, agents or third parties whilst on the site visit. Debate on the application other than for clarification of matters of fact by the Site Inspection Group will only take place at the subsequent Committee meeting as all relevant parties may not be in attendance at the site.
- 11.6 In addition to those planned site visits notified to all Members of the Committee, wherever possible and deemed necessary the Planning Committee will visit without prior notification the sites of applications where public speakers have notified an intention to address the Committee. The purpose of these visits will be to familiarise themselves with the setting and context of the site and to gain a clearer understanding of the issues likely to be raised during consideration of the application by the Committee.
- 12 Planning Applications by Members or Officers
- 12.1 The impartiality of the planning process requires particular care when dealing with an application by anyone who might ordinarily be involved in that process. Whenever any Member, Planning Officer, Senior Officer or Senior Manager of the Council submits an application to the Authority for himself/herself or on behalf of any other person, they will inform both the Planning Manager and the Authority's *Monitoring Officer* and not take part in processing or determining the application.
- 12.2 Any applications submitted by a Member or any officer of the authority, whether for himself/herself or on behalf of any other person, will be determined by Planning Committee and not under any delegated powers. The consideration of such a proposal from a Member would be considered as a disclosable pecuniary interest and the Member will be required to withdraw from any meeting where the proposal is being considered.
- 12.3 A Member or officer shall not have any different rights than a member of the public in discussing their proposal with a planning officer in advance of consideration by a Committee and making written representations.

13 Planning Applications by the Authority

- 13.1 The Authority itself requires planning permission to carry out or authorise development on land it owns. These applications will be treated in the same way as those from private applicants in accordance with the Town and Country Planning General Regulations.
- 13.2 Where an application relates to a project or land for which an officer of the Development Directorate has responsibility, that officer will play no part in the assessment of the application or the decision. The officer will withdraw from the Planning Committee when the application is being considered.

14 Monitoring of the Decisions Taken

- 14.1 On a regular basis the decisions taken by the Planning Committee will be reviewed by the Planning Manager in consultation with the Chairman and Vice Chairman of the Planning Committee. This review will include examples of cases on planning and listed building applications; permitted departures from the Development Plan; planning appeals; and enforcement cases. Any need to reconsider any policies or practices will be reported to the appropriate Committee.

15 Planning Policy

- 15.1 Many of the aspects of this Code of Practice that are relevant to planning applications, in particular declarations of interest, meetings with interested parties and lobbying, are equally relevant to the formulation of planning policy through the development plan process and any other supplementary policy guidance.
- 15.2 At all stages in the preparation of policies for the development plan or any other planning guidance:-
- officers will consider Government policy guidance and other legal requirements as the basis for policies;
 - more than one officer will be involved in the development of any one area of policy;
 - where possible more than one Member will be involved at formal consultation events;
 - Members of *Cabinet* and the Planning Committee will be consulted at appropriate stages on the Authority's statutory plans and some consultation papers on planning and other relevant land use policies. Delegated Authority responses will be subject to consultation with the Portfolio Member with responsibility for Planning;
 - all representations on draft policies will be recorded and analysed. The records of these together with the Authority's response will be placed on public deposit at key stages in plan production;
 - the Local Plan will be formally approved and adopted by a meeting of the Council following a recommendation from *Cabinet*;

- advice given to Members of the Authority on the interpretation of policies will be copied to the Chairman of Planning Committee.

16 Public Participation at Committee Meetings

- 16.1 The Authority has procedures that ensure that where they receive representations from or on behalf of the applicant or from members of the public on a particular application, there is an opportunity for advocates both for and against the proposal to be heard in a balanced manner.
- 16.2 Members should exercise their opportunity to question each speaker with discretion by restricting their enquiries solely to planning matters and not personal or civil matters that form no part of planning consideration and by challenging any unsubstantiated or uncorroborated statements. Officers should be provided with the opportunity to respond to and comment on all new issues raised during public speaking. This will ensure that decisions reached by the Committee are on the basis of full and fair consideration of all material matters, and disregarding any irrelevant considerations.

17 Training

- 17.1 Members must exercise their representational role on behalf of their constituents. At the same time the planning process requires them to take decisions within a legal framework which is evolving continuously through legislation and case law.
- 17.2 Members will be required to receive training when first serving on the Planning Committee. Regular updates will be arranged to keep Members informed of important changes in legislation, procedure or practices.
- 17.3 A record will be kept by the Planning Manager/Senior Governance Officer of the training undertaken by each Member. The *Monitoring Officer* will be advised of any Member who fails to meet the training requirements determined by the Committee.

18 Records

- 18.1 Records on planning applications, enforcement and development plan matters should be complete and accurate. Every file shall contain an accurate account of events so that someone who has not been involved in the process can understand what the decision was and why and how it was reached. Where matters have been determined by officers under delegated powers, those decisions will be as well documented and recorded as those taken by Members in a Committee meeting.

19 Gifts and Hospitality

- 19.1 Gifts and hospitality give rise to particular problems in respect of the credibility of the planning process and acceptance of gifts or hospitality by Members or officers can be a very serious criminal offence. Both should have particular regard to the provisions of their respective codes of conduct and any guidance issued. In particular they must immediately report to the *Monitoring Officer* any offer of gifts or hospitality of the value of £25 or more whether accepted or not and those must be registered.

They should not behave in a way which might be taken as indicating that they are open to such offers.

20 Complaints

- 20.1 Any complaints arising out of the operation of this Protocol will be considered by the Authority's *Monitoring Officer* under the Authority's Complaints Procedure. Where necessary, a report will be considered by the Standards Committee which will keep under review the operation of this Protocol.
- 20.2 Complainants alleging a breach of the Members' Code of Conduct will be advised to direct their allegations to the Monitoring Officer.

21 Advice

- 21.1 The Authority's *Monitoring Officer* will give advice on the interpretation and operation of this Planning Protocol.

APPENDIX A

The Royal Town Planning Institute Code of Professional Conduct

The Chartered Object of the Royal Town Planning Institute is to advance the science and art of town planning for the benefit of the public. It is the purpose of this Code to ensure that in all their professional activities members of the Royal Town Planning Institute:

- (a) shall act with complete competence, honesty and integrity;
- (b) shall fearlessly and impartially exercise their independent professional judgement to the best of their skills and understanding;
- (c) shall discharge their duty to their employers, clients, colleagues and other with due care and diligence in accordance with the provisions of this Code;
- (d) shall not discriminate on the grounds of race, sex, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity;
- (e) shall not bring the profession or the Royal Town Planning Institute into disrepute.

To this end the Council has drawn up the under-mentioned numbered clauses which spell out in more detail the requirements of this Code. These requirements shall apply notwithstanding any permission or agreement to the contrary by or with the client or body employing or consulting any member.

In this Code the word "member" means every corporate member, non-corporate member, honorary member and students of the Institute. Words purporting the singular number include the plural and vice versa.

- 1
 - (a) Members shall take all reasonable steps to maintain their professional competence throughout their working lives and shall comply with the Council's continuing professional development regulations as amended from time to time.
 - (b) Members who, as employers or managers, have responsibility for other members shall take all reasonable steps to encourage and support such other members in the maintenance of professional competence and in compliance with the Council's continuing professional development regulations.
- 2 In their professional activities members shall not discriminate on the grounds of race, sex, creed, religion, disability or age and shall seek to eliminate such discrimination by others and to promote equality of opportunity.
- 3 Members shall not make or subscribe to any statements reports which are contrary to their own bona fide professional opinions and shall not knowingly enter into any contract or agreement which requires them to do so.
- 4 Members shall take all reasonable precautions to ensure that no conflict of duty arises between the interests of one employer or client and another, or between the interest of any employer or client and the interests of themselves or their firms or business associates. Any such conflict shall be immediately reported and subsequently confirmed in writing to all parties concerned.

- 5 Members shall not disclose or use to the advantage of themselves, their clients information acquired in confidence in the course of their work.
- 6 Members shall disclose to their employers or clients any discounts, gifts or commissions received from any third parties in connection with their work as professional planners.
- 7
 - (a) Before commencing work on any commission members shall ensure that their terms of engagement have been given and confirmed in writing to their clients and shall satisfy themselves that these terms have been accepted.
 - (b) Members shall notify their clients in writing before undertaking work or incurring fees or expenses additional to those previously agreed and shall satisfy themselves that the necessary instructions have been received.
- 8 When accepting instructions from private individuals members shall ensure that the services offered are appropriate to the individual's requirements.
- 9 The Council may from time to time publish supplementary regulations relating to such matters as continuing professional development, planning aid, professional indemnity insurance, professional designations or direct professional access to the Bar, and members shall comply with any such regulations.
- 10 Members with responsibility for the work of a company or of a practice or partnership or of a local planning authority or of any central government department or agency or of any other organisation or body any of which is engaged in town planning work, or for the work of any department, section or team within any such organisation or body, shall take all reasonable steps to ensure that all town planning matters in the organisation or body, or within that part of the organisation or body for which they have responsibility, are conducted in accordance with this Code, whoever undertakes such work.
- 11 Members practising outside the United Kingdom and Ireland shall order their professional conduct in such a way as to uphold the status and integrity of the Royal Town Planning Institute and the profession of town planning.
- 12
 - (a) It is the duty of every member, subject to any restrictions imposed by law or the courts, to report to the Institute any alleged breach of this Code of which he or she becomes aware and to assist the Institute in its investigations.
 - (b) It is the duty of every member who is the subject of investigation by the Institute to assist the Institute in its investigations.
- 13 The Council has the power to discipline any member who :
 - (a) in the opinion of the Council contravenes any of the provisions of the Code of Professional Conduct, including the supplementary regulations referred to in Annex A to the Code, or of the Royal Charter and Byelaws; or who
 - (b) is convinced by a court of a criminal offence which in the opinion of the Council results in a breach of Byelaw 7(2); or who

- (c) in the opinion of the Council is guilty of gross professional misconduct or incompetence or of such conduct as to render him or her unfit to be a member of the Institute.

- 14 Disciplinary action will be taken only when the Council believes that the member is personally responsible for the conduct or action in question.

Social Media Guidance for Councillors

1. Introduction

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

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

For the purposes of this guidance, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, MySpace, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this guidance where North East Derbyshire District Council could be represented via online participation.

North East Derbyshire District Council acknowledges social media as a useful tool however, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the Council to security risks, reputational damage or breach the Data Protection Act.

2. Policy Statement

This guidance provides a structured approach to using social media and will ensure that it is effective, lawful and does not compromise Council information or computer systems/networks.

Users must ensure that they use social media sensibly and responsibly, in line with corporate policy. They must ensure that their use will not adversely affect the Council or its business, nor be damaging to the Council's reputation and credibility or otherwise violate any Council policies.

3. Purpose

This guidance applies to councillors and co-opted members. It gives guidelines on how to use social media, sets out how we can effectively manage social media usage and indicates how any risks or pitfalls can be minimised or mitigated. The following risks have been identified with social media use (this is not an exhaustive list):

- Virus or other malware (malicious software) infection from infected sites.
- Disclosure of confidential information.
- Damage to the Council's reputation.
- Social engineering attacks (also known as 'phishing').
- Bullying or "trolling". An internet "troll" is a person who starts arguments or upsets people, by posting inflammatory or off-topic messages online with the

deliberate intent of provoking readers into an emotional response or of otherwise disrupting normal discussion, often for their own amusement.

- Civil or criminal action relating to breaches of legislation.
- Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.
- Breach of the code of conduct for members through inappropriate use.

In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the Council, its employees, councillors, partners and the people it serves. As such this guidance aims to ensure:

- A consistent and corporate approach is adopted and maintained in the use of social media.
- Council information remains secure and is not compromised through the use of social media.
- Users operate within existing policies, guidelines and relevant legislation.
- The Council's reputation is not damaged or adversely affected.

4. Responsibilities of Councillors

1. You are personally responsible for the content you publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action for which you will be personally liable.
2. Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.
3. Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.
4. Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the Council's Data Protection Policy.
5. Safeguarding issues are paramount because social media sites are often misused by offenders. Safeguarding is everyone's business – if you have any concerns about other site users, you have a responsibility to report these.
6. Do not publish or report on meetings which are private or internal (where no members of the public are present or it is of a confidential nature) or exempt reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985). Use of social media in meetings must comply with the protocol for the use of recording devices during any meeting held under the auspices of North East Derbyshire District Council.

7. Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.
8. Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.
9. In any biography, the account should state the views are those of the councillor in question and may not represent the views of the Council.
10. Do not use the Council's logo, or any other Council related material on a personal account or website.
11. Social media must not be used for actions that would put councillors in breach of the Council's Code of conduct for members. For example, don't publish on social media something you wouldn't say face to face, or at a public meeting.
12. Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.
13. Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, the Monitoring Officer and/or the police.
14. It is recommended that you have separate social media profiles for your role as a Councillor or Co-opted Member and your private life.

5. Conduct

Councillors are reminded that in respect of social media, they are governed by the Code of conduct for members and relevant law. You are acting in your "official capacity" and any conduct may fall within the Code whenever you:

- Conduct the business of the Authority; or
- Act, claim to act or give the impression you are acting as a representative of the Authority; or
- Act as a representative of the Authority.

Breaches of this guidance may amount to a breach of the Council's code of conduct for members.

Other violations of this guidance such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the Council or the individual(s) involved.

The Council reserves the right to request the removal of any content that is deemed to be in breach of the code of conduct for members.

6. Principles for Using Social Media

You should follow these five guiding principles for any social media activities:

1. **Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.
2. **Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
3. **Be honest about who you are** – it's important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.
4. **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can't. Respond to questions and comments in a timely manner.
5. **Be confident** – don't be scared of participating. Follow these rules and seek further guidance if you need it. If you're about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

7. Guidance on Capturing Social Media Posts

Posts made using third party sites such as Facebook or Twitter are not held or within the control of the Council - posts can be deleted by site administrators without knowledge or consent of the Council. In exceptional circumstances, copies of posts may be made and retained by the Council, in line with relevant Council procedures. These copies will be held for a period dependent on the type of investigation they are subject to.

Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts before they might be deleted. Copies should be made and reported to the Monitoring Officer within the Council, as well as following the social media sites own reporting procedures where appropriate.

8. Relationship to the Member Code of Conduct

This guidance should be read in conjunction with the Member Code of Conduct which regulates the standards of conduct of elected members of North East Derbyshire District Council, as well as the Councillor Complaints Procedure which outlines the arrangements for investigating and deciding upon complaints against members.

9. Examples of the Use of Social Media

- ❖ **Can I comment/respond to questions posted on my social media page regarding general local issues?**

Yes. The Social Media guidance is not intended to restrict the use of social media, it is a guidance tool to make Councillors aware of the risks and pitfalls. Social media is an excellent method for Councillors to interact with members of the public and should be encouraged.

- ❖ **Can I comment/respond to questions posted on my social media page regarding upcoming Council matters such as licensing or planning applications?**

Councillors can take a view and express opinions or concerns, however, they must not show bias or pre-determination. Councillors are reminded to remain impartial and open minded and listen to all the facts before coming to a decision. Evidence of any kind of bias or pre-determination could leave the decision open to challenge.

- ❖ **I find comments on my social media page posted by a third party insulting and/or confrontational. How should I respond?**

If at all possible, don't respond at all. Internet "trolls" are people who often try to "wind-up" public figures on purpose to get a reaction. It is best to not "feed the trolls" by ignoring the post.

If it is clear that the person is a serious, concerned member of the public then a suitably non-confrontational reply may be appropriate. Remember that you remain a representative of the Council online and should not do or say anything that you wouldn't do face-to-face or in a letter.

If the post is potentially defamatory or illegal then it should be reported to the site administrators and/or the police.

- ❖ **I discover information that is incidental to my role as a Councillor (for example, information relating to a planning application). Can I disclose this information via social media?**

Yes, however, you should take great care in doing so. Posting information obtained as Councillor will be seen as you acting in your official capacity of a Councillor even if this is on your personal account. You should also remember that publishing anything regarding forthcoming or on-going decisions could be seen as pre-determination or bias. If the information is confidential then releasing the information may be a breach of the Code of Conduct.

- ❖ **Someone has posted a racially aggravated comment on my personal blog, what can I do? Can I be held liable?**

As soon as you become aware of the comment you should inform the site administrator. If you are exclusively in charge of the site you should consider reporting the comment to the Police. You should keep evidence of the post and then ensure it is taken down. Providing a Councillor takes reasonable care and reports the potential offence quickly they are unlikely to be held liable for someone else's breaches.

- ❖ **I publish a post on my personal page regarding a matter that I will be making a decision on (such as a planning or licensing application). As this is my personal blog do the rules for pre-determination and bias still apply?**

Yes, they do. The Social Media guidance also extends to personal blog where the content/comment relates to Council matters. Councillors should take care when publishing information regarding a Council matter as this may leave the decision open to challenge.

- ❖ **Do any special rules apply to social media posts and blogs during a local election period?**

During an election period Councillors should take particular care as legislation relating to electoral matters will apply to the online publication of electoral material or statements relating to the election. For example, if you publish a statement on your personal blog regarding another candidate the Representation of the People Act 1983 may apply. Under this legislation it is a criminal offence to make or publish a false statement of fact about the personal character or conduct of an election candidate.

- ❖ **What happens if I breach the Social Media Guidance?**

It depends upon the nature of the breach. However, punishment for a serious breach of the guidance may lead to a code of conduct complaint or even personal liability or criminal charges.

A – Z of the Constitution

In the Constitution the words and phrases in the left hand column have the meaning given in the right hand column:-

Background Paper	<p>Documents relating to the subject matter of a report which in the opinion of the Proper Officer:</p> <ul style="list-style-type: none"> (a) disclose any facts or matters on which the report or any important part of the report is based; and (b) which have been relied on to a material extent in preparing the report <p>but does not include published works or those which disclose <i>Exempt</i> or <i>Confidential Information</i> and in respect of <i>Cabinet</i> reports, the advice of a political advisor.</p>
Budget	<p>This includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits</p>
Cabinet	<p>The Cabinet and its Members (previously referred to collectively as the Executive), operate within the policy framework and budgets set by the Council and this constitution, and are responsible for taking most of the day-to day decisions made by North East Derbyshire District Council.</p> <p>The Cabinet is made up of eight members and is chaired by the Leader of the Council. It usually meets every four weeks.</p>
Chief Finance Officer	<p>Otherwise known as the Section 151 Officer and is a statutory appointment within the Council</p>

Chairman of the Council	<p>The Chairman of the Council is the civic and ceremonial head of the District.</p> <p>The Chairman is elected annually to:</p> <ul style="list-style-type: none"> - to promote the Council's Constitution and ensure that it is followed during Council Meetings. - to chair or manage our Council Meetings so that it can carry out the business of the day in the interest of the community. - to make sure that the Council Meeting is a forum for debate - to make sure that the Council Meeting is a place at which councillors who are not members of the Cabinet, can hold the members of the Cabinet to account for their decision-making.
Confidential Information	Information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.
Contracts Rules	Provide a corporate framework for the procurement of all goods, services and works for the Council
Council Functions	The local authority functions which by law cannot be carried out by the Cabinet
Council Meeting	When all Councillors attend a formal meeting held in the Council Chamber and chaired by the Chairman of the Council
Council Rules	Set out how meetings of the Council and most Committees will be conducted

Councillor	<p>Sometimes known as a 'Member' a councillor represents his or her ward on the council and acts as an advocate and decision-maker for local issues.</p> <p>To find out who your councillor is and to see a map of the wards please go to our Councillor Webpages.</p>
Designated Office	The office designated for the posting and inspection of notices of meetings in the Access to Information Rules – the District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield
Standards Committee	A Committee of Councillors which helps Councillors achieve high standards of ethical behaviour
Executive Functions	Can only carried out by the Cabinet, a committee of the Cabinet, an officer, another authority, or by joint arrangements
Exempt Information	Information falling within any of the 7 categories defined in Schedule 12A of the Local Government Act 1972 as amended and set out in a table following this A – Z of the Constitution.
Five Clear Days	A period of five days, excluding the day of the meeting, the day on which the meeting is called, weekends and bank holidays during which copies of the agenda and reports of a meeting must normally be available for inspection under the Access to Information Rules

Head of Paid Service	Every council has to have a Head of Paid Service, who is ultimately responsible for the councils' delivery of good services and is responsible for reporting to the Council on how staff are organised and deployed.
Housing Land Transfer	The approval or adoption of applications (including in draft form) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985
Key Decision	<p>A decision taken by the <i>Cabinet</i>, a committee of the <i>Cabinet</i>, an area or joint committee in connection with the discharge of an <i>Executive Function</i> and which is likely:</p> <p>(a) to result in the Council spending or saving £100,000 or over in relation to revenue or £250,000 or more in relation to Capital; or</p> <p>(b) to be significant in terms of its effects on communities living or working in an area comprising two or more <i>Wards</i> in the District.</p> <p>For the purposes of (b) above and any issue which, in the opinion of the <i>Leader of the Council</i>, is likely to have an impact on people shall be regarded as significant in terms of impact on communities. In deciding whether an issue is significant the <i>Leader</i> shall have regard:</p> <ul style="list-style-type: none"> - to whether the decision may incur a significant social, economic or environmental risk - to the likely extent of the impact of the decision both within and outside the District - to whether the decision is likely to be a matter of political controversy - to the extent to which the decision is likely to result in substantial public interest

Leader of the Council	The Leader of the Council must lead the cabinet in their decision-making and at North East Derbyshire is elected by the Council. The Leader of the Council is the political Head of the Council and will appoint his/her Cabinet.
Meeting	A meeting of:- (a) the <i>Council Meeting</i> (b) the <i>Scrutiny Committees</i> (c) the <i>Standards Committee</i> (d) the <i>Planning Committee</i> (e) the <i>Licensing Committee</i> Or a public meeting of the <i>Cabinet</i> , called in accordance with the Access to Information Rules.
Monitoring Officer	A statutory officer responsible for maintaining an up to date version of the Constitution and for contributing to the promotion and maintenance of high standards of conduct by Members through support to the Standards Committee
Parish Member	A member of the Standards Committee who is also a member of a parish council wholly or mainly in the District.
Policy Framework	The following plans and strategies:- <ul style="list-style-type: none"> • Community Safety Partnership Plan • Corporate Plan ("Making a Difference") • Food Law Enforcement Plan • Governance Arrangements (changes to the Constitution, new executive arrangements and changes to the Petitions Scheme and local Code of Conduct) • Housing Revenue Account Business Plan • Licensing Policy Statement • Local Plan • Medium Term Financial Plan • Pay Policy Statement (Localism Act) • Sustainable Community Strategy • Treasury Management Strategy
Scrutiny Rules	Which set out how the Committees function including the structure of the Scrutiny process.

Senior Officers/Senior Managers	In this document Senior Officer and Senior Managers refer to the Directors and Heads of Service
Strategic Alliance	A partnership that the District Council has with Bolsover District Council whose aim is to make necessary efficiency savings and maintain quality of services to residents.
Ward	A geographical area of the District represented by one or more <i>Councillors</i>
Ward Scheme	A scheme by the Local Government Commission and approved by the Secretary of State setting out the <i>Wards</i> of the District and how many <i>Councillors</i> will represent each Ward

Exempt information

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
		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
1. Information relating to any individual		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
2. Information which is likely to reveal the identity of an individual		Exempt information if, and so long as, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the <u>financial</u> or <u>business affairs</u> of any particular person (including <u>the authority</u> holding that information)	<u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information 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

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
	<p>exempt or not falls to be determined</p> <p><u>Financial or business affairs</u> includes contemplated, as well as past or current activities</p> <p><u>Registered</u> in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of the Act)</p>	<p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be <u>registered</u> under -</p> <p>(a) the Companies Act 1985</p> <p>(b) the Friendly Societies Act 1974</p> <p>(c) the Friendly Society Act 1992</p> <p>(d) the Industrial and Provident Societies Act 1965 to 1978</p> <p>(e) the Building Societies Act 1986</p> <p>(f) the Charities Act 1993</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any <u>labour relations matter</u> arising between <u>the authority</u> or a Minister of the Crown and <u>employees</u> of, or <u>office holders</u> under, the authority</p>	<p><u>The authority</u> is reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined</p> <p><u>Employee</u> means a person employed under a contract of service</p> <p><u>Labour relations matter</u> means:</p> <p>(a) any of the matters specified in paragraphs</p>	<p>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</p>

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
	<p>(a) to (g) of Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of the Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>(applies to trade disputes relating to office holders as well as employees)</p> <p><u>Office holder</u> in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>		<p>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</p>

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
<p>6. Information which reveals that <u>the authority</u> proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p><u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p>	<p>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</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>		<p>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</p>

Schedule of Updates

Section	Last updated
1. Introduction	December 2022
2. Articles	December 2022
3. Functions Scheme	December 2022
4. Rules of Procedure	December 2022
5. Codes and Protocols	December 2022
6. A-Z of the Constitution	December 2022

North East Derbyshire District Council

Standards Committee

6 December 2022

REVIEW OF RIPA POLICY

Report of the Monitoring Officer

Classification: This report is public

Report By: Assistant Director of Governance and Monitoring Officer, Sarah Sternberg

Contact Officer: Lisa Ingram, Legal Team Manager
Lisa.ingram@bolsover.gov.uk / 01246 24217152

PURPOSE / SUMMARY

- To update the Committee on the use of RIPA powers in the last year.
-

RECOMMENDATIONS

That Standards Committee:

- (1) note the update provided on the use of the policy;

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐
Details:

Failure of the Council to adhere to the legal requirements of RIPA could lead to unlawful investigatory activity being undertaken, making the Council vulnerable to complaints, legal challenge and reputational damage and costs. It is important therefore that the policy is regularly reviewed and that officers receive sufficient training which will mitigate the likelihood of this risk occurring.

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details:

The legal implications are addressed within the policy.

On Behalf of the Solicitor to the Council

Staffing: **Yes** ☐

No ☒

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	No Details:

Links to Council Plan priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

Good Governance

REPORT DETAILS

1 Background

- 1.1 The Regulation of Investigatory Powers Act (RIPA) enables the Council to use covert surveillance; covert human intelligence sources (CHIS); and the acquisition of service use or subscriber information in relation to communications data in a manner that is compatible with Article 8 of the European Convention on Human Rights governing an individual's right to respect for their private and family life, home and correspondence. There are various criteria which must be met, including a 'seriousness threshold' for the use of directed surveillance, and any requests by the Council to use the RIPA powers must be approved by a Magistrate, under the current legislation.
- 1.2 Local authorities are sparing users of RIPA legislation and North East Derbyshire District Council has not used them since the last update to Committee in March 2019. The last time RIPA powers were utilised was in 2012.

2. Details of Proposal or Information

Inspection

- 2.1 The Council has been periodically inspected by the Office of Surveillance Commissioners. The last inspection was this year. The Office of Surveillance Commissioners has been superseded by the Investigatory Powers Commissioner's Office (IPCO). Inspections of local authorities are scheduled for every three years, and the Council's took place earlier this year. The outcome of the Inspection was overall very positive.
- 2.2 The Council's next inspection will not be due for another 2 years.

Non-RIPA Authorisations and Use of Social Media

- 2.3 At the previous Standards committee, it was resolved that the Council's Social Media Policy should be adopted and the Corporate Facebook account be used for investigations. The Corporate Facebook account for the purpose of investigations, has been created and is being trialled by Thomas Rush - Team Manager Environmental Enforcement and Julian Hawley - Principal Planning Enforcement Officer. A further report will be presented in the New Year as to its use and effectiveness.

Training

- 2.4 It is imperative that regular training is undertaken as well as refresher sessions for officers involved in investigations as well as senior officers appointed as authorising officers and designated persons.
- 2.5 Training was carried out by an external provider to authorising and applicant officers. A copy of the slides can be found in appendix ##.
- 2.6 It is proposed that refresher training will be carried out by June 2023.

3 Reasons for Recommendation

- 3.1 The RIPA policy has been reviewed to ensure it remains fit for purpose and it is concluded that the existing version is satisfactory and up to date with current legislation and best practise.
- 3.2 There have been no uses of the RIPA authorisation process to report to Members.

4 Alternative Options and Reasons for Rejection

- 4.1 There are no alternatives to be considered.

DOCUMENT INFORMATION

Appendix No	Title
1	RIPA Policy
2	Training slides
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet you must provide copies of the background papers)	
None	



**North East
Derbyshire**
District Council

REGULATION OF INVESTIGATORY POWERS ACT 2000 (“RIPA”)

CORPORATE POLICY AND PROCEDURES

Section: Introduction

CONTROL SHEET FOR REGULATION OF INVESTIGATORY POWERS ACT 2000 (“RIPA”) – CORPORATE POLICY AND PROCEDURES

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	RIPA Corporate Policy and Procedures
Current status – i.e. first draft, version 2 or final version	Final (2022 Review)
Policy author	Governance Manager
Location of policy – i.e. L-drive, shared drive	S Drive
Member route for approval	Standards Committee
Cabinet Member (if applicable)	Cllr M Foster
Equality Impact Assessment approval date	July 2017
Partnership involvement (if applicable)	N/A
Final policy approval route i.e. Executive/ Council /Planning Committee	Standards Committee
Date policy approved	January 2022
Date policy due for review (maximum three years)	January 2023
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	

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Abbreviations

CCTV	Closed Circuit Television
CSP	Communications service provider
Council	Bolsover/North East Derbyshire District Council
CHIS	Covert Human Intelligence Sources
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms agreed on 2 November 1950
HRA	Human Rights Act 1998
ICCO	The Interception of Communications Commissioner's Office
NAFN	The National Anti Fraud Network
OSC	Office of Surveillance Commissioners
PFA	Protection of Freedoms Act 2012
RIPA	Regulation of Investigatory Powers Act 2000
SPoC's	Single Points of Contact for Acquisition and Disclosure of Communications Data

1.1 Introduction

- 1.1.1 This Corporate Policy and Procedures document is based upon the requirements of the Regulation of Investigatory Powers Act 2000 and the Home Office's Codes of Practice on Covert Surveillance and Property Interference, Covert Human Intelligence Sources and Acquisition and Disclosure of Communications Data.
- 1.1.2 The use of covert surveillance, covert human intelligence sources and the acquisition of service use or subscriber information in relation to communications data is sometimes necessary to ensure effective investigation and enforcement of the law. However, they should be used only rarely and in exceptional circumstances. RIPA requires that public authorities follow a clear authorisation process prior to using these powers. Authorisations granted under Part II of RIPA are subject to all the existing safeguards considered necessary by Parliament to ensure that investigatory powers are exercised compatibly with the ECHR.
- 1.1.3 **Any potential use of RIPA should be referred to the Monitoring Officer for preliminary advice at the earliest possible opportunity on 01246 242414. In the Monitoring Officer's absence, advice should be sought from the Governance Team on 01246 217753.**

Consequences of Failing to Comply with this Policy

- 1.1.4 Where there is interference with Article 8 of the ECHR, and where there is no other source of lawful authority for the interference, the consequences of not following the correct authorisation procedure set out under RIPA and this Policy may result in the Council's actions being deemed unlawful by the Courts under Section 6 of the HRA or by the Investigatory Powers Tribunal, opening up the Council to claims for compensation and loss of reputation. Additionally, any information obtained that could be of help in a prosecution may be inadmissible.

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1.2 Background

1.2.1 On 2 October 2000 the Human Rights Act 1998 (“HRA”) made it unlawful for a local authority to breach any article of the ECHR. An allegation that the Council or someone acting on behalf of the Council has infringed the ECHR is dealt with by the domestic courts rather than the European Court of Justice.

1.2.2 The ECHR states:-

- (a) individuals have the right to respect for their private and family life, home and correspondence (Article 8 ECHR); and
- (b) there shall be no interference by a public authority with the exercise of this right unless that interference is:-

- **in accordance with the law;**
- **necessary; and**
- **proportionate**

1.2.3 RIPA, which came into force on 25 September 2000, provides a lawful basis for three types of covert investigatory activity to be carried out by local authorities which might otherwise breach the ECHR. These activities are:-

- covert directed surveillance;
- covert human intelligence sources (“CHIS”); and
- acquisition and disclosure of communications data

1.2.4 RIPA sets out procedures that must be followed to ensure the investigatory activity is lawful. Where properly authorised under RIPA the activity will be a justifiable interference with an individual’s rights under the ECHR. If the interference is not properly authorised an action for breach of the HRA could be taken against the Council, a complaint of maladministration made to the Local Government Ombudsman or a complaint made to the Investigatory Powers Tribunal. In addition, if the procedures are not followed any evidence collected may be disallowed by the courts. RIPA seeks to balance the rights of individuals against the public interest in the Council being able to carry out its statutory duties.

1.2.5 A flow chart attached at Appendix A to this policy sets out the process for covert directed surveillance and cover human intelligence sources (CHIS) in pictorial form.

What RIPA Does and Does Not Do

1.2.6 RIPA does:-

- require prior authorisation of covert directed surveillance;
- prohibit the Council from carrying out intrusive surveillance;
- compel disclosure of communications data from telecom and postal service providers;
- permit the Council to obtain communications records from communications service providers;
- require authorisation of the conduct and use of CHIS;

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- require safeguards for the conduct of the use of a CHIS.

1.2.7 RIPA does not:-

- make unlawful conduct which is otherwise lawful;
- prejudice any existing power to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the Council's current powers to obtain information via the DVLA or to obtain information from the Land Registry as to the owner of a property;
- apply to activities outside the scope of Part II of RIPA. A public authority will only engage RIPA when in performance of its "core functions" – i.e. the functions specific to that authority as distinct from all public authorities.
- cover overt surveillance activity.

1.2.8 RIPA only applies to the Council's core functions – i.e. its statutory duties, and not staffing issues or contractual disputes.

1.2.9 Under no circumstances can local authorities be authorised to obtain communications traffic data under RIPA. Local authorities are not permitted to intercept the content of any person's communications and it is an offence to do so without lawful authority.

1.3 Policy Statement

1.3.1 The Council is determined to act responsibly and in accordance with the law. To ensure that the Council's RIPA activity is carried out lawfully and subject to the appropriate safeguards against abuse, a Corporate Policy and Procedures document has been drafted as detailed below.

1.3.2 All staff who are considering undertaking RIPA activity should be aware that where that activity may involve handling confidential information or the use of vulnerable or juvenile persons as sources of information, a higher level of authorisation is required. Please see paragraphs 2.7 (in respect of handling confidential information) and 2.9 (in respect of using information sources who are vulnerable or juvenile persons) below.

1.3.3 The following information and documents are available on the Council's Extranet:-

- Links to Home Office Statutory Codes of Practice online
- Links to Office of the Surveillance Commissioners' Guidance Procedures online
- Links to RIPA forms online for covert surveillance; CHIS and acquisition and disclosure of communications data;
- Surveillance camera training;
- Corporate RIPA Training.

1.3.4 The Monitoring Officer is the Council's Senior Responsible Officer (SRO) and is responsible for the following roles:-

- Appointing Authorising Officers (see 2.11);

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- Appointing Designated Persons (see 3.4);
- Maintaining a central record for all RIPA authorisations;
- Arranging training to individuals appointed as Authorising Officers and Designated Persons, and
- Carrying out an overall monitoring function as the SRO for the Council's use of RIPA powers.

1.3.5 Any officers who are unsure about any RIPA activity should contact the Monitoring Officer for advice and assistance.

1.3.6 Where surveillance activity is carried out in relation to crimes that do not meet the RIPA Thresholds as detailed within this policy, these must be logged within individual Council departments and submitted to the Monitoring Officer on a quarterly basis. Non-RIPA Authorisations will be considered by Members as part of their Annual Report.

1.4 Social Media

1.4.1 The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Although information that individuals make publically available on the internet would not normally be classed as 'private information', the Office of the Surveillance Commissioners' Annual Report 2016 states that repeated visits to individual sites may develop into surveillance activity which would require authorisation. By virtue of conducting research online, rather than using other more 'overt' methods, there may be a perception that the investigation is intended to be covert. Whenever a public authority intends to use the internet as part of an investigation, they must first consider whether the proposed activity is likely to interfere with a person's Article 8 rights. Particular consideration should be paid to the likelihood of collateral intrusion through obtaining private information about others who have not given their consent. Advice should be sought as early as possible.

1.4.2 Any activity likely to interfere with an individual's Article 8 rights should only be used when necessary and proportionate to meet the objectives of a specific case. Where it is considered that private information is likely to be obtained, an authorisation (combined or separate) must be sought as set out elsewhere in this code. Where an investigator may need to communicate covertly online, for example, contacting individuals using social media websites, a CHIS authorisation should be considered.

1.4.3 The Council maintains detailed and specific guidance for its officers' use of social media in investigations. This forms an annex to this policy and should be referred to in all circumstances where:

- open source research is gathered;
- open source information is publically available; and
- Information is stored for an investigation.

1.4.4 The Council does not ordinarily permit the use of false personas to obtain information. Any such need to do so requires the authorisations detailed in Section 2.

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1.5 Training & Advice and Departmental Policies, Procedures and Codes of Conduct

- 1.5.1 The Monitoring Officer will arrange regular training on RIPA. All authorising officers, designated persons and investigating officers should attend at least one session every two years and further sessions as and when required.
- 1.5.2 Training can be arranged on request and requests should be made to the Monitoring Officer. In particular training should be requested for new starters within the Council who may be involved in relevant activities.
- 1.5.3 If officers have any concerns, they should seek advice about RIPA from the Monitoring Officer.
- 1.5.4 Where in practice, departments have any policy, procedures or codes of practice in relation to RIPA that are different from or in addition to this Code, they must immediately seek advice from the Monitoring Officer.

1.6 Complaints

- 1.6.1 Any person who believes they have been adversely affected by surveillance activity or other investigatory activity covered by RIPA by or on behalf of the Council may complain to the authority.
- 1.6.2 They may also complain to the Investigatory Powers Tribunal at:-

Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

1.7 Monitoring of Authorisations

- 1.7.1 The Monitoring Officer is the senior responsible officer in relation to RIPA and is responsible for:-
 - The integrity of the process in place to authorise directed surveillance, the use of CHIS and the acquisition and disclosure of communications data;
 - Compliance with Part II of RIPA and this Policy;
 - Engagement with the Investigatory Powers Act Commissioner's Office when they conduct inspections; and
 - Where necessary, overseeing the implementation of any post-inspection plans recommended or approved by a Commissioner.
- 1.7.2 The Monitoring Officer is also required by law to ensure that the Council does not act unlawfully and will undertake audits of files to ensure that RIPA is being complied with and will provide feedback to the authorising officer/designated person where deficiencies in the RIPA process are noted.

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- 1.7.3 The Monitoring Officer will invite the Standards Committee to review the Council's RIPA Policy on an annual basis and to recommend any changes to the Council's Policy or Procedures and will also provide members with an annual update on use.

1.8 Error Reporting

- 1.8.1 The Council is required to report 'relevant errors' to the Investigatory Powers Commissioner, which includes circumstances where the requirements of the RIPA legislation or guidance have not been met. Examples include:

- Surveillance activity has taken place without lawful authorisation
- There has been a failure to adhere to the safeguards applicable to the use of a CHIS.

- 1.8.2 When any officer identifies that activity that should have been authorised under RIPA may have taken place, they must notify the Monitoring Officer immediately. The officer(s) involved in the investigation will be required to provide a report on all relevant circumstances including:

- Information on the cause of the potential error
- The amount of surveillance or property interference conducted
- Nature and amount of any material obtained or disclosed
- Details of any collateral intrusion (i.e. any third party information collected in addition to that of the subject of the investigation.)
- Whether any material has been retained or destroyed

- 1.8.3 The Monitoring Officer will determine whether a 'relevant error' has occurred. If required, the Monitoring Officer will also give advice on steps to be taken to avoid the error recurring.

- 1.8.4 If the Monitoring Officers establishes that a 'relevant error' has occurred, this must be reported to the Investigatory Powers Commissioner as soon as reasonably practicable and no later than 10 days after the error has been established. If additional time is required to ascertain the full facts of the error, an initial notification must be submitted with an estimated timetable of when the full report can be supplied.

- 1.8.5 The report to the Investigatory Powers Commission must contain the details set out at 1.8.2 as well as details of any steps taken to prevent recurrence of the error.

- 1.8.6 If an authorisation has been obtained on the basis of information provided by a third party that later turns out to be incorrect, but was relied upon in good faith, this error should also be notified to the Investigatory Powers Commissioner (although it does not constitute a 'relevant error' under the legislation).

- 1.8.7 The Home Office Guidance sets out what action Investigatory Powers Commissioner will take following notification of relevant errors, including determining whether it is a serious error and whether the person concerned should be notified.

- 1.8.8 The Council has a responsibility to report to the Inspector at the commencement of an inspection all activity which should have been authorised but was not. This is to confirm that any direction provided by the Commissioner has been followed.

RIPA PART 2

COVERT SURVEILLANCE AND THE USE OF COVERT HUMAN INTELLIGENCE SOURCES

2.1 Types of Surveillance

2.1.1 Surveillance can be overt or covert and includes:-

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
- Recording anything monitored, observed or listened to in the course of surveillance; and
- Surveillance by or with the assistance of a device.*

*More detailed guidance on the use of surveillance devices, such as cameras, microphones, vehicle tracking and drones can be found in the relevant Home Office Code of Practice.

2.1.2 Indicators of whether investigatory activity will amount to surveillance include the formality and duration of the activity and the nature of what is being observed.

2.2 Overt Surveillance

2.2.1 The majority of the Council's surveillance activity will be overt surveillance, i.e. will be carried out openly. For example (i) where the Council performs regulatory checks on licensees to ensure they are complying with the terms of any licence granted; and (ii) where the Council advises a tenant that their activities will be monitored as a result of neighbour nuisance allegations. This type of overt surveillance is normal Council business and is not regulated by RIPA.

2.3 Covert Surveillance

2.3.1 This is where surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware it is taking place. Covert surveillance can be intrusive or directed. **The Council is not permitted to carry out covert intrusive surveillance.** Para 2.4 below explains when covert surveillance is intrusive and therefore not permitted. The Council is permitted to carry out covert directed surveillance subject to strict compliance with RIPA. Paragraph 2.5 below explains when covert surveillance is directed.

2.4 Covert Intrusive Surveillance

2.4.1 Covert intrusive surveillance takes place when covert surveillance is carried out in relation to anything taking place on residential premises or in a private vehicle and which involves the presence of an individual or surveillance device on the premises or in the vehicle, or which uses a device placed outside the premises or vehicle which consistently provides information of the same quality and detail as expected of a device placed inside. Additionally, the Regulation of Investigatory Powers (Extension of Authorisations Provisions: Legal Consultations) Order 2010 states

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that covert surveillance carried out in relation to anything taking place in certain specified premises is intrusive when they are being used for legal consultation.

2.5 Covert Directed Surveillance

2.5.1 This is surveillance that is:-

- Covert;
- Not intrusive;
- For the purposes of a specific investigation or operation;
- Likely to obtain private information* about a person (whether or not that person was the target of the investigation or operation); and
- Not carried out as an immediate response to events or circumstances which could not have been foreseen prior to the surveillance taking place.

* Private information includes any information relating to a person's private and family life including professional and business relationships, home and correspondence (whether at home, in a public place or in the work place). Further information and examples of what is considered private information is contained at section 3 of the Home Office Code of Practice on Covert Surveillance and Property Interference.

2.6 Directed Surveillance Crime Threshold

2.6.1 Following the changes to RIPA introduced by the Protection of Freedoms Act 2012, a crime threshold applies to the authorisation of covert directed surveillance by local authorities. (*Article 7A of Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010*)

2.6.2 Local Authority Authorising Officers may not authorise covert directed surveillance unless it is for the purpose of preventing or detecting a criminal offence **and** meets the following test:-

- The criminal offence is punishable by a maximum term **of at least six months imprisonment**, or
- It would constitute an offence under Sections 146, 147A of the Licensing Act 2003 or Section 7 of the Children and Young Persons Act 1993 (**offences involving sale of tobacco and alcohol to underage children**) regardless of length of prison term.

2.6.3 Whether or not the crime threshold is met should be kept under review during the course of the investigation. If the relevant criminal offence is downgraded and the threshold is no longer met, the authorisation for surveillance should be cancelled.

2.6.4 The crime threshold **only** applies to covert directed surveillance, not to CHIS or Communications Data.

2.6.5 The Home Office Statutory Covert Surveillance and Property Interference Code of Practice can be found on the Home Office website and on the staff extranet.

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2.7 Confidential Information

2.7.1 A higher level of authorisation to apply to the Magistrates Court is required in relation to RIPA activity when the subject of the investigation might reasonably expect a high degree of privacy, or where “confidential information” might be obtained. For the purpose of RIPA this includes:-

- Communications subject to legal privilege (see below);
- Communications between a member of parliament and another person on constituency matters;
- Confidential personal information (see below); and
- Confidential journalistic material (see below).

2.7.2 The authorising officer and the person carrying out the surveillance must understand that such information is confidential and is subject to a stringent authorisation procedure. **Authorisation can only be granted by the Head of Paid Service.**

2.7.3 **Legal privilege** is defined in Section 98 of the Police Act 1997 as:-

- communications between a professional legal adviser and his client, or any person representing his client which are made in connection with the giving of legal advice to the client.
- communications between a professional legal adviser and his client or any person representing his client, or between a professional legal adviser or his client or any such representative and any other person which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- items enclosed with or referred to in communications of the kind mentioned above and made in connection with the giving of legal advice, or in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.

2.7.4 Communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

2.7.5 If advice is required on this point, officers should contact the Monitoring Officer.

2.7.6 **Confidential personal information** is described at paragraph 4.28 of the Home Office Covert Surveillance and Property Interference Code of Practice.

2.7.7 **Confidential journalistic material** is described at paragraph 3.40 of the Home Office Covert Surveillance and Property Interference Code of Practice.

2.7.8 **Any officer contemplating RIPA activity where the above circumstances may apply must seek advice from the Monitoring Officer prior to making any application.**

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2.8 Covert Human Intelligence Sources (“CHIS”)

2.8.1 The Council is permitted to use CHIS subject to strict compliance with RIPA.

A CHIS is a person who establishes or maintains a personal or other relationship with a person for the covert purposes of facilitating:-

- (a) covertly using the relationship to obtain information or provide access to information to another person, or
- (b) covertly disclosing information obtained by the use of the relationship or as a consequence of the existence of such a relationship.

2.8.2 A RIPA authorisation and order from a magistrate is required for the above activity and should be obtained whether the CHIS is a Council officer or another person who is asked to be a CHIS on the Council’s behalf. Authorisation for CHIS can only be granted if it is for the purposes of “preventing or detecting crime or of preventing disorder”.

2.8.3 Members of the public who volunteer information to the Council and those engaged by the Council to carry out test purchases in the ordinary course of business (i.e. they do not develop a relationship with the shop attendant and do not use covert recording devices) are not CHIS and do not require RIPA authorisation.

2.8.4 However, by virtue of Section 26(8) of RIPA, there may be instances where an individual, covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship. In such circumstances where a member of the public, though not asked to do so, gives information (or repeated information) about a suspect, then serious consideration should be given to designating the individual as a CHIS, particularly if the Council intends to act upon the information received. It is recommended that legal advice is sought in any such circumstances.

2.9 Safety and Welfare of CHIS

2.9.1 The safety and welfare of the CHIS is paramount. Risk assessments should be carried out to determine the risk of tasking a CHIS and the activities being undertaken by the particular person appointed. The risk assessments should be regularly reviewed during the course of the investigation.

2.9.2 A single point of contact should be appointed for the CHIS to communicate with, who will be responsible for carrying out the risk assessments and taking all possible steps to ensure their safety and welfare. A senior officer should also have oversight of the arrangements and be regularly updated by officer acting as the single point of contact. Regular face-to-face meetings should occur with the CHIS rather than solely remote contact, such as telephone or email, although remote contact may be appropriate in addition.

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2.10 Vulnerable Individuals/Juvenile CHIS

- 2.10.1 A vulnerable individual is a person who by reason of mental disorder or vulnerability, other disability, age or illness, is or may be unable to take care of themselves or protect themselves against significant harm or exploitation.
- 2.10.2 Additional requirements apply to the use of a vulnerable adult or a person under the age of 18 as a CHIS. In both cases **authorisation for an application to the Magistrates Court can only be granted by the Head of Paid Service. Any officer contemplating the use of a juvenile or a vulnerable person as a CHIS must seek advice from the Monitoring Officer prior to making the application.**
- 2.10.3 The use or conduct of a CHIS under 16 years of age **must not** be authorised to give information against their parents or any person who has parental responsibility for them. In other cases authorisations should not be granted unless the special provisions contained in The Regulation of Investigatory Powers (Juveniles) Order 2000 are satisfied. This set out rules about parental consent, meetings, risk assessments and the duration of the authorisation.

2.11 CCTV

- 2.11.1 The installation and use of unconcealed CCTV cameras for the purpose of generally observing activity in a particular area is not surveillance requiring RIPA authorisation. There are specific provisions relating the use of CCTV cameras in public places and buildings. However, if CCTV cameras are being used in such a way that the definition of covert directed surveillance is satisfied, RIPA authorisation should be obtained.
- 2.11.2 For instance the use of town centre CCTV systems to identify those responsible for a criminal act immediately after it happens will not require RIPA authorisation. However, the use of the same CCTV system to conduct planned surveillance of an individual and record their movements is likely to require authorisation.
- 2.11.3 Protocols should be agreed with any external agencies requesting the use of the Council's CCTV system. The protocols should ensure that the Council is satisfied that authorisations have been validly granted prior to agreeing that the CCTV system may be used for directed surveillance.
- 2.11.4 CCTV systems cannot be used without prior production of an authorisation and such authorisations must be retained.

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2.12 Authorisation Procedures

Authorisations given by Authorising Officers are subject to approval by the Magistrates Court (See para 2.15 below)

2.12.1 Authorising Officers are responsible for assessing and authorising covert directed surveillance and the use of a CHIS.

2.12.2 It is the responsibility of Authorising Officers to ensure that when applying for authorisation the principles of necessity and proportionality (see 2.13 below) are adequately considered and evidenced; and that reviews and cancellations of authorisations are carried out as required under this Policy (2.20 – 2.22 below).

2.12.3 Lists of authorising officers are set out below. Any requests for amendments to the lists must be sent to the Monitoring Officer.

2.12.4 The authorising officers for North East Derbyshire District Council are as follows:

Managing Director & Head of Paid Service – Lee Hickin (01246 217218)

Assistant Director - Finance – Jayne Dethick (01246 2417078)

Director (Transformation) – Matthew Broughton (01246 242210)

Director (Growth) – Gill Callingham (01246 217152)

2.12.5 Schedule 1 of statutory instrument No 521 (2010) prescribes the rank or position of authorising officers for the purposes of Section 30(1) of RIPA (covert surveillance and CHIS). For Local Authorities they prescribe a “Director, Head of Service, Service Manager or equivalent”.

2.12.6 The Monitoring Officer designates which officers can be authorising officers. Only these officers can authorise directed surveillance and the use of CHIS. **All authorisations must follow the procedures set out in the Policy.** Authorising officers are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

2.13 **Authorisation Of Covert Directed Surveillance And Use Of A CHIS**

2.13.1 RIPA applies to all covert directed surveillance and the use of CHIS whether by Council employees or external agencies engaged by the Council. Council officers wishing to undertake covert directed surveillance or use of a CHIS must complete the relevant application form and forward it to the relevant (para 2.11.4) authorising officer.

2.13.2 Any potential use of RIPA should be referred to the Monitoring Officer for preliminary advice.

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2.14 Criteria For The Authorisation Of The Use Of RIPA Powers

2.14.1 Covert directed surveillance and/or the use of a CHIS can only be authorised if the authorising officer is satisfied that the activity is:-

- (a) **in accordance with the law** i.e. it must be in relation to matters that are statutory or administrative functions of the Council. As such the Council is unable to access communications data for disciplinary matters.
- (b) **necessary** for the purpose of preventing or detecting crime or preventing disorder. This is the only ground available to the Council for authorising RIPA activity and for directed surveillance only, there is a crime threshold as described in paragraph 2.6 above;
- (c) **proportionate** to what it seeks to achieve. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person as may be affected) against the need for the activity in investigative operational terms. Any conduct that is excessive as to the interference and the aim of the conduct, or is in any way arbitrary will not be proportionate. Serious consideration must be given to identifying the least intrusive method of obtaining the information required.

2.14.2 Applicants should ask the following types of questions to help determine whether the use of RIPA is necessary and proportionate:-

- why it is believed the proposed conduct and use is necessary for the prevention of crime or the prevention of disorder (as appropriate);
- how the activity to be authorised is expected to bring a benefit to the investigation;
- how and why the proposed conduct and use is proportionate to the intelligence dividend it hopes to achieve, having regard to the gravity and extent of the activity under investigation;
- how and why the methods to be adopted will cause the least possible intrusion to the subject/s i.e. interfere with their rights under the ECHR;
- what other reasonable methods of obtaining information have been considered and why they have been discounted.

2.14.4 When completing an application, officers must present the case in a fair and balanced way. In particular all reasonable efforts should be made to take account of information which support or weakens the case for the authorisation.

2.14.4 Authorising officers should not be responsible for authorising their own activities, i.e. those operations/investigations in which they are directly involved. However, it is recognised that in exceptional circumstances this may sometimes be unavoidable. The Monitoring Officer should be informed in such cases.

2.14.5 Particular consideration should be given to **collateral intrusion on or interference with the privacy of persons who are not the subject(s) of the investigation**. Collateral intrusion occurs when an officer undertaking covert surveillance on a subject observes or gains information relating to a person who is not the subject of the investigation. An application for an authorisation must include an assessment

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of the risk of any collateral intrusion or interference and measures must be taken to avoid or minimise it. This must be taken into account by the authorising officer, particularly when considering the proportionality of the surveillance.

- 2.14.6 Particular care must be taken in cases where **confidential information** is involved e.g. matters subject legal privilege, confidential personal information, confidential journalistic material, confidential medical information, and matters relating to religious leaders and their followers. In cases where it is likely that confidential information will be acquired, officers must specifically refer this to the Monitoring Officer for advice.

2.15 Processing the authorisation

- 2.15.1 At the time of authorisation the authorising officer must set a date for review of the authorisation and review it on that date (see 2.19), prior to authorisation lapsing as it must not be allowed to lapse
- 2.15.2 The original completed application and authorisation form must be forwarded to the Monitoring Officer as soon as possible. The Monitoring Officer will maintain a central register of the Council's RIPA activity and a unique reference number will be allocated to each application.

2.16 Approval by Magistrates Court

- 2.16.1 Under the Protection of Freedoms Act 2012, there is an additional stage in the process for investigatory activities (covert directed surveillance and CHIS). After the authorisation form has been countersigned by the authorising officer, the Council is required to obtain judicial approval for either the authorisation or a renewal of an authorisation.
- 2.16.2 The Council has a protocol for the Magistrates' approval process, including out of hours procedures, which is held by the Governance Team.
- 2.16.3 The magistrate will have to decide whether the Council's application to grant or renew an authorisation to use RIPA should be approved and it will not come into effect unless and until it is approved by the Magistrates Court.
- 2.16.4 *A separate application should be completed when the Council is requesting judicial approval for the use of more than one of the surveillance techniques (i.e. Directed Surveillance, CHIS and Communications Data) at the same time.*
- 2.16.5 It should be noted that only the initial application and any renewal of the application require magistrates' approval.
- 2.16.6 There is no requirement for officers presenting authorisations to the Magistrates Court to be legally qualified but they do need to be authorised by the Council to represent it in court. **Generally the applicant should be accompanied to Court by the authorising officer and a member of the legal team.**

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2.17 The Role of the Magistrates Court

2.17.1 The role of the Magistrates Court is set out in Section 32A RIPA (for directed surveillance and CHIS).

2.17.2 This section provide that the authorisation shall not take effect until the Magistrates Court has made an order approving such authorisation. The matters on which the Magistrates Court needs to be satisfied before giving judicial approval are that:-

- There were reasonable grounds for the local authority to believe that the authorisation or notice was necessary and proportionate;
- In the case of a CHIS authorisation, that there were reasonable grounds for the local authority to believe that:
 - arrangements exist for the safety and welfare of the source that satisfy Section 29(5) RIPA;
 - the requirements imposed by Regulation of Investigatory Powers (Juveniles) Order 2000 were satisfied;
- The local authority application has been authorised by an authorising officer;
- The grant of the authorisation was not in breach of any restriction imposed by virtue of an order made under the following sections of RIPA:
 - 29(7)(a) (for CHIS),
 - 30(3) (for directed surveillance and CHIS).

Summary of procedure for applying for covert directed surveillance or use of a CHIS is:

- Applicant obtains preliminary legal advice from Monitoring Officer;
- Applicant completes an application;
- Monitoring Officer quality checks the completed application before organising it to go to the Authorising Officer;
- Approval is sought from the Authorising Officer;
- Authorising Officer completes authorisation form in long-hand;
- Monitoring Officer organises paperwork for court and the applicant, the Authorising Officer proceeds to court, accompanied by a member of the legal team wherever possible;
- If approval given, applicant organises the covert directed surveillance or use of a CHIS to take place;
- Original copy of application lodged with Governance Team.

Additional Requirements for Authorisation of a CHIS

A CHIS must only be authorised if the following arrangements are in place:-

- There is a Council officer with day-to-day responsibility for dealing with the CHIS and a senior Council officer with oversight of the use made of the CHIS;
- A risk assessment has been undertaken to take account of the CHIS security and welfare;
- A Council officer is responsible for maintaining a record of the use made of the CHIS;
- Any adverse impact on community confidence or safety regarding the use of a CHIS has been considered taking account of any particular sensitivities in the local community where the CHIS is operating; and
- Records containing the identity of the CHIS will be maintained in such a way as to preserve the confidentiality or prevent disclosure of the identity of the CHIS.

2.17 Urgent Authorisations

2.17.1 By virtue of the fact that an authorisation under RIPA is not approved until signed off by a Magistrates Court, urgent oral authorisations are not available.

2.18 Application Forms

2.18.1 Only the RIPA Forms listed below can be used by officers applying for RIPA authorisation.

(a) Directed Surveillance

- Application for Authority for Directed Surveillance
- Review of Directed Surveillance Authority
- Cancellation of Directed Surveillance
- Renewal of Directed Surveillance Authority

(b) CHIS

- Application for Authority for Conduct and Use of a CHIS
- Review of Conduct and Use of a CHIS
- Cancellation of Conduct and Use of a CHIS
- Renewal of Conduct and Use of a CHS

2.19 Duration of the Authorisation

2.19.1 Authorisation/notice durations are:-

- for covert directed surveillance the authorisation remains valid for three months after the date of authorisation;
- for a CHIS the authorisation remains valid for 12 months after the date of authorisation (or after four month if a juvenile CHIS is issued);

2.19.2 Authorisations should not be permitted to expire, they must be either renewed or cancelled when the activity authorised has been completed or is no longer necessary or proportionate in achieving the aim for which it was originally

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authorised. This is a statutory requirement which means that all authorisations must be reviewed to decide whether to cancel or renew them.

2.20 Review of Authorisations

- 2.20.1 As referred to at 2.11.2 and 2.14.1 authorising officers must make arrangements to periodically review any authorised RIPA activity. Officers carrying out RIPA activity, or external agencies engaged by the Council to carry out RIPA activity, must periodically review it and report back to the authorising officer if there is any doubt as to whether it should continue. Reviews should be recorded on the appropriate Home Office Form (see 2.18).
- 2.20.2 A copy of the Council's notice of review of an authorisation must be sent to the Monitoring Officer as soon as possible to enable the central record on RIPA to be authorised.

2.21 Renewal of Authorisations

- 2.21.1 If the authorising officer considers it necessary for an authorisation to continue they may renew it for a further period, beginning with the day when the authorisation would have expired but for the renewal. They must consider the matter again taking into account the content and value of the investigation and the information so far obtained, considering the same criteria as for new applications (see 2.13 above). Renewed authorisations will normally be for a period of up to three months for covert directed surveillance or 12 months in the case of CHIS, one month in the case of juvenile CHIS. Authorisations may be renewed more than once, provided they are considered again and continue to meet the criteria for authorisation. Applications for the renewal of an authorisation for covert directed surveillance or CHIS authorisation must be made on the appropriate form (see 2.18).
- 2.21.2 All renewals will require an order of the Magistrates Court in accordance with the requirements in para 8.2 above.**
- 2.21.3 A copy of the Council's notice of renewal of an authorisation must be considered by the Monitoring Officer before it is made and all original copies lodged with the Governance Team together with a copy of the Magistrates Court order renewing the authorisation to enable the central record on RIPA to be updated.

2.22 Cancellation of Authorisations

- 2.22.1 The person who granted or last renewed the authorisation must cancel it when they are satisfied that the covert directed surveillance or CHIS no longer meets the criteria for authorisation. Cancellations must be made on the appropriate Home Office Form (see 2.18).
- 2.22.2 A copy of the Council's notice of cancellation of an authorisation must be sent to the Monitoring Officer within one week of the cancellation to enable the central record on RIPA to be updated.

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2.23 What happens if the surveillance has unexpected results?

- 2.23.1 Those carrying out the covert surveillance should inform authorising officer if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation. In some cases the original authorisation may not be sufficient to cover the activity required or information likely to be gathered and in such cases, consideration should be given as to whether a separate authorisation is required.

2.24 Records and Documentation

Departmental Records

- 2.24.1 Applications, renewals, cancellations, reviews and copies of notices must be retained by the Council in written or electronic form, and physically attached or cross-referenced where they are associated with each other. These records will be confidential and should be retained for a period of at least five years from the ending of the authorisation. Where it is believed that the records could be relevant to pending or future court proceedings, they should be retained and then destroyed five years after last use.

Central Record of Authorisations, Renewals, Reviews and Cancellations

- 2.24.2 A joint central record of directed surveillance and CHIS is maintained by the Monitoring Officer at the District Council Offices, Mill Lane, Wingerworth..
- 2.24.3 The central record is maintained in accordance with the requirements set out in the Home Office Codes of Practice. In order to keep the central record up-to-date authorising officers must, in addition to sending through the Home Office application, authorisation form and Magistrates Court order as soon as possible following the authorisation being approved by the Magistrates Court (see 2.15) send notification of every renewal, cancellation and review on the Council's notification forms (see 2.19 – 2.22).
- 2.24.4 Using the information on the central record the Monitoring Officer will:-
- remind authorising officers in advance of the expiry of authorisations;
 - remind authorising officers of the need to ensure surveillance does not continue beyond the authorised period;
 - remind authorising officers to regularly review current authorisations;
 - on the anniversary of each authorisation, remind authorising officers/delegated persons to consider the destruction of the results of surveillance operations.

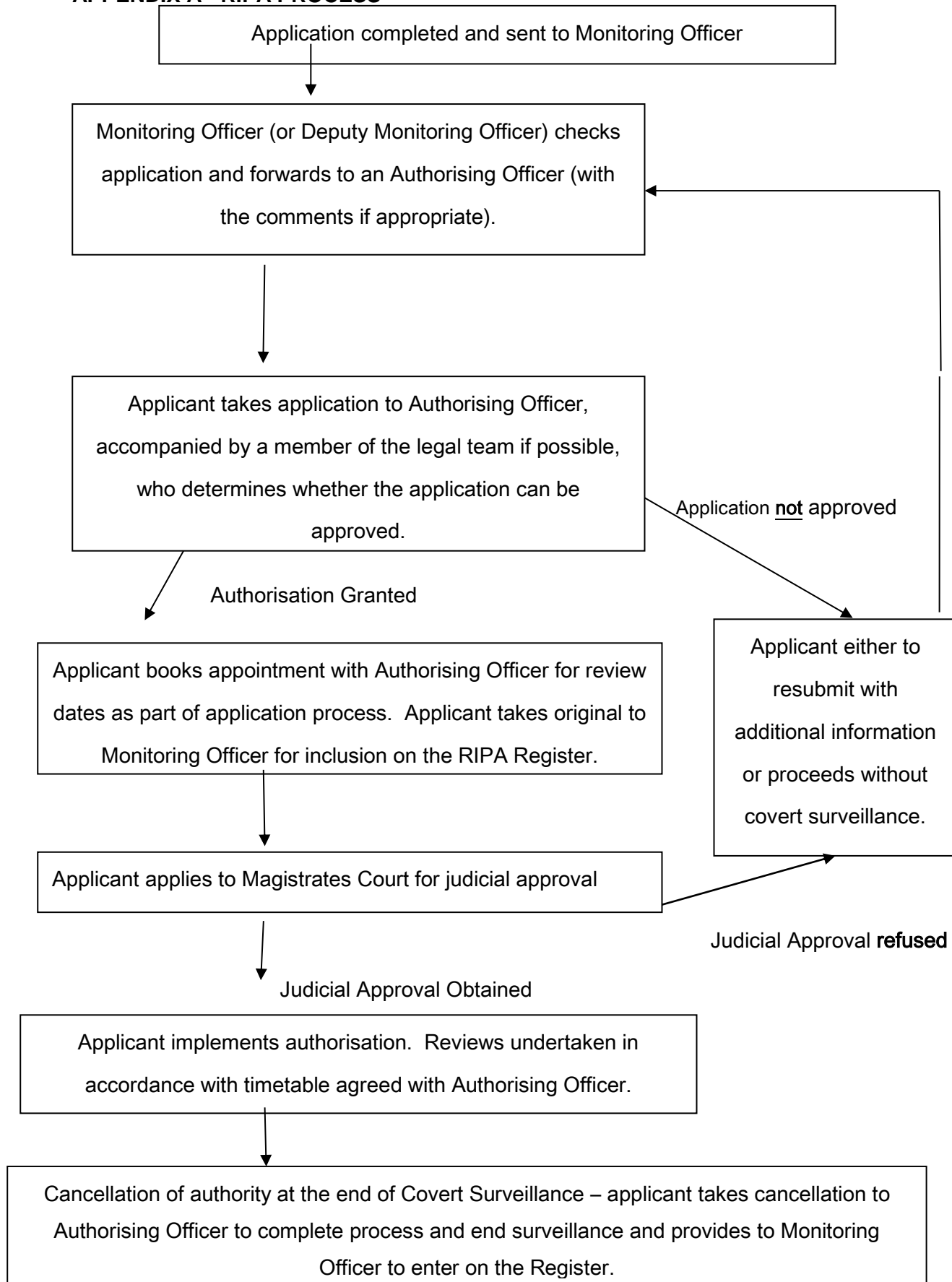
2.25 Surveillance products

Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

- 2.25.1 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review.
- 2.25.2 Particular attention is drawn to the requirements of the Code of Practice issued under the Criminal Procedure and Investigations Act 1996. This requires that material which is obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.
- 2.25.3 There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. The Council will ensure that adequate arrangements are in place for the handling and storage of material obtained through the use of covert surveillance to facilitate its use in other investigations.
- 2.25.4 Material obtained through the use of directed surveillance or CHIS containing personal information will be protected by the Data Protection Act 2018 (DPA) and in addition to the considerations above must be used, stored and destroyed in compliance with the appropriate requirements of the DPA and the Council's Data Protection, Information Security and Records Management Policies.
- 2.25.5 Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. See section 9 of the Home Office Code of Practice for more detail of the safeguards that must be in place. Particular protection must be given to confidential or privileged information.

Section: Covert Surveillance And The Use Of Covert Human Intelligence Sources

APPENDIX A - RIPA PROCESS



**RIPA PART 1 – CHAPTER 2
ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA**

3.1 Permitted Purposes for Acquisition and Disclosure of Communications Data

- 3.1.1 Local authorities are only permitted to acquire communications data for the purposes of preventing or detecting serious crime. Other purposes are permitted for other public bodies.
- 3.1.2 A ‘serious crime’ is an offence that is punishable by a maximum term of imprisonment of 12 months or more.

3.1 Communication Service Providers (“CSPs”)

- 3.1.1 CSPs are organisations that are involved in the provision, delivery and maintenance of communications such as postal, telecommunication and internet service providers but also, for example, hotel or library staff involved in providing and maintaining email access to customers. The Council must obtain communications data from CSPs in strict compliance with RIPA.

3.2 Types of Communications Data

- 3.2.1 Communications data is the “who”, “where”, “when” and “how” of a communication such as a letter, phone call or email but not the content, not what was said or written. The Council is not able to use RIPA to authorise the interception or acquisition of the content of communications. There are three types of communication data:-

Service Use Information

- 3.2.2 This is data relating to the use made by any person of a postal or telecommunications, internet service, or any part of it. For example itemised telephone call records, itemised records of connection to internet services, itemised timing and duration of calls, connection/disconnection/reconnection data, use of forwarding or re-direction services, additional telecom services and records of postal items.

Subscriber information

- 3.2.3 This is information held or obtained by the CSP about persons to whom the CSP provides or has provided a communications service. For instance, subscribers of email and telephone accounts, account information including payment details, address for installing and billing, abstract personal records and sign up data.

Traffic Information

- 3.2.4 This is data that is comprised in or attached to a communication for the purpose of transmitting it and which identifies a person or location to or from which it is transmitted. **The Council is not permitted to access traffic data.**

Section: Acquisition and Disclosure of Communications Data

3.3 Authorisation and Notices

3.3.1 RIPA provides for acquisition and disclosure of communications data by two alternative means:-

- authorisation of a person within the Council to engage in specific conduct, in order to obtain communications data (a section 22(3) RIPA authorisation); and
- a notice issued to a CSP requiring them to collect or retrieve and then provide the communications data (a section 22(4) RIPA notice).

3.3.2 A Section 22(3) RIPA authorisation is appropriate where (for instance) there is an agreement in place between the Council and the relevant CSP regarding the disclosure of communications data which means a notice is not necessary (currently the Council does not have any such agreements in place); or the Council needs to identify an individual to whom communication services are provided but the relevant CSP is not yet known to the Council, making it impossible to issue a notice.

3.3.3 A Section 22(4) RIPA notice is appropriate where the Council receives specific communications data from a known CSP. A notice may require a CSP to obtain any communications data, if that data is not already in its possession. However, a notice must not place a CSP under a duty to do anything which is not reasonably practicable for the CSP to do.

3.3.4 As a local authority the Council must fulfil two additional requirements when acquiring communications data. Firstly, in accordance with the Home Office Acquisition and Disclosure of Communications Data Code of Practice, the request must be made through a qualified Single Point of Contact (see more at [3.5](#) and [3.8](#)). Secondly, the request must receive prior judicial approval.

3.3.5 Under Sections 23A and 23B of RIPA the Council must obtain judicial approval for all requests for communications data. Judicial approval must be requested once all the Council's internal authorisation processes have been completed, including consultation with a NAFN SPoC, but before the SPoC requests the data from the CSP. The authorisation must be provided by a magistrate.

3.3.6 The Home Office Acquisition and Disclosure of Communications Data Code of Practice can be found on the Home Office website and on the intranet.

3.4 Authorisation Procedures

Authorisations given by Designated Persons are subject to approval by the Magistrates Court (See para 3.10 below)

3.4.1 Designated Persons are responsible for considering applications for obtaining communications data, assessing and approving authorisations and notices.

3.4.2 It is the responsibility of Designated Persons to ensure that when applying for authorisation the principles of necessity and proportionality (see 3.8.2 and 2.14) are adequately considered and evidenced; and that reviews and

Section: Acquisition and Disclosure of Communications Data

cancellations of authorisations are carried out as required under this Policy (3.14 – 3.17 below).

3.4.3 The list of designated persons is set out below. Any requests for amendments to the lists must be sent to the Monitoring Officer.

3.4.4 The designated persons for North East Derbyshire District Council are as follows:

Managing Director & Head of Paid Service – Lee Hickin (01246 217218)

Assistant Director - Finance – Jayne Dethick (01246 2417078)

Director (Transformation) – Matthew Broughton (01246 242210)

Director (Growth) – Gill Callingham (01246 217152)

3.4.5 Schedule 2 of statutory instrument No 480 (2010) prescribes the rank or position of designated person for the purposes of Section 25(2) of RIPA (access to communications data). For Local Authorities they prescribe a “Director, Head of Service, Service Manager or equivalent”.

3.4.6 The Monitoring Officer designates which officers can be designated persons. Only these officers can authorise the acquisition and disclosure of Communications data. **All authorisations must follow the procedures set out in the Policy.** Designated persons are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

3.5 Authorisation of Acquisition and Disclosure of Communications Data

3.5.1 **Any potential use of RIPA should be referred to the Monitoring Officer for preliminary advice.**

3.5.2 RIPA applies to all acquisition and disclosure of communications data whether by Council employees or external agencies engaged by the Council. Authorisations or notices in relation to communications data should be referred to NAFN.

3.5.3 The rules on the granting of authorisations for the acquisition of communications data are slightly different from directed surveillance and CHIS authorisations and involve three roles within the Council. The roles are:-

- Applicant
- Designated Person
- Single Point of Contact

3.6 Applicant

3.6.1 This is the officer involved in conducting an investigation or operation who makes an application in writing for the acquisition of communications data. The application form must:-

Section: Acquisition and Disclosure of Communications Data

- Set out the legislation under which the operation or investigation is being conducted. This must be a statutory function of the Council for the prevention or detection of serious crime;
- Describe the communications data required i.e. the telephone number, email address, the specific date or period of the data and the type of data required. If the data will or may be generated in the future, the future period is restricted to no more than one month from the date on which the authorisation is granted.
- Explain why the conduct is necessary and proportionate.
- Consider and describe any meaningful collateral intrusion. For example, where access is for “outgoing calls” from a “home telephone” collateral intrusion may be applicable to calls made by family members who are outside the scope of the investigation. The applicant therefore needs to consider what the impact is on third parties and try to minimise it.

3.7 Designated Person

- 3.7.1 This is the person who considers the application. A designated person’s role is the same as an authorising officer’s role in relation to directed surveillance and CHIS authorisations. The designated person assesses the necessity for any conduct to obtain communications data taking account of any advice provided by the single point of contact (SPoC). If the designated person believes it is necessary and proportionate in the specific circumstances, an authorisation is granted or a notice is given.
- 3.7.2 The Designated Person must refer the criteria set out at paragraph 2.14, as the same principles of necessity and proportionality apply to the use of cover directed surveillance and CHIS.**
- 3.7.3 Designated persons should not be responsible for authorising their own activities, i.e. those operations/investigations in which they are directly involved. However, it is recognised that in exceptional circumstances this may sometimes be unavoidable. The Monitoring Officer should be informed in such cases.
- 3.7.4 Particular consideration should be given to **collateral intrusion on or interference with the privacy of persons who are not the subject(s) of the investigation**. Collateral intrusion occurs when an officer gains information relating to a person who is not the subject of the investigation. An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference and measures must be taken to avoid or minimise it. This must be taken into account by the designated person, particularly when considering the proportionality of the surveillance.
- 3.7.5 Particular care must be taken in cases where **confidential information** is involved e.g. matters subject legal privilege, confidential personal information, confidential journalistic material, confidential medical information, and matters relating to religious leaders and their followers. In cases where it is likely that confidential information will be acquired, officers must specifically refer this to the Monitoring Officer for advice.

Section: Acquisition and Disclosure of Communications Data

- 3.7.6 At the time of authorisation the designated person must set a date for review of the authorisation and review it on that date (see 3.1 and 3.15), prior to authorisation lapsing as it must not be allowed to lapse.
- 3.7.7 The original completed application and authorisation form must be forwarded to the Monitoring Officer as soon as possible. In the case of a section 22(4) RIPA notice requiring disclosure of communications data a copy of the notice must be attached to the application form. The Monitoring Officer will maintain a central register of the Council's RIPA activity and a unique reference number will be allocated to each application.

3.8 Single Point of Contact (SPoC)

- 3.8.1 SPoCs are responsible for advising officers within the Council on how best to go about obtaining communications data, for liaising with CSPs, and advising whether applications and notices are lawful. As required under the latest Acquisition and Disclosure of Communications Data Code of Practice, the Council has engaged the National Anti-Fraud Network (NAFN). NAFN's SPoC services relate only to communications data.
- 3.8.2 More details on NAFN are available at www.nafn.gov.uk

3.9 Approval by Magistrates Court

- 3.9.1 Under the Protection of Freedoms Act 2012, there is an additional stage in the process for the acquisition of communications data. After the authorisation form has been countersigned by the designated person, the Council is required to obtain judicial approval for either the authorisation or a renewal of an authorisation.
- 3.9.2 The Council has a protocol for the Magistrates' approval process, including out of hours procedures, which is held by the Governance Team.
- 3.9.3 The magistrate will have to decide whether the Council's application to grant or renew an authorisation to use RIPA should be approved and it will not come into effect unless and until it is approved by the Magistrates Court.
- 3.9.4 *A separate application should be completed when the Council is requesting judicial approval for the use of more than one of the surveillance techniques (i.e. Directed Surveillance, CHIS and Communications Data) at the same time.*
- 3.9.5 It should be noted that only the initial application and any renewal of the application require magistrates' approval.
- 3.9.6 There is no requirement for officers presenting authorisations to the Magistrates Court to be legally qualified but they do need to be authorised by the Council to represent it in court. **Generally the applicant should be accompanied to Court by the designated person and a member of the legal team.**

3.10 The Role of the Magistrates Court

Section: Acquisition and Disclosure of Communications Data

- 3.10.1 The role of the Magistrates Court is set out in Section 23A RIPA (for communications data).
- 3.10.2 These sections provide that the notice, shall not take effect until the Magistrates Court has made an order approving such notice. The matters on which the Magistrates Court needs to be satisfied before giving judicial approval are that:-
- There were reasonable grounds for the local authority to believe that the authorisation or notice was necessary and proportionate;
 - The local authority application has been authorised by a designated person;
 - The grant of the notice was not in breach of any restriction imposed by virtue of an order made under sections 25(3) (for communications data) of RIPA:

Summary of procedure for applying for acquisition of communications data:

- Applicant obtains preliminary legal advice from Monitoring Officer;
- Applicant officer creates an application using the Cycomms Web Viewer on the NAFN website;
- SPoC Officer at NAFN triages and accepts the application into the Cyclops system;
- SPoC Officer uses Cyclops to update the application details and completes the SPoC report;
- Approval is sought from the Designated Person (DP);
- If approval given, Monitoring Officer organises paperwork for court and the applicant and the DP proceeds to court, accompanied by a member of the legal team wherever possible;
- SPoC receives signed court documents and sends requests to Communications Service Provider (CSP);
- SPoC receives results back from CSP and returns results to Applicant;
- Applicant accesses the Web Viewer and downloads results;
- Original copy of application lodged with Governance Team.

3.11 Urgent Authorisations

- 3.11.1 By virtue of the fact that an authorisation under RIPA is not approved until signed off by a Magistrates Court, urgent oral authorisations are not available.

3.12 Application Forms – Acquisition and Disclosure of Communications Data

- 3.12.1 Only the RIPA Forms listed below can be used by officers applying for RIPA authorisation.
- Application for a Section 22(4) RIPA Notice
 - Notice under Section 22(4) RIPA requiring Communications Data to be Obtained and Disclosed

Section: Acquisition and Disclosure of Communications Data

3.13 Duration of the Authorisation

- 3.13.1 A communications data notice remains valid for a **maximum of one month**.
- 3.13.2 Notices should not be permitted to expire, they must be either renewed or cancelled when the activity authorised has been completed or is no longer necessary or proportionate in achieving the aim for which it was originally authorised. This is a statutory requirement which means that all notices must be reviewed to decide whether to cancel or renew them.

3.14 Review of Authorisations

- 3.14.1 As referred to at 3.8.6, designated persons must make arrangements to periodically review any authorised RIPA activity. Officers carrying out RIPA activity, or external agencies engaged by the Council to carry out RIPA activity, must periodically review it and report back to the designated person if there is any doubt as to whether it should continue. Reviews should be recorded on the appropriate Home Office Form (see 3.13).
- 3.14.2 A copy of the Council's notice of review of an authorisation must be sent to the Monitoring Officer as soon as possible to enable the central record on RIPA to be authorised.

3.15 Renewal of Authorisations

- 3.15.1 If the designated person considers it necessary for an authorisation to continue they may renew it for a further period, beginning with the day when the authorisation would have expired but for the renewal. They must consider the matter again taking into account the content and value of the investigation and the information so far obtained. Renewed authorisations will normally be for a period one month in the case of a communications data authorisation or notice. Authorisations may be renewed more than once, provided they are considered again and continue to meet the criteria for authorisation. The reasoning for seeking renewal of a communications data authorisation or RIPA notice should be set out by the applicant in an addendum to the application form which granted the initial authorisation.
- 3.15.2 **All renewals will require an order of the Magistrates Court in accordance with the requirements in para 3.10 above.**
- 3.15.3 A copy of the Council's notice of renewal of an authorisation must be considered by the Monitoring Officer before it is made and all original copies lodged with the Governance Team together with a copy of the Magistrates Court order renewing the authorisation to enable the central record on RIPA to be updated.

3.16 Cancellation of Authorisations

- 3.16.1 The person who granted or last renewed the authorisation must cancel it when they are satisfied that the communications data authorisation or notice no longer meets the criteria for authorisation. Cancellations must be made on the appropriate Home Office Form (see 8.6). In relation to a Section 22(4) notice to a CSP, the cancellation must be reported to the CSP by the designated person directly or by the SPoC on that person's behalf.

Section: Acquisition and Disclosure of Communications Data

- 3.16.2 A copy of the Council's notice of cancellation of an authorisation must be sent to the Monitoring Officer within one week of the cancellation to enable the central record on RIPA to be updated.

3.17 What happens if the acquisition of communications data has unexpected results?

- 3.17.1 Those involved in the acquisition of communications data should inform the designated person if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation. In some cases the original authorisation may not be sufficient to cover the activity required or information likely to be gathered and in such cases, consideration should be given as to whether a separate authorisation is required.

3.18 Records and Documentation

Departmental Records

- 3.18.1 Applications, renewals, cancellations, reviews and copies of notices must be retained by the Council in written or electronic form, and physically attached or cross-referenced where they are associated with each other. These records will be confidential and should be retained for a period of at least five years from the ending of the authorisation. Where it is believed that the records could be relevant to pending or future court proceedings, they should be retained and then destroyed five years after last use.
- 3.18.2 In relation to communications data, records must be held centrally by the SPoC. These records must be available for inspection by ICCP and retained to allow the Investigatory Powers Tribunal, established under Part IV of the Act, to carry out its functions.

Central Record of Authorisations, Renewals, Reviews and Cancellations

- 3.18.3 A joint central record of access to communications data authorisations is maintained by the Monitoring Officer at the District Council Offices, Mill Lane, Wingerworth.
- 3.18.4 See paragraph 2.24 for more information on the central records, which also applies relation to covert surveillance and CHIS.

3.19 Communications data related to pending of future proceedings

- 3.19.1 Where the communications data acquired could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review.

Section: Acquisition and Disclosure of Communications Data

- 3.19.2 Particular attention is drawn to the requirements of the Code of Practice issued under the Criminal Procedure and Investigations Act 1996. This requires that material which is obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.
- 3.19.3 There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. The Council will ensure that adequate arrangements are in place for the handling and storage of material obtained through the use RIPA to facilitate its use in other investigations.
- 3.19.4 Material obtained through acquisition of communications data containing personal information will be protected by GDPR and the Data Protection Act (DPA) and in addition to the considerations above must be used, stored and destroyed in compliance with the appropriate requirements of the GDPR/DPA and the Council's Data Protection, Information Security and Records Management Policies.



RIPA & Local Authorities Virtual Training

- ▶ Presenter – David Armstrong, LL.B.
Barrister at Law.

support@mallard-consultancy.co.uk

Please turn off your microphones until asked to join in

RIPA

- ▶ Is it surveillance?
- ▶ What is directed surveillance?
- ▶ Is it an Article 8 issue?
- ▶ Can the evidence be used?
- ▶ Overlap with CCTV – DPA

- ▶ Since 1 November 2012 two significant changes took effect governing how local authorities use RIPA.
- ▶ Approval of Local Authority Authorisations under RIPA by a Justice of the Peace: The amendments in the Protection of Freedoms Act 2012 mean that local authority authorisations and notices under RIPA for can only be given effect once an order approving the authorisation or notice has been granted by a Justice of the Peace (JP).
- ▶ Directed surveillance crime threshold: Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”) mean that a local authority can now only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.

THE TECHNIQUES WHICH LOCAL AUTHORITIES MAY USE:

- ▶ Directed surveillance. Local authorities cannot conduct 'intrusive' surveillance (i.e. covert surveillance carried out in residential premises or private vehicles)
- ▶ CHIS. This can include undercover officers (not simple test purchasing), public informants and people who make test purchases.
- ▶ Communications data (CD). This is the 'who', 'when' and 'where' of a communication, but not the 'what' – acquired via a SPOC
- ▶ A local authority can only seek the less intrusive types of CD: service use and subscriber information – whilst such falls within the principles of RIPA, the process is distinct from the general RIPA process and is also governed by the Investigatory Powers Act.
- ▶ Local authorities cannot be authorised to obtain traffic data under or to intercept the content of any person's communications.

- ▶ RANK OF LOCAL AUTHORITY AUTHORISING OFFICERS/DESIGNATED PERSONS
- ▶ Local authority authorising officers/designated persons are designated by RIPA consolidating orders SI 2010 Nos.480 and 521, as:
 - Director, Head of Service, Service Manager or equivalent.
- ▶ The authorisation of directed surveillance or use of a CHIS likely to obtain confidential information or the deployment of a juvenile or vulnerable person (by virtue of mental or other condition) as a CHIS requires authorisation by the most senior local authority officer – Head of Paid Service or, in his/her absence, the acting Head of Paid Service.
- ▶ If there is any doubt regarding sufficiency of rank you should contact your Local Authority Monitoring Officer who will be able to advise you.

- ▶ TIME LIMITS:
- ▶ The current time limits for an authorisation are:
- ▶ 3 months for directed surveillance and
- ▶ 12 months for a CHIS (1 month if the CHIS is under 18).

- ▶ Authorisations and notices for communications data will be valid for a maximum of one month from the date the JP has approved the grant. This means that the conduct authorised should have been commenced or the notice served within that month.

- ▶ A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by the JP.

- ▶ Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a JP to consider the application).

Crime seriousness threshold

- ▶ The crime threshold applies only to the authorisation of directed surveillance by local authorities under RIPA, not to the authorisation of local authority use of CHIS or their acquisition of lower level communications data.
- ▶ Local authorities may authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a JP has been granted.
- ▶ Examples of cases where the offence being investigated attracts a **maximum custodial sentence of six months or more** could include more serious criminal damage, waste dumping and serious or serial benefit fraud.
- ▶ Local authorities may also authorise the use of directed surveillance for the purpose of preventing or detecting **specified criminal offences relating to the underage sale of alcohol and tobacco** where the necessity and proportionality test is met and prior approval from a JP has been granted.

Sanctioned by Court

- ▶ Home Office guidance for Magistrates' Courts in England and Wales for a local authority application seeking an order approving the grant or renewal of a RIPA authorisation or notice –

Magistrates' Guidance:

- ▶ For the purposes of RIPA, surveillance is “directed” if it is:
 - covert, but not intrusive surveillance (i.e. it takes place somewhere other than residential premises, particular premises where legal consultations take place or private vehicles);
 - conducted for the purposes of a specific investigation or operation e.g. **pre-planned against a specific individual or group**;
 - likely to result in the obtaining of private information about a person; **and**
 - conducted otherwise than as an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable to seek an authorisation under RIPA.

IS A RIPA AUTHORISATION REQUIRED?

to consider whether or not the use of that technique engages Article 8 of the ECHR. If it does, then obtaining an authorisation under RIPA is one way for the local authority to ensure that their activity is conducted lawfully and compatibly with the ECHR.

- ▶ **26. If the local authority is proposing to act covertly but Article 8 is not engaged then no RIPA authorisation is necessary. For instance, a local authority may covertly monitor traffic flows or check the volume of people using a particular facility without obtaining private information about anyone.**

- ▶ C. vs. The Police
- ▶ IPT/03/32 (Investigatory Powers Tribunal)
- ▶ This ruling related to whether the Tribunal had jurisdiction under RIPA to determine a claim made by a retired police officer against his former police force. The claim was for unlawful covert surveillance in breach of his right to respect for his private and family life and his home under Article 8 of the European Convention on Human Rights (the Convention) and section 6 of the Human Rights Act 1998 (the 1998 Act). The Tribunal ruled that, as the case related to the use of Private Investigators to undertake directed surveillance in relation to an “employment dispute”, no public interest would be served by giving the Tribunal exclusive jurisdiction over such a case. Therefore the Tribunal concluded this was not a case of directed surveillance within RIPA.

- ▶ It is common ground that the Tribunal only have jurisdiction in this case if the surveillance alleged by the Applicant is “directed surveillance” within the meaning of sections 26 and 48 (1) and (2).
- ▶ Surveillance by public authorities (or, indeed, by anyone else) is not in itself unlawful at common law, nor does it necessarily engage Article 8 of the Convention. For example, general observation of members of the public by the police in the course of carrying out their routine public duties to detect crime and to enforce the law is lawful. It does not interfere with the privacy of the individual citizen in a way that requires specific justification

- ▶ Did the police actions of which the Applicant complains amount to surveillance? It is common ground that he was under “surveillance.” His movements and other activities were monitored, observed and recorded by the private agents on behalf of the police. The fact that private inquiry agents were used by the police to conduct surveillance on their behalf does not affect the responsibility of the police for the purposes of RIPA.
- ▶ The second point is: Was the surveillance covert? It has not been contended that the surveillance was other than covert. The Applicant was unaware that it was taking place. There would be little to be gained in carrying out the Page 13 surveillance at all, if it was not covert
- ▶ The third point is: Was the surveillance for a specific investigation or a specific operation? This is the key question.
- ▶ The surveillance was carried out for the sole purpose of determining **whether the Applicant was as disabled as he had claimed with regard to the effect of his injury on his daily activities.** The information was sought in connection with the response of the police to his pension appeal.

- ▶ The point highlighted by Mr Hooper was that surveillance of an employee in the circumstances of this kind of case is unlikely to justify the use of a procedurally restrictive regime and special safeguards, which are tailored to the needs of the public interest and national security cases that clearly fall within the Tribunal's jurisdiction. This is not such a case.
- ▶ In these circumstances, the interpretation to be preferred is one which limits “directed surveillance” under RIPA to the discharge of the public authority's particular public or “core functions” specific to it, rather than the carrying out of “ordinary functions” common to all public authorities, such as employment Page 16 (or its nearest equivalent in the case of the police) and entering into contracts to receive or supply other services.

- ▶ Although RIPA provides a framework for obtaining internal authorisations of directed surveillance (and other forms of surveillance), there is no general prohibition in RIPA against conducting directed surveillance without RIPA authorisation. **RIPA does not require prior authorisation to be obtained by a public authority in order to carry out surveillance. Lack of authorisation under RIPA does not necessarily mean that the carrying out of directed surveillance is unlawful.**
- ▶ The consequences of not obtaining an authorisation may be that, where there is an interference by a public authority with Article 8 rights and there is no other source of authority, the action is unlawful by virtue of section 6 of the 1998 Act.

- ▶ Directed surveillance, as defined in RIPA, could plainly include surveillance relating to some employment situations.
- ▶ If, for example, an employee was suspected by his public authority employer of criminal activities in the course of his work or activities, which would endanger national security or involve threats to public order, and it was necessary and proportionate for the purposes of an investigation to put him under surveillance, an authorisation of directed surveillance for a specific investigation may be obtained by a relevant public authority under RIPA depending on the grounds which are available to that authority.

- ▶ The activities of the agents of the police in this case were certainly covert surveillance for the purpose of obtaining private information about the Applicant, **but they were not, in our view, “directed surveillance” in the sense defined in RIPA.** Although “specific investigation” and “specific operation” used in the description of directed surveillance are expressions capable of a wide meaning, they are subject to limitations implicit in their context in the legislation.
- ▶ The specific core functions and the regulatory powers which go with them are identifiable as **distinct from the ordinary functions of public authorities shared by all authorities, such as the employment of staff and the making of contracts.** There is no real reason why the performance of the ordinary functions of a public authority should fall within the RIPA regime.
- ▶ There are other ways in which the lawfulness of surveillance by a public authority in the context of a private law relationship, such as employment, may be challenged, if it engages Article 8, as amounting to an interference with the right to respect for private and family life, or if it breaches some other specific statutory requirement or private law right

X v. LOCAL AUTHORITY

IPT/03/50/CH

- ▶ Following complaints of persistent dog fouling in an upper communal balcony to a block of council flats, a local authority installed a hidden video camera in the balcony area for a 28-day period in order to obtain evidence identifying the offender. No authorisation under the Regulation of Investigatory Powers Act 2000 ('RIPA') was sought

- ▶ The Complainant, who at the relevant time lived in one of the flats on the balcony under surveillance, complained to his local authority that the video camera was pointing at his doorway.
- ▶ The case did not set a precedent that directed surveillance against dog fouling is never proportionate – simply that in this case **what was represented as general monitoring of a crime ‘hotspot’ amounted to directed surveillance within the meaning of RIPA as the camera was trained on the suspected offender’s front door.**

CCTV – the Code: DPA & POFA

- ▶ The unwarranted use of CCTV and other forms of surveillance cameras has led to a strengthening of the regulatory landscape through the passing of the Protection of Freedoms Act (POFA). The POFA has seen the introduction of a new surveillance camera code issued by the Secretary of State since June 2013 and the appointment of a Surveillance Camera Commissioner to promote the code and review its operation and impact.

- ▶ The majority of surveillance systems are used to monitor or record the activities of individuals, or both. As such they process individuals' information – their personal data. Most uses of surveillance systems will therefore be covered by the DPA and the provisions of the code, whether the system is used by a multinational company to monitor entry of staff and visitors in and out of its premises, or a local newsagent recording information to help prevent crime.

- ▶ This code also covers the use of camera related surveillance equipment including:
 - Automatic Number Plate Recognition (ANPR);
 - body worn video (BWV);
 - unmanned aerial systems (UAS); and
 - other systems that capture information of identifiable individuals or information relating to individuals.

- ▶ Using surveillance systems can be privacy intrusive. They are capable of placing large numbers of law-abiding people under surveillance and recording their movements as they go about their day-to-day activities.
- ▶ You should therefore carefully consider whether or not to use a surveillance system. The fact that it is possible, affordable or has public support should not be the justification for processing personal data.

- ▶ You should consider these matters objectively as part of an assessment of the scheme's impact on people's privacy. The best way to do this is to conduct a privacy impact assessment.
- ▶ Recorded material should be stored in a way that maintains the integrity of the information. This is to ensure that the rights of individuals recorded by surveillance systems are protected and that the information can be used effectively for its intended purpose. To do this you need to carefully choose how the information is held and recorded and ensure that access is restricted. You will also need to ensure that the information is secure and where necessary, encrypted. **Encryption can provide an effective means to prevent unauthorised access to images processed in a surveillance system. However, there are circumstances where it is not possible to apply encryption.**

Evidence provided by 3rd Party – Possible breach in recording beyond the home premises

- ▶ It is not for the local authority to determine whether the witness has acted entirely lawfully. I would go further in noting that the ICO does not determine that video that may catch views of pavement outside the premises is *necessarily* unlawful. That is a matter for the ICO to determine on the facts and it is quite likely (experience suggests) that the ICO would decline to investigate a matter such as this. That said, it is largely immaterial to the question of admissibility of evidence.
- ▶ Let us consider the sentiment of Lord Diplock in the House of Lords in *R v Sang* where he asserted that it is no function of a criminal court to refuse to admit evidence as a means to sanction a prosecutor in terms of the means by which they obtain evidence. The Court will only act where there is a potential that there may thereby be prejudice to the fairness of trial.

The accepted formulation is as follows –

Kuruma v R [1955]:

- ▶ “The test to be applied in considering whether evidence is admissible is whether it is relevant to the matters in issue. If it is, it is admissible and the court is not concerned with how it was obtained.”
- ▶ This formula was re-stated and approved in R v Khan [1994] and many other cases since.
- ▶ Where the evidence is simply submitted by a complainant, there can be no possible further argument of bad faith or oppressive conduct on the part of the prosecutor.
- ▶ Note also that the majority of cases where evidence has been obtained directly by the police in contravention of RIPA has nevertheless been admitted in the criminal case, unless there has been a further argument of concurrent abuse of process. This is because Article 8 is subsumed by the Article 6 right to a fair trial.

POLICE NATIONAL BWV GUIDANCE (College of Policing):

- ▶ BWV can be very effective for recording the location of objects and evidence at the scene of a crime or during the search of premises. Investigating officers are then able to review, for example, scenes of serious crime, or record the positions of vehicles and debris at the scene of a serious road traffic collision.
- ▶ In addition, BWV can be used to provide evidence of the conduct of the search, to confirm where items were found and to record significant statements made by persons present at the scene.
- ▶ When used in this way the BWV recording should be treated as an evidential recording and, where possible, the user should provide a running commentary of factual information to accompany the recording to provide context during the review.
- ▶ Evidentially and for the purposes of continuity, all officers equipped with BWV and engaged in a search should ensure that their BWV equipment is switched on and recording prior to entering the premises and remains so during the entire searching process.

Residential Premises

- ▶ Under normal circumstances, officers should not use BWV in private dwellings. However, if a user is present at an incident in a private dwelling and is there for a genuine policing purpose, they are entitled to make a BWV recording in the same way as they would record any other incident.
- ▶ Under Article 8 of the ECHR, individuals have a right to respect for private and family life. Using BWV in a dwelling is always likely to be particularly intrusive, especially during the times of day when occupants are likely to be in bed. Users should, therefore, exercise discretion and record only when it is relevant to the incident and necessary for gathering evidence.

Domestic CCTV – ICO Guidance

- ▶ Using CCTV at your home
- ▶ If you set up a system so that it captures only images within the boundary of your private domestic property (including your garden), then the data protection laws will not apply to you.
- ▶ But if your system captures images of people outside the boundary of your private domestic property – for example, in neighbours' homes or gardens, shared spaces, or on a public footpath or a street – then the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA18) will apply to you, and you will need to ensure your use of CCTV complies with these laws.
- ▶ The phrase 'domestic CCTV system' refers to the use of any video surveillance equipment mounted or fixed on your home. It can include cameras fitted to doorbells.

- ▶ If capturing images beyond your property boundary, you should have a clear and justifiable reason for doing so. **You will need to:**
- ▶ Let people know you are using CCTV by putting up signs saying that recording is taking place, and why.
- ▶ Ensure you don't capture more footage than you need.
- ▶ Ensure the security of the footage captured.
- ▶ Only keep the footage for as long as needed.
- ▶ Ensure the CCTV system can't be misused for other reasons.
- ▶ Respond to subject access requests (SARs). Individuals have a right to access the personal data you hold about them, including identifiable images. They can ask verbally or in writing. You must respond within one month and give them a copy of the data.
- ▶ Deleting footage of people if they ask. This must be done within one month. You can refuse to delete it if you specifically need to keep it for a genuine legal dispute – in which case you need to tell them this, and also tell them they can challenge this in court or complain to the ICO.

SURVEILLANCE AND HUMAN RIGHTS

Code of Practice, August 2018

- ▶ Directed surveillance
- ▶ 3.1 Surveillance is directed surveillance if the following are all true:
 - it is covert, but not intrusive surveillance;
 - it is conducted for the purposes of a specific investigation or operation;
 - it is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation);
 - it is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of the 2000 Act to be sought.
- ▶ 3.2 Thus, the planned covert surveillance of a specific person, where not intrusive, would constitute directed surveillance if such surveillance is likely to result in the obtaining of private information about that, or any other person (collateral intrusion).

- ▶ 2.24 Where covert surveillance activities are unlikely to result in the obtaining of any private information about a person, no interference with Article 8 rights occurs and an authorisation under the 2000 Act is therefore not applicable and this code does not apply. It should be assumed that intrusive surveillance will always result in the obtaining of private information.

- ▶ **Private information**

- ▶ 3.3 The 2000 Act states that private information includes any information relating to a person's private or family life. As a result, private information is capable of including any aspect of a person's private or personal relationship with others, such as family and professional or business relationships.

- ▶ Information which is non-private may include publicly available information such as books, newspapers, journals, TV and radio broadcasts, newswires, web sites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public. Non-private data will also include the attributes of inanimate objects such as the class to which a cargo ship belongs.

▶ Public Places

- ▶ 3.4 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites.
- ▶ Example –
 - ▶ *Officers of a local authority wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. However, if the authority wished to conduct a similar exercise, for example to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person.*

▶ Vehicle Tracking

- ▶ Section 26(4) of the 2000 Act provides that the use of surveillance devices designed or adapted for the purpose of providing information regarding the location of a vehicle is not considered to be intrusive surveillance. The use of such devices alone does not necessarily constitute directed surveillance as they do not necessarily provide private information about any individual, but sometimes only supply information about the location of that particular device at any one time.

▶ The Internet

- ▶ 3.6 Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate
- ▶ 3.10 It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered.
- ▶ 3.15 Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered.

Surveillance

- ▶ Specific situations where authorisation is not available

3.40 The following specific activities constitute neither directed nor intrusive surveillance:

- the use of a recording device by a covert human intelligence source in respect of whom an appropriate use or conduct authorisation has been granted permitting him or her to record any information obtained in their presence;...
- the covert recording of noise where the recording is of decibels only or constitutes non-verbal noise (such as music, machinery or an alarm), or the recording of verbal content is made at a level which does not exceed that which can be heard from the street outside or adjoining property with the naked ear. In the latter circumstance, the perpetrator would normally be regarded as having forfeited any claim to privacy. In either circumstance, an authorisation is unlikely to be available;

- ▶ The judicial approval mechanism is in addition to the internal authorisation process of assessing necessity and proportionality, completing the RIPA authorisation/application form and seeking approval from an authorising officer/designated person.

Application for Judicial Approval –

- ▶ The local authority must provide the JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the JP and should contain all information that is relied upon.
- ▶ For communications data requests the RIPA authorisation or notice may seek to acquire consequential acquisition of specific subscriber information. The necessity and proportionality of acquiring consequential acquisition will be assessed by the JP.
- ▶ The original RIPA authorisation or notice should be shown to the JP but will be retained by the local authority so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigations by the relevant tribunal. The court may wish to take a copy.

- ▶ In addition, the local authority will provide the JP with a partially completed judicial application/order form.
- ▶ Although the local authority is required to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.
- ▶ The order section of the form will be completed by the JP and will be the official record of the JP's decision.
- ▶ The local authority will need to obtain judicial approval for all initial RIPA authorisations/ applications and renewals and the local authority will need to retain a copy of the judicial application/ order form after it has been signed by the JP.
- ▶ The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation or notice and the judicial application/order form. He/she may have questions to clarify points or require additional reassurance on particular matters.
- ▶ **The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.**

Entrapment?

- ▶ East Riding of Yorkshire v Dearlove (QBD) 2012
- ▶ One of the cases referred to by Lord Nicholls was the decision of the Divisional Court in Nottingham City Council v Amin [2001] 1 WLR 1071. Lord Hoffman in Loosely at paragraph 51 described Amin as a good example of a straightforward application of the distinction between causing the commission of the offence and providing an opportunity for it to be committed.

- ▶ It does not seem to me that there was, in the conduct of the council's officers, anything that could amount to impermissible entrapment. **They booked the service just as an ordinary member of the public would do. The telephone booking was the equivalent, for this kind of service, of the flagging down of a taxi in Amin.**

Loosely

- ▶ Re: the nature and extent of police participation in the crime. The greater the inducement held out by the police, and the more forceful or persistent the police overtures, the more readily may a court conclude that the police overstepped the boundary: their conduct might well have brought about commission of a crime by a person who would normally avoid crime of that kind. In assessing the weight to be attached to the police inducement, regard is to be had to the defendant's circumstances, including his vulnerability. This is not because the standards of acceptable behaviour are variable. Rather, this is a recognition that what may be a significant inducement to one person may not be so to another. For the police to behave as would an ordinary customer of a trade, whether lawful or unlawful, being carried on by the defendant will not normally be regarded as objectionable.

Social Media

- ▶ The Chief Surveillance Commissioner in his annual report, published on 4th September 2014, drew special attention to the use of the Internet for investigations, particularly involving social networking sites:
- ▶ “2.29 The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Whenever a public authority intends to use the internet as part of an investigation, they must first ***consider whether*** the proposed activity is likely to interfere with a person’s Article 8 rights, including the effect of any collateral intrusion. Any activity ***likely to interfere with an individual’s Article 8 rights*** should only be used when necessary and proportionate to meet the objectives of a specific case...

►5.30. This is now a deeply embedded means of communication between people and one that public authorities can exploit for investigative purposes. I am reasonably satisfied that there is now a heightened awareness of the use of the tactic and the advisable authorisations under RIPA that should be considered. **Although there remains a significant debate as to how anything made publicly available in this medium can be considered private, my Commissioners remain of the view that the repeat viewing of individual “open source” sites for the purpose of intelligence gathering and data collation should be considered within the context of the protection that RIPA affords to such activity.**”

The Application – Authorising Officers

Box 2. Describe the Purpose of the Specific Operation or Investigation

- ▶ Here, the requesting officer should state the reason behind the investigation. For example “the purpose of the operation is to, through the use of CCTV cameras, obtain corroborative evidence that the tenants and/or visitors and/or residents at number 2 Acacia Avenue, Any Town have engaged in instances which have or are likely to cause harassment alarm and distress to the neighbourhood for use in possible proceedings for breach of a Criminal behaviour Order without the need for vulnerable members of the community or witnesses to give direct evidence in Court”.
- ▶ The authorising officer must be clear from the application what evidence it is hoped will be obtained. If it is obvious that evidence will not be obtainable from the directed surveillance, the application should be referred to the requesting officer for explanation.

Box 3. Describe in Detail the Surveillance Operation to be Authorised and Expected Duration, including any Premises, Vehicles or Equipment (eg Camera, Binoculars, Recorder) that may be used.

- ▶ Particulars of the operation will be given here, addressing each aspect raised in the title of box 3.
- ▶ References to maps and the type of surveillance equipment to be used and where it is sited are required to assist the authorising officer in determining whether or not to grant the authorisation.
- ▶ For example “authorisation is sought to install covert CCTV camera on the roof of the Housing Office opposite block 1 – 7 Acacia Avenue, as marked “A” on the attached map. The map should clearly identify the location i.e. street and town with a north point. Always imagine you do not know the area and do not know the names of the towns– would you be able to find the location from the plan provided?

- ▶ The authorising officer should be able to identify the type of surveillance camera to be used/its surveillance capabilities/zoom settings/ its sight lines or whether it can be angled or set so that its impact/intrusion can be reduced. Can it be set to run at certain times or will it be 24/7 hour observation?).
- ▶ The hours of operation should be stated with details of how often the camera will be checked for evidence. By way of example – “The expected duration of the operation will be two weeks commencing from when this investigation is authorised. The sight lines for the camera will be outside the pavement at number 1 and number 3 Acacia Avenue. In addition, a mobile CCTV unit placed covertly in a Micra car purchased for its covert surveillance capability will be parked outside number 3 Acacia Avenue marked “B” on the attached map for the same two week duration. It is envisaged to use the cameras 24 hours a day 7 days a week. The camera in the covert Micra car will be directed outside number 3 and 5 Acacia Avenue for the same period.”

Box 4. The Identities where known, of those to be the subject of the Directed Surveillance

- ▶ Here, details of names and addresses of the intended subject should be supplied or other information about the subjects as appropriate.

Box 5. Information to be obtained as a result of the Directed Surveillance

- ▶ This should contain the information to be obtained as a result of the directed surveillance.
- ▶ For example “allegations of anti-social conduct have been made against the occupants of number 2 Acacia Avenue, Any Town, Any Place, and their visitors and residents. It is hoped that independent, corroborative evidence of this anti-social conduct can be captured by the CCTV cameras to corroborate the allegations contained in the logs to date, to form the basis of a possible prosecution for breach of a Criminal Behaviour Order without the need for vulnerable witnesses who have been threatened in the past to attend at Court”

Box 6. Grounds for the Directed Surveillance

- ▶ A LOCAL AUTHORITY MAY ONLY AUTHORISE FOR THE PURPOSE OF PREVENTING AND OR DETECTING CRIME OR OF PREVENTING DISORDER.

Box 7. Why this directed surveillance is necessary on the grounds you have identified

- ▶ Authorising officers (and requesting officers when they complete this form) should have regard to Code of Practice paragraph 2.4. This states that obtaining an authorisation will only ensure that there is a justifiable interference with an individual's Article 8 Rights if it is necessary and proportionate for these activities to take place.
- ▶ It first requires authorising officers to believe that the authorisation is necessary in the circumstances of the particular case for the statutory ground outlined at Box 6. **Authorising officers should ask themselves if the evidence to be obtained could be obtained in any other way? Is the directed surveillance operation really necessary to what the requesting officer is seeking to achieve? If there are less intrusive means of obtaining the information, then an authorisation should not be granted.** For example: is it necessary to have the cameras on for two weeks, when one week may provide the information? Could the camera or observations be made during a lesser period of time rather than 24 hours a day?

Box 8. Details of any Potential Collateral Intrusion and why the Intrusion is unavoidable.

- ▶ Describe Precautions you will take to Minimise Collateral Intrusion
- ▶ Who else, apart from the subject of the surveillance can be affected by the nature of the surveillance? Any application for authorisation should include an assessment of the risk of the collateral intrusion and this should be taken into account by the authorising officer when considering proportionality.
- ▶ Officers should carry out an assessment of what information could be received. Officers should address their mind as to what may be a consequence of the surveillance and have a plan to avoid or minimise any such potential intrusion.
- ▶ Any evidence or surveillance obtained which is not relevant to the main proceedings should not be used and will be destroyed as quickly as possible. Any evidence to be used in Court or of relevance that shows people not directly relevant to the investigation should be pixilated out to reduce intrusion into their lives.

Box 9. Explain why this Directed Surveillance is proportionate to what it seeks to achieve.

- ▶ How intrusive might it be on the subject of surveillance or others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means? (Code paragraph 2.5)
- ▶ This involves the authorising officer balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. It will not be proportionate if it is excessive in the circumstances of the case or if the information which is thought could reasonably be obtained by other less intrusive means. Activities should be carefully managed to meet the objective in question and must not be arbitrary or unfair.
- ▶ The authorising officer should also be provided with information and address their minds to the nature of the complaints or why it is considered proportionate

Box 10 Confidential Information – Indicate the likelihood of acquiring any confidential information

- ▶ It is unlikely in the nature of the surveillance that the Council will do that this box will be completed.

Box 11. Applicant's Details.

Box 12. Authorising Officer's Statement (Spell out the 5 W's – who, what, where, when why and how in this and the following box)

- ▶ This is the authorising officer's opportunity to detail what they have understood from the application and detail the limits of the permission which is being granted.
- ▶ Here, follow exactly three prompts in the box. Please do not miss any out and please be as full as possible so that anyone examining the authorisation and more importantly, the requesting officers and people carrying out the investigation will know exactly what their parameters are and why you have authorised this in the manner that you have.

Box 13. Explain why you believe the Directed Surveillance is necessary (Code paragraph 2.4).

- ▶ Explain why you believe the Directed Surveillance to be proportionate to what is sought to be achieved by carrying it out (Code paragraph 2.5)

Box 14 (Confidential Information Authorisation).

- ▶ Supply details demonstrating compliance with Code paragraph 3.1 to 3.12) The relevant authorising officer should seek advice from Legal Advisers before authorising surveillance that may secure confidential information – e.g. medical or legal information.

Date of First Review – Box 15

- ▶ Complete this box if review dates after the first reviews are known. If not or inappropriate to set additional review dates then confirm not applicable
- ▶ Paragraph 4.21 of the Code of Practice provides that regular reviews of authorisations should be undertaken to assess the need for the surveillance to continue. The results should be recorded on the central record of authorisation.
- ▶ There is a need to review authorisations frequently where surveillance provides access to confidential information – significant collateral intrusion.
- ▶ The authorising officer must determine how often a review should take place. It should be as frequently as considered necessary and practicable. Therefore, set the date of the first review for when it is thought that the requesting officer should have obtained sufficient information to have achieved the aim of their investigation without unnecessary intrusion or imbalanced intrusion into others lives.

CRIMINAL PROCEEDINGS

Following the cases of R v G.S. and Ors [2005] EWCA 887, unrep. 22/4/05, it is more difficult for the defence to demand the applications and authorisation forms. The Court of Appeal made it clear that the Act provides all the relevant lawfulness safeguards and if there is a challenge all the prosecution has to do is produce the relevant authorisations to the Judge only for his inspection.

- ▶ What must be remembered is that a breach of Article 8 does not mean that the material must be excluded as a fair trial could take place under Article 6. It all depends on the circumstances, but the case law leans very heavily towards a requirement of bad faith before an Article 8 violation will have an impact on a criminal trial.

▶ EFFECT ON EVIDENCE IN CRIMINAL TRIALS –

▶ *Grant v. R (4/5/2005) CA Case No. 2003/04573*

▶

Appeal allowed against a conviction for conspiracy to murder. The proceedings should have been stayed as an abuse of process. The decision was based on a finding that there had been deliberate covert surveillance of conversations between the accused and his solicitor, by means of a bug in the police station exercise yard. A process that had led to a purported RIPA authorisation of the surveillance demonstrated a disregard for the proper procedures demanded by RIPA.

▶ *R v. Button and Tannahill [2005] EWCA Crim 516 (4/3/2005) CA Case No: 2004 00204*

Audio and video recording of defendants while in police custody. Audio recording had been RIPA authorised; video recording was not authorised. Video record admitted in evidence although common ground that it had been unauthorised and so obtained unlawfully (in breach of s.6 Human Rights Act 1998).

▶ Argued on appeal that the trial Court was itself in breach of s.6 by admitting the evidence.

▶ Held that the breach of article 8 related to the intrusion upon private life involved in the covert surveillance. So far as a trial Court is concerned: any such breach of article 8 is subsumed by the article 6 (and P.A.C.E.) duty to ensure a fair trial. The trial judge had not acted unlawfully by admitting the evidence.

- ▶ *Abbott & Ors v R. [2005] EWCA Crim 2952 (30 November 2005)*

Appeal against conviction on grounds (inter alia) that evidence of covert recordings of conversation between defendants while in police custody was wrongly admitted. Trial judge had held (after a voir dire) that the recording had been properly authorised under RIPA, despite some technical breaches of the appropriate procedure.

- ▶ “it is plain” that breaches of the code and breaches of article 8 do not of themselves render the evidence inadmissible, but are factors which a judge will take into account when exercising his powers under section 76 and 78 of the Police and Criminal Evidence Act 1984. It was "obvious that the admission of this evidence would not adversely affect the fairness of the proceedings." The decision to admit the evidence upheld.

North East Derbyshire District Council

Standards Committee

6th December 2022

WHISTLEBLOWING POLICY – ANNUAL REPORT

Report of the Solicitor to the Council and Monitoring Officer

Classification: This report is public.

Report By: Sarah Sternberg, Solicitor to the Council and Monitoring Officer

Contact Officer: **Sarah Sternberg, Solicitor to the Council and Monitoring Officer**

PURPOSE / SUMMARY

To provide an annual update to Members on use of the Whistleblowing Policy.

REPORT DETAILS

1 Background

- 1.1 Whistleblowing is a report from an employee, member or other person about suspected wrongdoing within the organisation. The Public Interest Disclosure Act 1998 requires employers to refrain from dismissing workers and employees or subjecting them to any other detriment because they have made a protected disclosure.
- 1.2 Whistleblowing policies should foster a climate of openness and transparency in which individuals in the workplace do not feel that they will be victimised, harassed or suffer any reprisals if they raise concerns about wrongdoing within the organisation. The Government expects all public bodies to have adequate whistleblowing procedures in place.
- 1.3 The Whistleblowing Policy was last reviewed in January 2022 when no substantive changes were recommended other than housekeeping amendments.
- 1.4 In accordance with the Whistleblowing Policy, the Monitoring Officer has overall responsibility for the maintenance and operation of the Policy, and will maintain a record of concerns raised and the outcomes. The Monitoring Officer is also required to report as necessary to Council on instances of Whistleblowing. There have been no instances to report for the 2022 calendar year.

2. Details of Proposal or Information Conclusions and Reasons for Recommendation

2.1 The Whistleblowing Policy has been reviewed to ensure that it remains fit for purpose and it is concluded that the existing version is satisfactory and up to date with current legislation and best practice.

2.2 There are no instances of Whistleblowing to report to Members.

3 Consultation and Equality Impact

3.1 There are no equalities issues arising from this report.

3.2 Standards Committee have the responsibility to oversee the Whistleblowing Policy and arrangements and are required to make recommendations to Council to amend the Policy as appropriate.

4 Alternative Options and Reasons for Rejection

4.1 None.

RECOMMENDATIONS

1. That Standards Committee:

1.1 agree the current Whistleblowing Policy is fit for purpose; and

1.2 note that no instances of Whistleblowing have been made since the 2022 Annual Review of the Whistleblowing Policy.

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒
Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details: The legal implications in relation to whistleblowing are contained within the policy.

On Behalf of the Solicitor to the Council

Staffing:

Yes ☐

No ☒

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Significantly Affected	All
Links to Corporate Plan priorities or Policy Framework	All
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	No Details:

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

DOCUMENT INFORMATION

Appendix No	Title
1	Whistleblowing Policy
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	

North East Derbyshire District Council

Whistleblowing Policy



**North East
Derbyshire**
District Council

CONTROL SHEET FOR WHISTLEBLOWING POLICY

Policy Details	Comments/Confirmation (to be updated as the document progresses)
Policy title	Whistleblowing Policy
Current status –	Agreed 2021 version, with housekeeping changes only.
Location of Policy –	Corporate Governance
Member route for approval	Standards, then Council
Cabinet Member (if applicable)	N/A
Equality Impact Assessment (approval date)	N/A
Partnership Involvement (if applicable)	N/A
Final Policy approval route (i.e. Executive/Council Committee)	Council
Date Policy approved	26/04/21 (NEDDC)
Date Policy due for review	Annually
Date Policy forwarded to Strategy and Performance (to include on Intranet and Internet, if applicable to the public)	

WHISTLEBLOWING POLICY

1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within a local authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances employees may feel that it is easier to ignore the concern, rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages employees, Members and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.3 Whistleblowing is the term used when someone who works in or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. For example instances of theft from the Council, accepting or offering a bribe, and failure by colleagues to adhere to Health & Safety directives could all be the subject of a Whistleblow.
- 1.4 This policy document makes it clear that concerns can be raised without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy is intended to encourage and enable employees to raise concerns within either Council in person, rather than overlooking a problem or using other methods to report concerns.
- 1.5 This policy applies to Council employees and other workers, including freelance staff, temporary and agency staff, trainers, volunteers, consultants, contractors, employees of another Local Authority with whom the Council has entered into joint working arrangements and Members.
- 1.6 This policy also applies to all employees in organisations who work in partnership with the Councils and suppliers who wish to raise a concern.
- 1.7 The Public Interest Disclosure Act 1998 protects Council employees who report concerns from subsequent harassment, victimisation and other unfair treatment. Potential informants should feel reassured that it is illegal for the Council to consider any action against them should their concerns not prove to be verifiable.

2. Aims and Scope of this Policy

2.1 This policy aims to:-

- encourage persons to feel confident in raising serious concerns that they may have about practices and procedures
- provide avenues to raise those concerns and receive feedback on any action taken
- allow persons to take the matter further if they are dissatisfied with the Council's response
- reassure employees that they will be protected from possible reprisals or victimisation if they have made any disclosure

2.2 Areas covered by the Whistleblowing Policy include:-

- criminal or other misconduct
- breaches of the Council's Standing Orders or Financial Regulations
- contravention of the Council's accepted standards, policies or procedures
- disclosures relating to miscarriages of justice
- health and safety risks
- damage to the environment
- unauthorised use of public funds
- fraud, bribery and corruption
- sexual, physical and/or verbal abuse of any person or group
- other unethical conduct
- the concealment of any of the above

2.3 Any concerns about any aspect of service provision or the conduct of officers or Elected Members of the Council, or others acting on behalf of the Council, can be reported under the Whistleblowing Policy. This may be about something that:-

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- Is against the Council's constitution and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

3. When this Policy may not be appropriate

3.1 This policy is not a substitute for the Council's other policies and procedures on such matters as personal grievances, bullying and harassment, health and safety, safeguarding issues (children and/or adults) or complaints. It should also not be used to raise matters relating to an employee's own terms and conditions of service.

3.2 It is important to know the difference between a 'Whistleblow' and a 'grievance.' A Whistleblow has a public interest aspect to it, as it puts others at risk.

- 3.3 A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.
- 3.4 For example, a member of staff being formally interviewed on capability grounds, without previously having had any indication that their performance was not acceptable, may lead to a grievance complaint being made. Whilst a member of staff who observes colleagues sharing/selling confidential data to un-authorised others, should lead to a Whistleblow.
- 3.5 The policy is not to be used by members of the public to pursue complaints about services. These should be dealt with through the Council's Complaints Procedures.
- 3.6 This Policy is not to be used by members of the public to pursue complaints against councillors conduct. They should direct complaints in the first instance to the Monitoring Officer who will deal with their complaints under the Members Code of Conduct procedure.

4. Safeguards against Harassment or Victimisation

- 4.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, the Council will not tolerate any form of harassment or victimisation, and will take appropriate action to protect persons who have made a disclosure.
- 4.2 The Council is committed to good practice and high standards and endeavours to be supportive of persons who raise concerns under this Policy.
- 4.3 In all cases, the provisions of The Public Interest Disclosure 1998 (PIDA) will be adhered to.
- 4.4 The Enterprise & Regulatory Reform Act 2013 (ERRA) introduced a Public Interest test requirement on Whistleblowers. In order to receive the protection of PIDA, Whistleblowers will now have to show that they reasonably believe that the disclosure they are making is in the public Interest.

5. Confidentiality

- 5.1 All concerns will be treated in confidence and the identity of the person raising the concern will not be revealed without his or her consent (subject to any legal requirements or decisions). At the appropriate time, however, the person may be expected to come forward as a witness.

6. Anonymous Allegations

- 6.1 This policy encourages you to put your name to any allegation wherever possible and receive the protection of PIDA as anonymous complaints are likely to be difficult to deal with effectively.

6.2 Concerns expressed anonymously will be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:-

- The seriousness of the issues raised
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

7. Untrue Allegations & Legal Protection

7.1 If you are a Council employee you are given legal protection by the Public Interest Disclosure Act 1998. You will qualify for this protection if you reasonably believe that the disclosure is in the public interest.

7.2 If you make what is known as a “qualifying disclosure” under the 1998 Act to your employer or certain other persons/bodies, it will be unlawful for the Council to subject you to any detriment (such as denial of promotion or withdrawal of a training opportunity), or to dismiss you, because of the disclosure.

7.3 Qualifying disclosures are disclosures of information where a Council employee reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above.

7.4 Compensation may be awarded to you by an Employment Tribunal if the Council breaches the 1998 Act, following a successful claim for ‘detrimental treatment’.

8. How to raise a Concern under this Policy

8.1 Concerns may be raised normally in writing. Persons who wish to raise a concern should provide details of the nature of the concern or allegation in the following format:

- The background and history of the concern giving names, dates and places where possible.
- The reason why you are particularly concerned about the situation.
- Submit any relevant evidence or documentation.

8.2 The earlier you express the concern the easier it is to take action.

8.3 Although you are not expected to prove beyond reasonable doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

8.4 Employees may choose to be represented by a colleague or Trade Union representative.

Employees

- 8.5 Employees should normally raise concerns in the first instance with their Line Manager. Alternatively, dependent upon the nature, seriousness and sensitivity of the issues involved and the person suspected of malpractice you could approach;
- the Service Manager whom you feel would be the most appropriate
 - Internal Audit
 - the Head of Paid Service (responsible Officer for Safeguarding)
 - the Monitoring Officer
 - The Section 151 Officer
- 8.6 You may choose to contact a Prescribed Person. Prescribed persons, as prescribed under the Public Interest Disclosure Act 1998, are independent bodies or individuals that can be approached by whistleblowers where an approach to their employers would not be appropriate. Prescribed persons, which usually have an authoritative relationship with the whistleblowers' organizations, can be regulatory or legislative bodies, central government departments, arm's length bodies or charities and include all Members of Parliament. You may also contact the "Public Concern at Work" helpline if you wish to remain anonymous. The telephone number for this service is: 020 7404 6609.

Other Persons (including Elected Members)

- 8.7 Other persons can contact any of the following officers of the Councils directly:
- the Service Manager whom you feel would be the most appropriate
 - Internal Audit
 - the Head of Paid Service (responsible Officer for safeguarding)
 - the Monitoring Officer
 - The Section 151 Officer
- 8.8 Officers of the Councils can be contacted in writing, by telephone or by going through one of the Contact Centres. You can contact the Council through your elected Councillor if this is preferable or more convenient.
- 8.9 You may also choose to contact a body external to the Council such as the External Auditor or the Police or a Prescribed Person.

9 How the Council will respond to a concern raised under this Policy

- 9.1 The Officer with whom the concern was initially raised will respond in writing within ten working days:
- acknowledging that the concern has been received
 - indicating how it is proposed to deal with the matter
 - stating whether any initial enquiries have been made
 - supplying information on what support is available and stating whether further investigations will take place and if not, why not

- 9.2 Concerns raised under this Policy will be investigated by the investigating officer who will be appointed at the Council's discretion.
- 9.3 When conducting the investigation, the investigating officer may involve:-
- Internal Audit
 - Legal & Governance Services
 - Human Resources
 - the Police (in some circumstances the Council will have no choice but to inform the Police if it believes a criminal offence has been committed and may do so without informing the whistle blower)
 - an external auditor
 - The Monitoring Officer
 - The S 151 Officer
 - The Head of Paid Service (responsible Officer for safeguarding)
 - Any other person at the discretion of the investigating officer
- 9.4 The investigating officer should in the first instance inform any employee who is the subject of a Whistleblowing allegation of the allegation before a decision is taken as to what will happen with it. If the investigating officer determines that this would not be appropriate in the circumstances then he should seek guidance from the Monitoring Officer who may advise not to inform the employee at this stage of the process.
- 9.5 The investigating officer will make initial enquiries to decide whether an investigation is appropriate and if so what form it should take having regard to the law and the public interest.
- 9.6 If the investigating officer decides that a disciplinary investigation is the appropriate course of action to take, he/she will advise Human Resources who will instruct an appropriate person to conduct the disciplinary investigation and ensure that the investigation is carried out in accordance with the Councils' Disciplinary Policy.
- 9.7 Some concerns may be resolved by agreed action without the need for investigation.
- 9.8 It may be necessary to take urgent action before any investigation is completed.
- 9.9 The Council will take steps to minimise any difficulties that persons may experience as a result of raising a concern. For instance, if he or she is required to give evidence in criminal or disciplinary proceedings the Council will arrange for advice to be given about the procedure (but not about what answers to give).
- 9.10 The Councils accept that persons need to be assured that the matter has been properly addressed. Subject to legal constraints, the Council will inform the Whistleblower of the progress and outcome of any investigation.
- 9.11 It is important for persons to understand that making a Whistleblowing allegation doesn't give them anonymity, but does give them protection from harassment or victimisation.

10 The Responsible Officer

- 10.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form attached.
- 10.2 The Monitoring Officer will report as necessary to the Council.
- 10.3 The Investigating Officer must inform the Monitoring Officer of the receipt of a concern raised under this Policy, how they intend to deal with it and how the matter was concluded.

11. How the Matter Can Be Taken Further

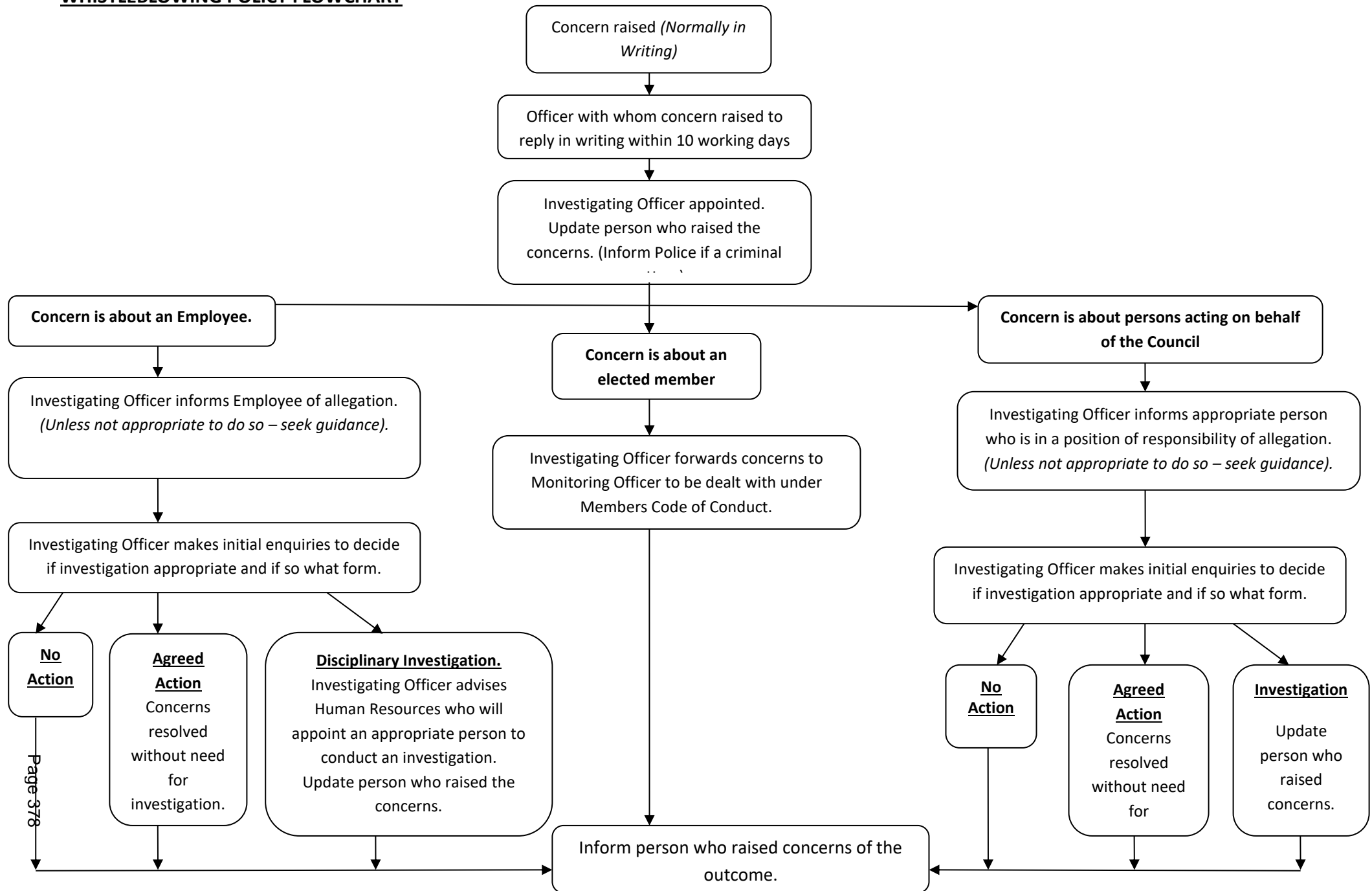
- 11.1 This Policy is intended to provide a process within the Council, through which appropriate persons may raise concerns. If at the conclusion of this process the person is not satisfied with any action taken or feels that the action taken is inappropriate, the following are suggested as further referral points:
- the Councils external auditor
 - Your Trade Union
 - Your local Citizens Advice Bureau
 - Relevant professional body or regulatory organisation
 - A relevant voluntary organisation
 - The Police
 - Your Solicitor
 - The Audit Commission
- 11.2 Advice should be taken before making an external disclosure and the internal procedure should normally have been followed first.
- 11.3 The Councils would not normally expect Whistleblowers to make disclosures to the press.

12. Whistleblowing Register

- 12.1 The Monitoring Officer in accordance with the Whistleblowing Policy of North East Derbyshire District Council has overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality and substantially in the form below.

Number	Council	Details	Outcome
1/20xx			

WHISTLEBLOWING POLICY FLOWCHART



MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
1 May	2	3	4 <div>Local Elections</div>	5	6	7
8 <div>Bank Holiday</div>	9	10 <div>Members Induction</div>	11 <div>Members Induction</div>	12 <div>Members Induction</div>	13	14
15 <div>Members Induction</div>	16 <div>Members Induction</div>	17 <div>Members Induction</div>	18 <div>Members Induction</div>	19 <div>Members Induction</div>	20	21
22 <div>Annual Council (followed by Ordinary Council if required)</div>	23 <div>Members Induction</div>	24 <div>Members Induction</div>	25 <div>Members Induction</div>	26 <div>Members Induction</div>	27	28
29 <div>Planning Site Visits</div>	30 <div>Planning Committee</div>	31				

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
			1 Jun	2	3	4
5	6 Licensing Sub Committees (if required)	7	8	9	10	11
12	13	14	15 Cabinet Briefing	16	17	18
19 Joint ICT Committee 00:00 0	20	21	22	23	24	25
26	27	28	29	30		

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
					1 Jul	2
3 Audit Committee	4 Licensing Sub Committees (if required)	5 Cabinet SMT Licensing Committees	6 Cabinet Cabinet Briefing	7 Communities Scrutiny Committee	8	9
10	11 Organisation SC	12 Member Development Working Group Standards Committee	13 Distict Parish Liasion Group Growth SC	14	15	16
17	18	19	20	21	22	23
24 Planning Site Visits	25 Planning Committee	26 Cabinet SMT	27 Cabinet	28 Joint Consultative Group	29	30
31 Council						

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
	1 Aug	2	3	4	5	6
7 Recess	8 Recess	9 Recess	10 Recess	11 Recess	12	13
14 Recess	15 Recess	16 Recess	17 Recess	18 Recess	19	20
21 Recess	22 Recess	23 Recess	24 Recess	25 Recess	26	27
28 Recess	29 Licensing Sub Committees (if required)	30	31 Cabinet Briefing			

				1 Sep	2	3
4	5	6	7	8	9	10
Audit Committee	Planning Committee	Member Development Working Group		Communities SC		
Planning Site Visits						
11	12	13	14	15	16	17
18	19	20	21	22	23	24
	Organisation SC	Cabinet SMT	Cabinet			
25	26	27	28	29	30	
Council		Standards Committee	Growth SC			

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
						1 Oct
2	3	4	5	6	7	8
Joint ICT Committee	Planning Committee		Cabinet Briefing			
Planning Site Viisits						
9	10	11	12	13	14	15
	Licensing sub committees (if required)					
16	17	18	19	20	21	22
23	24	25	26	27	28	29
		Cabinet SMT	Cabinet	Joint Consultative Group		
30	31					
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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
		1 Nov	2	3	4	5
6	7	8	9	10	11	12
<div>Audit Committee</div> <div>Planning Site Visits</div>	<div>Planning Committee</div>	<div>Licensing Committees</div>	<div>Growth SC</div>	<div>Communities SC</div>		
13	14	15	16	17	18	19
	<div>Licensing Sub Committees (if required)</div> <div>Organisation SC</div>	<div>Member Development Working Group</div> <div>Standards Committee</div>	<div>Cabinet Briefing</div> <div>District Parish Liaison Group</div>			
20	21	22	23	24	25	26
27	28	29	30			

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
				1 Dec	2	3
4	5	6	7	8	9	10
Audit Committee	Planning Committee	Cabinet SMT	Cabinet			
Planning Site Visits						
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
1 Jan 24	2	3	4 Cabinet Briefing	5	6	7
8	9	10	11	12	13	14
15 Planning Site Visits	16 Planning Committee	17 Member Development Working Group	18 Growth SC	19 Communities Scrutiny Committee	20	21
22 Audit Committee	23 Organisation SC	24 Cabinet SMT	25 Cabinet	26 Council Joint Consultative Group	27	28
29 Council (Budgets)	30 Licensing Sub Committees (if required)	31				

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
			1 Feb	2	3	4
5 Standards Committee	6	7	8 Cabinet Briefing	9	10	11
12 Joint ICT Committee	13	14	15	16	17	18
19	20	21	22	23	24	25
26 Audit Committee	27 Licensing Sub Committees (if required)	28 Cabinet SMT	29 Cabinet			

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
				1 Mar Communities SC	2	3
4 Council	5 Licensing Committees Organisation SC	6 Member Development Working Group	7 Cabinet Briefing District Parish Liaison Group Growth SC	8	9	10
11	12	13	14	15	16	17
18 Planning Site Visits	19 Planning Committee	20	21	22	23	24
25 Audit Committee	26 Licensing Sub Committees (if required)	27 Cabinet SMT	28 Cabinet	29	30	31

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
1 Apr	2 <div> <div>Organisation SC</div> </div>	3	4 <div> <div>Cabinet Briefing</div> <div>Growth SC</div> </div>	5 <div> <div>Communities SC</div> </div>	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22 <div> <div>Planning Site Visits</div> </div>	23 <div> <div>Planning Committee</div> </div>	24 <div> <div>Cabinet SMT</div> </div>	25 <div> <div>Cabinet</div> </div>	26	27	28
29 <div> <div>Council</div> </div>	30 <div> <div>Organisations SC</div> </div>					

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
		1 May Standards Committee	2 Cabinet Briefing Growth SC	3 Communities SC Council Joint Consultative Group	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23 Cabinet	24	25	26
27 Annual Council	28	29	30	31		

North East Derbyshire District Council

Standards Committee

6th December 2022

Civility and Respect Pledge for Parish and Town Councils

Report of the Assistant Director of Governance and Monitoring Officer

Classification: This report is public

Report By: Sarah Sternberg, the Assistant Director of Governance and Monitoring Officer

Contact Officer: Sarah Sternberg, the Assistant Director of Governance and Monitoring Officer

PURPOSE / SUMMARY

Local Councils have something of a reputation for bad behaviour and bullying behaviour. In response to this NALC (National Association of Local Councils) and SLCC (Society of Local Council Clerks) have produced the Civility and Respect pledge for Parish and Town Councils. This report is to seek support for promoting this both with current Local Councils and with the new Local Councils following the elections in May 2023.

In addition and as part of the Civility and Respect project work stream, NALC and SLCC have produced guidance for Town and Parish Councils on the use of social media responsibly and as a local councillor. The report is similarly seeking support to promote this with current Local Councils and the new Local Councils following the elections in May 2023.

RECOMMENDATIONS

1. That the Chair and Monitoring Officer write to all Local Councils encouraging them to take the Civility and Respect pledge.
2. That the Chair and Monitoring Officer write to all Local Councils encouraging them to introduce social media guidance for councillors based on the Civility and Respect Guidance.
3. That this is repeated following the May 23 elections.

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒

Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes ☒

No ☐

Details:

As in the report

On Behalf of the Solicitor to the Council

Staffing:

Yes ☐

No ☒

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None directly
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Yes Details: Standards Committee

Links to Council Plan priorities, including Climate Change, Equalities, and Economics and Health implications.

None

REPORT DETAILS

1 Background

- 1.1 The standard of behaviour in Parish and Town Councils is not always high enough. Respect to fellow councillors, clerks and the public can be lacking. There is little that can be done in many cases. Even where Chairs try to control the bad behaviour, it can often continue.
- 1.2 To help Councils address this, NALC and SLCC have introduced the Civility and Respect Project.

2. Details of Proposal or Information

- 2.1 The first part of the project is the Civility and Respect Pledge whereby Councils pledge to tackle disrespectful, bullying and harassing behaviour. The pledge is wider than this and includes training and signing up to the Code of Conduct. The pledge is on page 1 of Appendix 1. This includes further details of the pledge including an agenda item for Councils. This can be found on the NALC website under the "our work" heading.
- 2.4 Appendix 2 contains posters which are freely available to Local Councils in respect of the pledge and bullying and harassment.
- 2.5 This is very helpful advice in terms of behaviour guidance and its relationship to good governance and the effectiveness of Local Councils.
- 2.6 It would be good to promote this with the Local Councils in the District's area, both before and after the May 2023 elections.
- 2.7 At Appendix 3 is the guidance produced under the Civility and Respect agenda for the use of social media by councillors. It also contains some very useful advice to all users of social media. Again I would like to promote this with the Parish and Town Councils in the District's area.
- 2.8 The District has had guidance for some time and this is in the Council's Constitution.

3 Reasons for Recommendation

- 3.1 It is the role of this Committee and the Monitoring Officer to give advice and guidance where appropriate on behaviour. This is certainly requested at times by the Local Councils.

4 Alternative Options and Reasons for Rejection

- 4.1 Not to do anything. This would not highlight to Local Councils action they can take to prevent or deal with inappropriate behaviour. Therefore it was rejected.

DOCUMENT INFORMATION

Appendix No	Title
1	Civility and Respect Pledge
2	Civility and Respect Poster and Bullying and Harassment Statement poster
3	Actively addressing the issues of Civility and Respect on Social Media.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet you must provide copies of the background papers)	

Appendix 1**CIVILITY AND RESPECT PROJECT****ABOUT**

Throughout the sector, there are growing concerns about the impact bullying, harassment, and intimidation are having on local (parish and town) councils, councillors, clerks and council staff and the resulting effectiveness of local councils.

The National Association of Local Councils (NALC), One Voice Wales, the Society of Local Council Clerks (SLCC) and county associations have responded to this by setting up a Civility and Respect Working Group to oversee the Civility and Respect Project.

CIVILITY AND RESPECT PLEDGE

NALC, SLCC, and OVW believe now is the time to put civility and respect at the top of the agenda and start a culture change for the local council sector.

The Civility and Respect Pledge is being introduced because there is no place for bullying, harassment and intimidation within our sector. The pledge is easy for councils to sign up for and it will enable councils to demonstrate that they are committed to standing up to poor behaviour across our sector and to driving through positive changes which support civil and respectful conduct.

We invite all councils to take the Civility and Respect Pledge.

The Pledge

By signing the Pledge, your council is agreeing that the council will treat councillors, clerks, employees, members of the public, and representatives of partner organisations and volunteers with civility and respect in their roles and that it:

- Has put in place a training programme for councillors and staff
- Has signed up to the Code of Conduct for councillors
- Has good governance arrangements in place including staff contracts and a dignity at work policy
- Will seek professional help at the early stages should civility and respect issues arise
- Will commit to calling out bullying and harassment if and when it happens
- Will continue to learn from best practices in the sector and aspire to be a role model/champion council through for example the local [**Local Council Award Scheme**](#)
- Supports the continued lobbying for change in legislation to support the Civility and Respect Pledge including sanctions for elected members where appropriate

MISSION STATEMENT

- Civility and respect should be at the heart of public life, and good governance is fundamental to ensuring an effective and well-functioning democracy at all levels.
- The intimidation, abuse, bullying and harassment of councillors, clerks and council staff, in person or online, is unacceptable, whether by councillors, clerks, council staff, or public members.
- This can prevent councils from functioning effectively, councillors from representing local people, discourage people from getting involved, including standing for election, and undermine public confidence and trust in local democracy.
- NALC, county associations and OVW, as the membership organisations representing the first tier of local government in England and Wales, and the SLCC, as the professional body for clerks, are committed to working together to promote civility and respect in public life, good governance, positive debate and supporting the well-being of councillors, professional officers and staff.
- To that end, the Civility and Respect Working Group will be working to deliver tangible resources, actions and interventions in four main areas: providing councils with the tools to support good governance; lobbying to strengthen the standards regime and encouraging more people to get involved; training; and processes to intervene to provide support to struggling councils.

Definition of Civility and Respect

Civility means politeness and courtesy in behaviour, speech, and in the written word.

Examples of ways in which you can show respect are by listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind.

Suggested Council agenda item:

The National Association of Local Councils (NALC), the Society of Local Council Clerks (SLCC), and One Voice Wales (OVW), believe now is the time to put civility and respect at the top of the agenda and start a culture change for the local council sector.

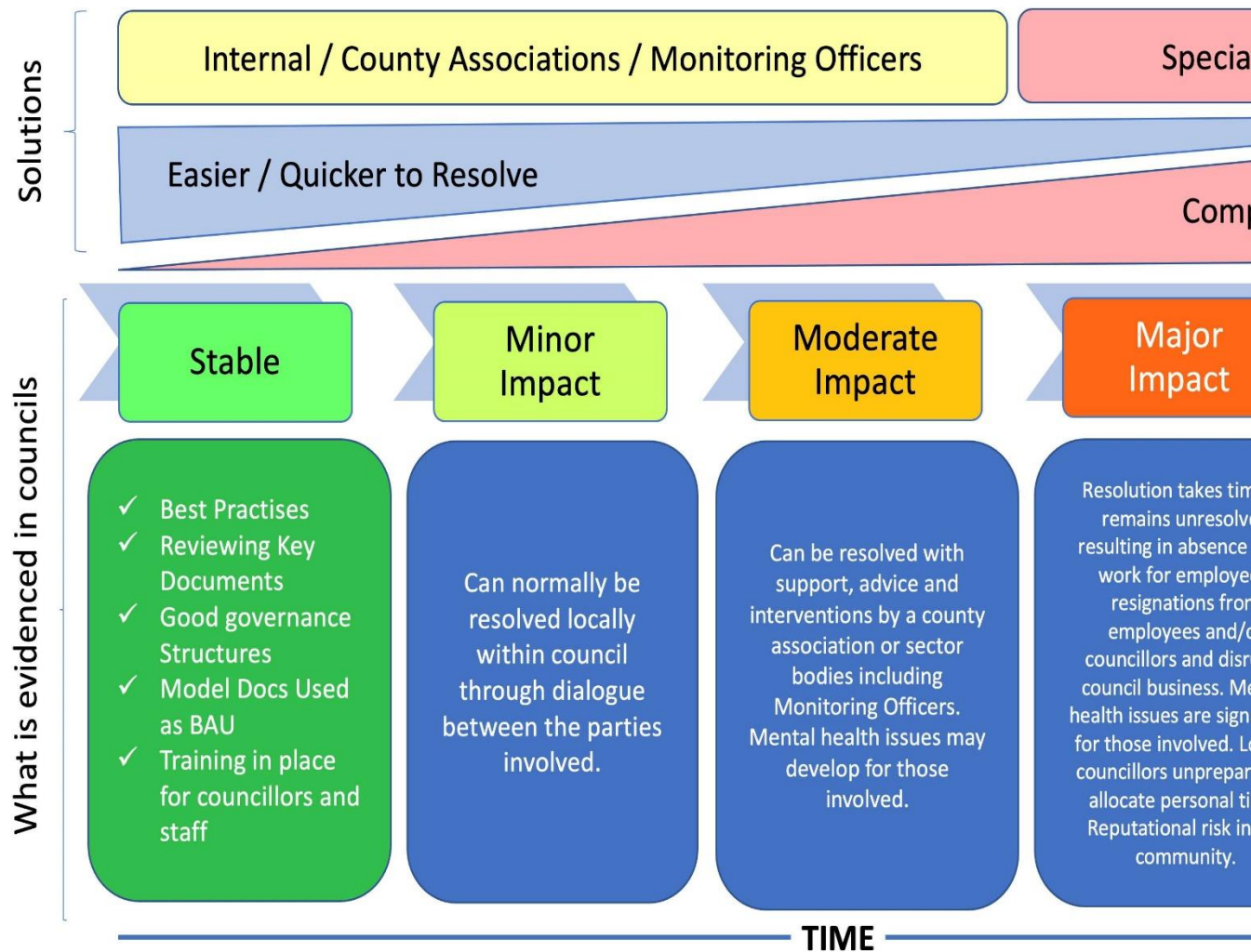
By our council signing up to the civility and respect pledge we are demonstrating that our council is committed to treating councillors, clerks, employees, members of the public, representatives of partner organisations, and volunteers, with civility and respect in their role.

Signing up is a simple process, which requires councils to register and agree to the following statements:

Statement	Tick to agree
Our council has agreed that it will treat all councillors, clerk and all employees, members of the public, representatives of partner organisations, and volunteers, with civility and respect in their role.	
Our council has put in place a training programme for councillors and staff	
Our council has signed up to Code of Conduct for councillors	
Our council has good governance arrangements in place including, staff contracts, and a dignity at work policy.	
Our council will commit to seeking professional help in the early stages should civility and respect issues arise.	
Our council will commit to calling out bullying and harassment when it happens.	
Our council will continue to learn from best practice in the sector and aspire to being a role model/champion council e.g., via the Local Council Award Scheme	
Our council supports the continued lobbying for the change in legislation to support the Civility and Respect Pledge, including sanctions for elected members where appropriate.	

Civility and Respect Continuum

The Civility and Respect Continuum illustrates how issues escalate over time. Our research has indicated that councils experiencing poor conduct or vexatious demands/complaints often experience problems repeatedly over a significant period of time. The longer an issue is permitted to continue, unaddressed, the more complex, time-consuming, and expensive the resolution becomes. This can eventually result in damage to the reputation of the council and health issues for those involved eventually ending with multiple resignations of both staff and councillors. Councils that have up-to-date policies and procedures, well-trained councillors and employees can often manage and mediate issues with or without advice and support from county associations and/or monitoring officers. Where councils become overwhelmed or fail to draw upon the resources available, matters can escalate and come under significant strain and pressure. In these situations, the solutions are often beyond the existing support offered and invariably best resolved by third parties, a costly and time-consuming challenge.



The project is identifying solutions to support councillors, officers, councils, and county officers at every stage of the civility continuum, however, whilst governance and training solutions may help with minor and moderate issues, the options for support at the major end of the scale become more limited. Support from monitoring officers and county associations may provide resolution in some instances but often issues have become too complex to resolve without costly interventions from specialist third parties. Every attempt should be made to prevent escalation by addressing potential behavioural issues as soon as they arise, calling out bullying and harassment at the earliest opportunity and standing up for civil and respectful behaviour.

If the issues within a council have escalated to critical, then the options for resolution are still further limited, with costly external resolution and legal support often being required to reach resolutions. Potential action/intervention at this stage is being piloted with a town council struggling with chronic issues. It is being overseen by the joint NALC/SLCC Internal Development Board. If the solution proves successful it may be possible to expand the support programme but much depends on the councils' willingness to make a positive change. Early intervention to head off chronic issues is a far more effective mechanism to handle poor behaviour.

The Dignity at Work policy is the first of a series of new or revised governance documents which are being developed by the project team. The documents have been reviewed by a focus group made up of clerks, councillors, monitoring officers, and county associations.

The Dignity at Work policy will replace any previous bullying and harassment policy. It encompasses behaviours beyond bullying and harassment and zero-tolerance to deal with concerns before they escalate. It has been produced with supporting guidance because it is essential that any commitment to the policy is applied in practice.

The wording has been suggested to demonstrate a council's commitment to promoting dignity and respect where they have signed up to the [Civility and Respect Pledge](#). Councils who have not signed up for this are requested to consider making this pledge which is based on basic behaviours and expectations of all council representatives to create workplaces that allow people to maintain their dignity at all times.



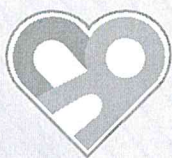
Civility & Respect For the local council sector

- IS top of the
agenda

Definition of civility & respect

Civility means politeness and courtesy in behaviour, speech, and in the written word.

Examples of ways in which you can show respect are by listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind.



**Civility &
Respect**

IN COLLABORATION WITH SLCC, NALC, OVW, COUNTY ASSOCIATIONS

For more information about how
to get involved, visit:
www.nalc.gov.uk or www.slcc.co.uk

Civility & Respect Pledge

To treat other councillors, clerks, all employees, members of the public, representatives of partner organisations and volunteers with civility and respect in their roles.



How will this culture change be achieved?

- ✓ **Council signs up** to Civility & Respect Pledge
- ✓ **Undertake recommended training** for clerks, councillors and chairpersons
- ✓ Good **employment practices**
- ✓ Good **governance**
- ✓ Continued **lobbying for change** in legislation (including sanctions)
- ✓ **Dignity at work** policy
- ✓ **Seek professional help** at early stages of problem
- ✓ Learning from **best practice**
- ✓ Being a **role model**/champion council (Local Council Award Scheme)
- ✓ **Calling out bullying and harassment** when it happens

**Take the
pledge**

The Civility and Respect Project is an ongoing and evolving project committed to improving standards for all involved in local councils.



**Civility &
Respect**

IN COLLABORATION WITH SECC, NAFC, OVV, CIPFA AND CIPD

BULLYING AND HARASSMENT STATEMENT

We treat everyone with courtesy and respect and ask for the same in return. We ask that you treat your councillors

and council staff courteously without violence, abuse, or harassment.

Councillors and council staff have the right to carry out their civic duties and work without fear of being attacked or abused. Any behaviour whether that be verbal, physical or in writing, which causes either councillors or council staff to feel uncomfortable, embarrassed, or threatened, is totally unacceptable.

The zero-tolerance policy includes abuse, aggression or threats made in person, over the telephone or in written communication, including on social media. The council considers threatening behaviour to be:

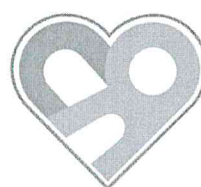
Attempted or actual aggressive, or physical actions made towards any councillor or member of staff.

The use of aggressive, or abusive language, (including raising of the voice, swearing, shouting or in writing) which threatens or intimidates councillors or council staff".

This policy applies throughout all Council Meetings, but it also applies to any Councillor or Council Staff away from Council Meetings



STOP BULLYING



Civility & Respect

IN COLLABORATION WITH SLCC, NALC, OVW, COUNTY ASSOCIATIONS

Actively addressing the issues of Civility and Respect on Social Media

A Social Media Civility and Respect Guide and Policy Supplement
produced by Breakthrough Communications,
for and on behalf of the Civility and Respect Project.



Civility & Respect

IN COLLABORATION WITH SLCC, NALC, OVW, COUNTY ASSOCIATIONS



BREAKTHROUGH
COMMUNICATIONS
SPECIALISTS IN CONNECTING COUNCILS WITH THEIR COMMUNITIES

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Notice

Social Media Civility & Respect Guide and Policy Supplement has been designed and developed by Breakthrough Communications. This document is hereby licensed by Breakthrough Communications & Strategies Limited for use by parish and town councils to help them proactively tackle social media civility and respect issues. This document may be used and deployed by local councils as required to suit their individual needs.

Disclaimer: this guide has been designed as a useful general guide for local councils, however please note that it does not constitute legal advice. Whilst we've done our best to make sure that the information contained within the guide is as accurate as possible at the time of production, we cannot accept any liability for error or omission whatsoever. If your council requires advice relating to your specific situation or circumstances, please contact us and we'll do our best to assist you.

Introduction

Thank you for downloading this document, which forms part of the templates and resources made available by the Civility & Respect project.

This advice and guidance provided in this document are focused on civility and respect issues as they relate to the use of social media by local councils and councillors.

This document is intended to provide a framework that empowers local councils to take a proactive approach to social media. It is designed to act as a supplement to a council's overarching social media policies and procedures. It also seeks to offer guidance to individual parish and town councillors. The guidance can be used by any size of parish or town council.

It is primarily designed to be an internal council document. However, it does contain elements that could be used in the public domain. General introduction to the issue of civility and respect from NALC and SLCC:

- [Civility and Respect \(NALC\)](#)
- [Civility and Respect \(SLCC\)](#)

Advice for the council

Evidence suggests that local councils experiencing poor conduct or vexatious demands or complaints often experience problems over a significant period of time. The longer an issue is permitted to continue, unaddressed, the more complex, time-consuming, and expensive the resolution becomes.

There are several reasons why parish and town councils should adopt a proactive approach. For instance:

- It demonstrates a committed approach by the council to social media and issues relating to civility and respect
- It sets out a clear corporate framework for the council
- It provides guidance to individual members of the council
- It complements your existing policies and procedures, in particular, those relating to civility and respect
- Helps to spread best practice across the sector

Suggested first steps

It is important that your council takes a proactive approach to civility and respect issues.

Here are some ways you can get off on the right foot with social media.

Raise internal awareness

The first step your council should take is formally adopting the civility and respect pledge. Your council can do this by visiting either the [NALC website](#) or the [SLCC website](#).

Regularly remind councillors and staff about civility and respect issues and the guidelines for respectful social media.

For example, once a quarter your council could send out a short email to all staff and councillors. This could be a wider, proactive message about civility and respect issues and include a link to the Supplement on your website.

You should also actively remind councillors and officers about the training that is available both in relation to social media and reinforcing positive behaviour

You could also direct councillors to the relevant section in this document.

The Council could also adopt some specific policies and procedures concerning social media. Please see the template Supplement at the end of this document.

Raise public awareness

Make the pledge wording available on your council's website, ideally in a prominent place. Try to place a link to this and other social media policies near any social media links if possible, as this will help raise public awareness.

Include a link on your council's social media accounts. This could be a link in a pinned post, for example. Your council could also have a link in the 'description section' of any social media accounts, or as part of its 'bio' if relevant.

You could also place the Bullying and Harassment zero tolerance notice on your website parts of this document, as appropriate.

Share best practice and highlight bad practices

It is always important to highlight good practice with colleagues. It is equally important to remind people why good conduct on social media is important. Your council could consider sharing resources such as videos and articles.

Proactively encourage two-way civility and respect through the council's social media channels

When there is a positive news story relating to your council or area, try to encourage positive engagement. This can be on any aspect of the work of the council, from its day-to-day services, its people and teams, the projects it carries out, and so much more. It can also relate to awards and recognition.

For example, if the council does well in an 'In Bloom' competition, your council could take the following easy steps to proactively boost two-way civility and respect on its social media channels:

1. Take a picture or video of the beautiful flowers, or the team collecting the award
2. Create a positive post
3. Ask councillors and other members of staff to positively comment, react and share
4. Repeat the next time there is some good news

You could also promote events such as [World Kindness Day](#). This event takes place worldwide every year on 13th November.

General social media advice for councillors

What is social media?

Social media is applications or websites that encourage and enable users to network. Such applications and websites allow users to easily generate, post and share content.

Put simply - there are a huge amount of social media platforms and there are more every day. Some might use the following:

- Facebook
- Twitter
- Instagram
- YouTube
- WhatsApp

Tip: Different platforms will allow you to speak to different ‘audiences’ or parts of your community. Instagram is popular with younger people. Twitter is popular with organisations. Think carefully about who you want or need to speak to.

Why use social media as a councillor?

Social media is a simple, quick and effective way of communicating. It’s also cheap and allows a user to reach whole communities at the click of a button.

More than that, social media is built for community engagement. Councils and councillors can have 2-way conversations rather than simply broadcasting information.

Tip: Some people aren’t on social media at all. Not everyone on social media will be on the platform that you are using. Remember both of these things when seeking feedback or opinions from your community.

New to social media as a councillor?

If you have never used social media as a councillor, start with small steps. Take advice, don't rush into things. Start off on one platform and master it before moving on to another.

Setting up a Facebook Page is a good place to start. It is easy to do and most people are familiar with it. Lots of people are still active Facebook users - despite it now being considered 'traditional' social media.

Once you have yourself set up, start with a simple 'Hello'. Try to post engaging content. Ask questions, take feedback and build a two-way conversation. Build a community by trying to grow the number of followers or subscribers you have.

Tip: Sharing content with local groups on social media is an easy way of growing the number of followers you have. But be careful not to share too much with groups and ensure the content is relevant to them.

How do I manage my social media security and safety?

It is really easy to share information about yourself. That is indeed the whole point of social media. So as a councillor you need to think carefully about what you put out there and how much of it.

Before you start posting it is worthwhile thinking about not only what is safe to post, but what you are comfortable with posting. As a general rule, don't share personal information, such as your personal phone number, date of birth, or home address.

Remember that you need to also consider the personal data of others around you. You might be comfortable living your life in the public glare, but you need to ask yourself: "Are my family, friends, neighbours and work colleagues?"

From a security point of view, think carefully before you post. Once something is on social media you lose nearly all control as to how it will be used.

As with emails you will need to watch out for phishing scams, cons and malicious software.

Finally, there are trolls who post content that is designed to upset, elicit a response or to further their own goals.

A troll is often someone who posts just to get an emotional reaction or to manipulate others' perceptions. The posts can be offensive, off-topic, inflammatory, purposefully inaccurate or insincere. Trolls often do this for their own amusement or in aid of goals such as disrupting the democratic process.

It is important 'not to feed the trolls'. Stay focused on what's important and try not to respond to content that is purposefully offensive, off-topic, inflammatory, inaccurate or insincere

Tip: Every social media platform has a slightly different set of privacy options and controls. Do your research and set them correctly BEFORE you start to post content and not after.

What are my responsibilities as a councillor on social media?

Golden Rule - If you are unsure about posting something, stop and ask for advice first before doing anything else.

Social media almost always operates in the public domain. Once something is published it is often out there for everyone to see. Social media content can:

- Go 'viral' - meaning it can be seen by a large number of people
- Be altered or changed without your consent
- Be taken out of context
- Shared around the world

Using social media as the elected (or co-opted) member of a council is very different from using it as someone who isn't a councillor. Councillors have additional responsibilities because of the position they are in.

Councillors are personally responsible for the social media content they create, publish and share. Being a councillor will not prevent someone else from pursuing legal action following the publication of an untrue statement. In such a situation you will likely be held personally liable.

Councillors should be mindful of the difference between fact and opinion. You also play a central role in preventing the spread of disinformation. Think twice before you press 'share' or 'retweet'!

On social media, councillors should also keep in mind their responsibility in relation to confidential information, copyright, data protection, the pre-election period and exempt reports.

Councillors are still subject to the Code of Conduct on social media. If you refer to your role as a councillor it is likely that you may be considered to be acting in an "official capacity".

When posting to social media you should remember:

- You are an elected representative of the council
- What you post can affect the reputation of the council
- The council is a corporate decision-making body. You cannot independently make decisions for the council over social media
- Some issues and communications are best left to the council's official social media accounts, which is usually managed by officers
- Having a single voice or message can be critical in some situations - for instance in the event of major flooding

- You don't have to respond or comment to everything on social media - sometimes it's best not to

Tip: Think before you press 'publish'! There is a simple test. If you would be reluctant to say something face-to-face to a group of strangers in the street, then you probably shouldn't say it on social media.

Do I need to manage my social media profiles and pages?

You should consider having a separate social media page or profile for council use. This will help to avoid confusion, both for yourself and others. On Facebook, this can be done by setting up a Facebook Page.

Please keep in mind that even information posted to a private social media account can quickly find its way into the public domain. Regardless of the social media platform used, it can be useful to indicate the purpose of your profile or page. This will help to make clear that it is a public page or profile you are using in your capacity as a councillor.

It is your responsibility to manage whatever you set up on social media. It is likely over time that others will contribute and comment. There are some basic things you should consider, such as how you will handle abusive language or harassment.

Social media platforms provide administrators with lots of tools and settings to help with management and moderation. Make sure you know how they work and use them appropriately. This will save you time and stop problems from happening.

Civility and respect social media guide for councillors

When councillors use social media, the Code of Conduct may apply. Under the Localism Act 2011, the Code of Conduct will only likely apply when acting in the role of councillor and is unlikely to affect councillors using social media in a private capacity.

Councillors who wish to use social media in their capacity as a councillor should consider having separate social media accounts. This will help to avoid confusion, both for yourself and others. For example, on Facebook, this can be done by setting up a public Facebook Page where you use the 'Councillor' label before your name.

Regardless of the platform councillors use, it can be useful to indicate what the purpose of your profile or page is. This will help to make clear that it is a public page or profile you are using in your capacity as a councillor.

It is the responsibility of councillors to manage their social media. Councillors should consider, for example, how you will handle the moderation of comments and messages.

The Council suggests that councillors consider the following guidance when using social media in their councillor role:

- Be as open, inclusive and professional as possible when using social media.
- Get and give support. Where you feel able, provide support to fellow councillors online, and reach out to colleagues and your council for support where needed.
- If you are unsure about posting something, stop and ask for advice from an appropriate source first, before doing anything else.
- Bear in mind that what you post can affect the reputation of the council
- The council is a corporate decision-making body. Councillors cannot independently make decisions for the council over social media.
- You should make clear you are expressing personal views and opinions, and not speaking on behalf of the council unless authorised by the council to do so.
- For some issues and communications, responses may need to come from the council's official social media, rather than individual councillors responding.
- Councillors should be mindful of the difference between fact and opinion.
- Elected members play a central role in preventing the spread of disinformation.
- Don't leave your social media to take care of itself. Social media doesn't stop - it keeps going all day every day.

- Don't dismiss or ignore advice and guidance, particularly legal advice.
- Don't assume that a disclaimer or excuses will prevent someone from taking legal action against you.
- Make sure that your social media accounts are safe and protected with strong passwords and multiple-factor authentication where possible.
- Understand privacy settings. There is a range of settings to help you manage who can see or comment on your posts.
- Consider personal mental health and well-being. Taking a break from social media from time to time can be beneficial.

Suggested social media rules of engagement for individual councillors

Clear rules of engagement can help a councillor or council to set out what their aims are, how they will behave and how they expect users on their account to behave.

These rules of engagement have been created specifically with issues of civility and respect in mind. However, they are wider reaching.

These suggested rules of engagement could be used on either a councillor's social media account or a council's account. They could be posted to social media in the account description, a pinned post/tweet or a link to a page on a website.

Welcome!

Hello and welcome to my/our social media page. I/we want to create a safe space for everyone in our community to engage on (insert social media platform). These rules of engagement have been created to set out what you can expect from me/us. They also set out what I/we expect of you if you wish to join in the discussion.

Rule 1: Be responsible and respectful

- Be open and honest.
- Be civil and respectful.
- Do not post anonymously or use a false name.
- Debate is fine, so long as it is carried out in a civil and respectful way.

Rule 2: Engage in positive conversations

- Actively participate in positive discussions.
- Be open to different points of view and others opinions.

- Share good news and success from our area.
- Share posts or content from other local organisations, groups and individuals where it is appropriate to do so.

Rule 3: Address poor conduct

- Do not spread false information or unsubstantiated accusations.
- Posts must not contain abuse, harassment, intimidation or threats of any form.
- Posts must not contain any form of discrimination – including racism, sexism, ageism, ableism, homophobia, transphobia or religious intolerance.
- No social media user should have to put up with abusive or threatening behaviour. I/we reserve the right to delete content, block individuals or report individuals to social media platforms when necessary.

Guide to tackling online abuse for both councillors and officers

A brief introduction

Social media offers many opportunities for councillors and councils to constructively engage with their communities. Most of the time this is a positive experience. Social media helps to build a profile, explain complex issues in plain English and to develop a two-way conversation.

Unfortunately, in a small number of cases councillors and councils can experience online abuse. Social media can become a place where individuals resort to abusive behaviour, such as aggressive language, threats, trolling and bullying.

Types of abusive behaviour to watch out for

Trolls

Unfortunately, online abuse is an issue on every social media platform. Sometimes it will be random or short-lived. On other occasions, it can be more sustained and led by users who are often described as 'trolls'.

A troll is often someone who posts just to get an emotional reaction or to manipulate others perceptions. The posts can be offensive, off-topic, inflammatory, purposefully inaccurate or insincere. Trolls often do this for their own amusement or in aid of goals such as disrupting the democratic process.

All too often trolls post things without thinking, without obvious logic and without a good reason. It is therefore important to remember that trolls often do not believe what they themselves are posting.

‘Why can’t they just...?!’

Many issues that councils deal with are complex. From inside the council, this is clear. From the outside, it can appear like ‘nothing is happening’. Sometimes it can be difficult to explain in plain English why a simple solution will not work.

Some people in the community will have their own ‘simple’ or ‘common sense’ solution to a problem. This can lead to people making the ‘Why can’t they just...?!’ social media posts.

Residents sometimes consider councillors and councils to be ignoring them when their simple solution is not considered or implemented. The problem is compounded by the fact that some ‘Why can’t they just...?!’ posts are picked up by the local media.

Problems can also emerge when people are pressed for detail on how the ‘simple solution’ would work. Providing information that shows a ‘simple solution’ will not work can cause some people to become aggressive, incoherent and defensive.

Legitimate challenge and scrutiny

Challenge and scrutiny are a key part of our democracy and the decision-making process. It can for example help us to see where a decision might be having an unintended or negative impact. This feedback is critical.

Challenge and scrutiny should be constructive. It should not lead to offensive language and abusive behaviour. There is an important line that should not be crossed between legitimate challenge and online abuse.

Councillors and councils should not seek to stifle debate or censure views. However, they should not be put in a position where they are subject to offensive language and abusive behaviour.

Politics

Politics is similar to challenge and scrutiny. It has an important role to play in debate and forms an important part of the democratic process.

Councillors and councils should not seek to suppress other people's political views. However, the political debate does not give people online a licence to abuse elected officials. Once again there is a clear line between healthy debate and online abuse.

Smear campaigns

A smear campaign is a deliberate attempt to negatively impact a person's or organisation's standing or damage their reputation. Smears are usually done through the spread of false information and discrediting tactics. They can be 'one-off' comments. Unfortunately, some are sustained and organised.

Smear campaigns can be one of the hardest forms of online abuse to deal with. In some cases it might require legal advice to be taken or for the Police to get involved. Remember to keep a record of the abuse and report the issue to the social media platform and authorities as appropriate.

Bullying and harassment

Online bullying and harassment has unfortunately become more common in recent years. Whilst it often appears in the press in relation to teenagers and young people it is something that can affect anybody.

Online bullying and harassment is when someone bullies or harasses someone else online. It includes a wide range of behaviours such as threats, sexual remarks and hate speech. In some situations, it can form a sustained pattern of behaviour.

Use positive language and tone to shape engagement

Your digital 'tone of voice'

Your tone of voice is as important on social media as it is in face-to-face conversation. On social media, with all its angry voices you can use your tone of voice to shape engagement. To create a more positive and constructive environment. Remain calm and positive to help defuse the situation and steer the conversation in a positive direction.

Using language to shape the conversation

The language that councillors use on social media is critical for building on the tone of voice that we use. When you are being attacked it can be hard to avoid using aggressive language yourself.

Even when it seems to you like it's the only option - using aggressive language never improves the situation.

Councillors and officers should try to stick to positive and inclusive language. This helps to control the nature of the interaction and keep things as constructive as possible.

Social media language is often 'chatty' and it is important to make the language you use as accessible as possible. Avoid acronyms and 'council speak'. It is common for councillors or officers to use acronyms for their own council or a committee (for example VFM rather than Value for Money Committee). Not many people in the community will understand what such acronyms mean.

Be kind!

People are generally much more rational if treated with kindness and compassion. It is important to be seen by those watching the discussion that you are putting your point of view across in a calm, patient and professional way.

Finding common ground

Try to find some common ground that allows you to calm the debate and show those that are in the discussion that you share similar priorities or come from the same background as them.

Usually, councillors (and often officers) will live in the community they represent so that can be a great place to start disarming those who are being aggressive by making common cause with your community.

Asking people ‘how’ rather than ‘why’

Asking people ‘how’ rather than ‘why’ is a good way of working through how things would work in practice. Talking about how this would play out rather than dwelling on why it is (or is not) a good idea helps to engage people constructively and can expose the complexity and flaws that make their simple-sounding suggestion difficult in reality. This forces them to reassess and prompts a more moderate attitude.

Techniques to handle online abuse

Engage with a variety of views

Building up your following on social media means that it is harder for a small number of angry voices to dominate. It also allows you as a councillor to hear from, and engage with, a wider variety of people from across your community.

It also ensures that more people will be able to see and share the arguments you are making in response to attacks. This builds further on your tone of voice and treating people with respect even if they are not affording you the same courtesy as a larger audience will see the way in which the debate is conducted.

Have a consistent narrative

Sharing a consistent story to fill gaps in people’s knowledge helps to dispel conspiracy theories and baseless rumours by presenting a clear and credible narrative.

Escalation of an issue

In some situations, you can escalate an issue. If there is a complaint about a council service it can be a legitimate course of action to ‘pass on’ the issue to a council officer. Depending on how the complaint was made you might need to consider data protection issues. Sometimes taking this course of action and being able to demonstrate that action is being taken can help to defuse the situation.

The wider audience - who is looking?

In some situations, you might feel there is a need to reply. To get the truth out there or to set the record straight. It is important before replying that you consider the likelihood that you will succeed. It is important to ask yourself, who is the wider audience?

Making a balanced and reasoned argument has value when there is a wider audience watching the discussion. Most of those seeing the exchange will not actively engage. In this situation 'winning' means ensuring that those looking on are reassured and given accurate information.

Conversely, if you think no one is looking, you need to ask yourself the question, is it worth responding to?

If you respond you should avoid getting sucked into a lengthy debate over social media. Not only is this very time-consuming you are also very unlikely to get the last word in the debate.

Keep a record

When you receive online abuse you should make a record of it. This is important in case the matter develops further. Particularly if the police or other bodies become involved. It is also useful in demonstrating a pattern of behaviour.

Managing trolls

Trolls can be difficult to deal with. The best way to deal with a troll is 'not to feed it'. By which we mean, don't respond to a post which is designed to upset, elicit a response or to further a troll's own goals.

Your best response is to either:

- Ignore what they have posted, or
- If it's on your own page or profile to delete or hide their comment. This will mean your other followers should not see it

If that doesn't work, consider your next step. This could include blocking them or reporting them to the social media platform or in some cases the Police.

Deleting and moderating comments

Most social media platforms give you the ability to delete comments. If someone has made an abusive comment you might want to delete it. You should remember to take a 'screen grab' picture first.

Some social media will give you the ability to automatically moderate content. Some have a 'profanity filter'. Where this facility exists you should consider using it. It will save you time and reduce the impact of abusive comments and behaviour.

Blocking abusive social media users

On almost all social media platforms you can block individuals who are persistently abusive. If individuals are consistently aggressive it can be both sensible and reasonable to block them from further engaging with you.

It is important to remember that as a councillor or officer you do not have to accept abusive behaviour. You have as much right as anyone to be treated with dignity and respect. You can include "rules of engagement" on your profile to make it clear to others that you will not tolerate such behaviour.

Blocking those who are abusive is important for both you and also for other people who follow you who may feel intimidated by aggressive behaviour. They also have a right to express their views.

Reporting online abuse and legal matters

Reporting an issue to the social media platform

Most social media platforms have 'rules' or 'terms of use' that prohibit abusive behaviour. Each has different wording, but most forbid behaviours that are abusive, bullying, harassing or intimidating behaviour.

If you feel someone has broken a social media platforms 'rules' you can report the user to the platform in question. It will then be up to the platform to take further action.

Reporting an issue to the Police

In certain circumstances, you might need to report a matter to the Police. Threats of violence, racist language, hate speech and pornographic material are the sort of things you might need to report. If you do report the matter you should follow the advice given to you by the Police and their requests for information.

Reporting a breach of the Code of Conduct

Should you receive online abuse from a councillor that might be a Code of Conduct issue. If you believe that there has been a breach of the Code of Conduct you should report it to the relevant monitoring officer.

Taking legal action

In some situations, you might feel that taking legal action is a legitimate course of action. In such a situation you should seek legal advice and carefully consider the risks as well as the likelihood of success. There is also often a financial cost involved with this approach.

Valuing your mental health and well-being - when is it time to get off social media?

If abuse is persistent and harming your mental health or severely damaging the reputation of the organisation it may well be time to leave social media. This can mean deleting accounts entirely or just taking a break from it for a while.

Some social media platforms allow users to temporarily 'unpublish' or 'deactivate' accounts. Some people find that trying a new platform can be useful. For instance, trying out Instagram instead of Facebook.

There are well-documented mental health benefits to coming off social media for either a fixed period of time or permanently.

Please find below a template Social Media Policy Supplement (Civility & Respect). It is intended to outline a council's rules of engagement with external parties and members of the public when engaging via social media. The supplement is designed to supplement any existing council social media policy and should be edited and adapted for your council's specific needs and requirements. We recommend that you then publish the finalised policy supplement on your website.

Appendix 1: Template Social Media Policy Supplement - Civility and Respect

1. Engaging with the council on social media

1.2 The council encourages members of the public, local organisations and community groups, members of the press, local councillors and others in our wider community to follow and engage with the council through social media accounts.

1.3 We also encourage everyone in our community to share content from our corporate social media accounts with their own social media networks. This is especially important, for example, during emergency situations or where sharing timely information is essential.

1.4 Councillors may choose to engage with the community on their own 'councillor' social media accounts.

1.4 Individuals and organisations are responsible for the content that they choose to post to their social media accounts. This includes content created by others that individuals or organisations choose to repost, retweet or share.

2. Conduct on social media

2.1 The Council will treat everyone with courtesy and respect on its social media channels, and we therefore ask for the same in return from those who choose to engage with us.

2.2 We ask that council staff and councillors are treated courteously. Council staff and councillors should never be subjected to bullying or other forms of abuse or harassment.

2.3 Council staff and councillors have the right to carry out their civic duties and work without fear of being attacked or abused. Any behaviour whether that be verbal, physical or in writing, which causes either councillors or council staff to feel uncomfortable, embarrassed, or threatened, is unacceptable.

3. Reporting a civility and respect-related issue

3.1 Council staff and others operating the Council's social media accounts will at all times be mindful of the council's relevant policies, procedures and processes, including the Code of Conduct.

3.2 The council will record and report abuse directed at the Council. The Council may, for example, create screenshots of comments and keep a record of abusive or threatening communications, and may take further action as appropriate.

3.3 Council staff and councillors should not have to put up with abusive or threatening behaviour. When subjected to such behaviour. The council reserves the right to enact its relevant social media policies and may, for example, delete content, block individuals or report individuals to social media platforms when appropriate to do so.

3.4 The Council may need to report issues of poor conduct directly to social media platforms. For instance, if someone has created a 'fake account' or if someone is persistently abusive to the Council.

3.5 The Council reserves the right to report criminal matters it notices on social media to the Police. For instance, hate crime/speech or threats of violence.

3.6 Please get in touch with the Council if you feel that a councillor, member of staff or a user of our social media has failed to act in a civil and respectful way on our social media.

3.7 You can contact **((INSERT NAME))** the **((INSERT JOB TITLE))** in the following ways:

- **((ADDRESS))**
- **((TELEPHONE))**
- **((EMAIL))**

North East Derbyshire District Council

Standards Committee

06 December 2022

Complaint Update Report

Report of the Assistant Director of Governance and Monitoring Officer

Classification: This report is public.

Report By: Sarah Sternberg, Assistant Director of Governance and Monitoring Officer, sarah.sternberg@ne-derbyshire.gov.uk

Contact Officer: Asher Bond, Governance Officer – asher.bond@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

To provide Standards Committee with an update on the number of complaints that have been received and what action has been taken on these.

RECOMMENDATIONS

That the Standards Committee notes the complaints update.

IMPLICATIONS

Finance and Risk: Yes ☐ No ☒
Details:

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☐ No ☒
Details:

On Behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒
Details:

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	No

Links to Council Plan (NED) priorities, including Climate Change, Equalities, and Economics and Health implications.

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

- 1.1 Under Section 28 (6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council or parish or town council within its area has failed to comply with that Authority’s Code of Conduct can be investigation and decisions made on such allegations.
- 1.2 The Council has adopted a Code of Conduct for Members. Each parish or town council is also required to adopt a Code of Conduct.

1.3 The Monitoring Officer is a senior officer of the Authority who has the statutory responsibility for administering the system in respect of complaints of member misconduct.

1.4 Standards Committee is to receive regular reports from the Monitoring Officer on the number of complaints against members, how they are progressing, what decisions have been made and what action taken.

2. Details of Proposal or Information

2.1 Since the last update was brought to Committee in November, five new complaints had been opened and one existing complaint had been closed. There are currently a total of eight ongoing complaints.

2.2 The complaint was closed as the Member was not found to have breached the Code of Conduct.

3 Reasons for Recommendation

3.1 Under the North East Derbyshire District Council's Constitution It is a function of the Standards Committee to receive regular update reports from the Monitoring Officer on the number of complaints received against members, how they are progressing, what decisions have been made and what actions taken.

4 Alternative Options and Reasons for Rejection

4.1 There are no alternative options to consider as part of this report.

DOCUMENT INFORMATION

Appendix No	Title
1	Complaint Update Report
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet you must provide copies of the background papers)	

NEDDC COMPLAINTS MADE AGAINST MEMBERS – QUARTERLY UPDATE

List of Cases which do not proceed to investigation

DATE OF RECEIPT	PART OF CODE OF CONDUCT ALLEGED TO HAVE BEEN BREACHED	NAME OF COUNCIL	WHETHER A POTENTIAL BREACH WAS FOUND	REASONS FOR DECISION
07/10/22 9/2022	Making hateful comments over social media.	District Council	No	There was not enough evidence provided to suggest that a breach of the Code of Conduct had taken place.

NEDDC STANDARDS COMMITTEE WORK PROGRAMME 2022/23

Meeting date	Item	Comments
13 July 2022	Review of the Constitution Part 1 (a) New Forum TORs (b) Employee Code of Conduct (c) Proper Officer Provisions Member Training Attendance Standards Committee Annual Report Complaints Update	
31 August 2022	Local Government Ombudsman Annual Report Review of the Constitution Part 2 (a) (b) (c) Complaints Update	
2 November 2022	Review of the Constitution Part 3 (a) (b) (c) Complaints Update	
6 December 2022	RIPA Annual Review 2022 Joint Whistleblowing Policy Review 2022	
1 February 2023	Gifts and Hospitality Review 2022 Member Training Attendance Review of the Constitution Part 4 (a) (b) (c) Complaints Update	
19 April 2023	Review of the Constitution Part 5 (a) (b) (c) Work Programme 2023/24	

