



**North East
Derbyshire**
District Council

The Constitution of the Council

**To be presented to Annual Council for approval at its meeting on
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Introduction: About North East Derbyshire

Location of our District

1. 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.
2. Our services cover both town and rural area, with the biggest population centres being;

**Dronfield
Clay Cross
Eckington
Killamarsh
North Wingfield
Wingerworth**

About NEDDC

3. In England and Wales there are seven types of council:
 - County council
 - District council
 - Parish / Town council
 - Metropolitan council
 - Shire English and Welsh Unitary authorities
 - London boroughs.
 - Combined Authorities
4. What this means is that, depending on 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
- Economic development
- 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
5. Metropolitan, unitary single tier and London boroughs provide all the above local services in their areas, which are mainly towns and cities.
6. Derbyshire has a four-tier system of local government. This means that, throughout most of the county services are shared between four councils.
7. In our case, these are the East Midlands Combined County Authority or EMCCA (which was established in 2024), Derbyshire County Council, North East Derbyshire District Council and your Parish or Town Council.
8. EMCCA provides the following:
- Focus on Transport, Infrastructure development, housing, delivering on Net Zero goals and economic development.
9. Derbyshire County Council provides the following services:
- Education
 - Fire
 - Highways
 - Libraries
 - Passenger transport
 - Social Services
 - Strategic Planning
 - Transport planning
 - Waste Disposal
10. North East Derbyshire District Council provides the following services:
- Housing
 - Economic Development
 - Community Safety
 - Environmental Health
 - Leisure & Recreation
 - Planning applications
 - Revenue collection
 - Waste Collection
11. 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

12. The Leader of the Council is elected by the Council. The Managing Director is the Head of Paid Service and is the most senior employee. The Council is governed by 53 Councillors, who are elected by local people. We have approximately 400 staff, working in three directorates. Our Constitution sets out how we work and what we can do.

Our vision

13. Our vision is set out in the Council Plan for 2023-27:-

“Putting strong community leadership at the heart of everything we do, we will create a Great Place that cares for the environment, to live well, to work and to access good public services.”

Our Values and Aims

14. We have five values that underpin all that we do and a series of aims, that will help us to deliver our long term vision:

- Values
 - Be honest, open and accountable.
 - Treat everyone fairly and with respect.
 - Listen, involve and respond.
 - Embrace change and innovation.
 - Being collaborative, open and transparent.
- Aims These are contained in the Council Plan 2023 to 2027 and are:

A great place to live well,

- A community with lifelong good health
- A place to live that people value
- A place where people enjoy spending time

▪ A great place to work

- A community with growing commutable employment opportunities
- A community with a diverse range of commutable employment that matches the skills of residents.
-

▪ A great place to access good public services

- Continually improving council services to deliver excellence and value for money
- Assisting and influencing other public partners to improve their services in the District.

A great place to care for the environment:

With:

- Increasing biodiversity across the District, and
- Reducing carbon emissions and pollution across the District

Our partners

We seek to achieve our aims by working together with other local authorities, public and private bodies for the good of the District, its residents, its communities and its businesses.

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. Further details will be provided in the relevant sections of the Constitution.

Powers of the Council

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

The Constitution

2. This Constitution and all of its appendices is the Constitution of North East Derbyshire District Council.
3. 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.
4. If the Constitution gives the Council a choice about what to do, the Council must choose the option that it thinks is closest to its purposes.
5. 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.

Review of the Constitution

6. The Monitoring Officer must monitor and review how the Constitution is working to make sure it gives full effect to the purposes of the Constitution.

Changes to the Constitution

7. Changes to the Constitution can only be approved by Council. 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 has agreed.

Suspension of the Constitution

8. The Constitution cannot be suspended. Council may suspend the operation of some of the Procedure Rules.

Publication

9. 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 on the Council's website.

Councillors

10. The 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.
11. 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.

Who can be a Councillor?

12. Anybody aged 18 years or over who:-
 - (a) in some cases 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.

13. 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.
14. 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 and they have not been re-elected.

Roles and functions of all Councillors

- 15. Councillors will be entitled to receive allowances in accordance with the Members Allowance Scheme.
- 16. 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

Meetings of the Council

- 17. The Council is a meeting of all Councillors. The Council meets together about six times a year The Council decides overall policies and sets the Budget each year. The Council also appoints the Leader of the Council, the Chairman of the Council and other positions on various committees and outside organisations.

There are three types of Council Meetings: -

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

The Council Procedure Rules apply to Council Meetings.

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

The Leader of the Council and the Cabinet

18. The Leader of the Council chairs meetings of the Cabinet and is elected for a four year term. The Cabinet is currently made up of six 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. If the Cabinet wants to make a decision outside the Budget and Policy Framework then it has to get the Council to agree.
19. The Leader of the Council will lead in the formulation, co-ordination and presentation of the Cabinet's policies and liaise with the Council's Senior Management Team on the carrying out of policies by the Council.
20. 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)

The Chairman of the Council

21. 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 Chairman of the Council and the Vice-Chairman will be elected annually by the Council.
22. 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 attend those civic and ceremonial functions as appropriate.
- (vii) to approve as urgent decisions, which will not be subject to Call In, when the Chairman of the relevant Scrutiny Committee is unavailable.

The Cabinet

- 23. 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.
- 24. 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.
- 25. 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.
- 26. Meetings of the Cabinet must follow the Cabinet Rules.

The Head of Paid Service

- 27. 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

- 28. There are four Scrutiny Committees which hold to account and monitor the progress towards achieving the aims and objectives of the Council Plan, scrutinise the decisions taken by Cabinet and the contribution which they make towards achieving the Plan aims and objectives 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.

Employment and Appeals Committee (the EAC)

- 29. There will be an Employment and Appeals Committee of four Councillors.
- 30. 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.
- 31. 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).

32. The Employment and Appeals Committee will have the roles and functions as set out in the Functions Scheme.

Planning and Licensing

33. The Council's planning and licensing functions are overseen by a Planning Committee, the General Licensing Committee and the Licensing and Gambling Acts Committees which are accountable to the Council Meeting.

Monitoring Officer and Chief Finance Officer

34. 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 (Section 151 Officer).

Other Officers of the Council

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

Statutory Officers

36. The Council will employ persons in the following posts,

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.
37. Officers will comply with the Officer Code of Conduct and the Protocol on Officer/Member Relations.
38. The recruitment, selections and dismissal of Officers will comply with the Officer Employment Rules.

Members of the Public and the Constitution

39. The Public's Rights are set out below:

(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 and Crime 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, 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, 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

Subject to the Council procedure rules and the relevant provisions of this Constitution, 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 by a Councillor.

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.

Common Seal of the Council

- 40. The Common Seal of the Council will be kept in a secure place in the custody of the Legal Services Manager and Deputy Monitoring Officer
- 41. 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.
- 42. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or as required by the Contract Procedure Rules. The affixing of the Common Seal will be attested by the Monitoring Officer, or in their absence, anyone delegated the function by the Monitoring Officer 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.

Councillors

This Section explains who Councillors are, what they must do and how long they serve as Councillors.
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1.1 Who can be a Councillor?

Anybody aged 18 years or over who: -

- (a) in some cases, 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.

1.2 When elections happen and how long Councillors are elected for.

The Elections for Councillors in all of our 'Wards' covering specific communities take place once every four years, on the first Thursday in May. Those elected start being Councillors on the fourth day after they are elected and finish on the fourth day after the next election.

1.3 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

1.4 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.

1.5 Responsibilities

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

Councillors must undertake all required training to help them carry out their different roles.

1.6 Allowances

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

1.7 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 Council within 6 months of their last attendance, or
- (c) they are stopped by law from holding office, or
- (d) the period for which they were elected has come to an end and they have not been re-elected.

The Council and the Constitution

This Section explains the purpose of the Constitution and how it governs how the Council works.

1.1 Purpose of the Constitution

The purpose of this 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.

1.2 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, set out in Section 1.1 (above).
- (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.

1.3 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 Section 1.1 (above).

1.4 Changes to the Constitution

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

1.5 Can the Constitution be suspended?

The Constitution cannot be suspended in its entirety. Council may suspend the operation of some of the Procedure Rules.

1.6 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 on the Council's website.

Council Meetings and the Chairman of Council

This section explains the role of Council Meetings, which is when all Councillors attend a formal meeting of the Council. This is different to other meetings involving Councillors which may be Cabinet meetings, Committee meetings, less formal working groups or meetings of partnerships in which the Council is involved.

The section also sets out the special role of the Chairman or 'Chair' 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.

1.1 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.

1.2 Functions of the Council and the Functions Scheme

When the Council Meets it will have the functions set out in the Functions Scheme.

1.3 Chairman of Council

(a) Election

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

(b) Values

The holder of the office of Chairman of the Council will be committed to the values of the Council (as contained in the Council Plan) and the following Principles of Public Life:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

(c) **Roles and Functions**

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

- **Acting as a symbol of the Council's democratic authority**
 - As the ceremonial head of the Council,
 - To be non-political and uphold the democratic values of the Council,
 - To represent the Council at appropriate civic and ceremonial functions
- **Community Engagement**
 - To provide community leadership and promote active citizenship,
 - To promote the Council in all sections of the community
 - To engage with local people, communities, and groups as the civic representative of the Council and to encourage their participation in the work of the Council,
 - To encourage joint working between all sectors of the community to the betterment of the community as a whole.
- **Chairing Council meetings**
 - To preside over meetings of the Council, so that its business can be carried out efficiently,
 - To ensure the Council conducts its meetings in line with the Council's Constitution and the law.
- **Upholding and promoting the Council's Constitution**
 - To ensure the Constitution is adhered to and, if necessary, to rule on the interpretation of the Constitution
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs,
 - To promote and support open and transparent government,
 - To support, and adhere to respectful, appropriate and effective relationships with employees of the Council,
 - To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office
 - To approve as urgent decisions, which will not be subject to Call In, when the Chair of the relevant Scrutiny Committee is unavailable.

Members of the Public and the Council

This Section 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.

1.1 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. Details of the Petition Scheme are set out later in the Constitution.

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 and Crime Commissioner, East Midlands Combined County Authority 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 or officers 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

Subject to the Council Procedure Rules and other relevant provisions of this Constitution, Members of the public have the right to take part in meetings of the Council by asking questions, speak during public speaking time at meetings of the Planning Committee and contribute to investigations by Scrutiny Committees when 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 by a Councillor.

1.2 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.

The Leader of the Council and the Cabinet

This section 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 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 can do) or decisions on whether to give planning permissions or licences which only the regulatory committees can do.

1.1 Leader of the Council

(a) Appointment

Council will elect a Councillor to be the Leader of the Council for a four-year term following the four yearly elections.

(b) Role

The Leader of the Council will normally chair meetings of the Cabinet. They will lead in the formulation, co-ordination and presentation of the Cabinet's policies and liaise with the Council's Senior 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 Council through a formal resolution.

(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)

1.2 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, the Deputy Leader of the Council and one 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. These are set out later in the Constitution.

(d) Meetings of the Cabinet

Meetings of the Cabinet must follow the Cabinet Rules. These are set out in Section 12 of the Constitution.

Working with Other Organisations

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

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

The section 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 section also sets out arrangements for contracting out work.

1.1 Arrangements to promote well-being.

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

1.2 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 the 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.

1.3 Access to information

- (a) The Access to Information Rules in Section 9 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.

1.4 Delegation to and from other Local Authorities

- (a) Council or 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 Council.
- (c) All functions can be delegated in this way unless prevented by law.

1.5 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.

1.6 Rykneld Homes Limited (RHL)

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 Limited in the Management Agreement with RHL.

Statutory Officers of the Council

This section sets out that the Council will have a Head of Paid Service who, alongside the other 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.

This section also sets out the other senior staff positions namely, the Monitoring Officer and the Section 151 Officer (Chief Finance Officer) who have formal roles and responsibilities established under law. All three roles exist in every District, County and Unitary Council. Collectively, these posts are known as the 'Statutory Officers'

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 Section 151 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.

1.1 Management structure

(a) General

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

(b) Senior Officers and Directors

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 law and this Constitution.
- (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.

1.2 Conduct

Officers will comply with the Officer Code of Conduct and the Code for Councillor Officer Relations set out at Appendices 6 and 7 of this Constitution.

1.3 Employment

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

1.4 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 and make a recommendation to Council with regard to the appointment of the Statutory Officers.
- (d) The Employment and Appeals Committee will have the roles and functions as set out in the Functions Scheme.
- (e) Provision will be made for a Joint Employment and Appeals Committee in relation to Joint Posts, serving North East Derbyshire District Council and other local authorities.

Decision Making

This section 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.

1.1 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 them 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.

1.2 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. The Functions Scheme will be within the Constitution.

1.3 Types of Decision

(a) Decisions reserved to Council

Decisions reserved to the Council in the Functions Scheme (by law or choice) will be made at Council Meetings and not delegated.

(b) Key Decisions

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

1.4 Decision Making by the Council Meeting

Except in specified circumstances and on the advice of the Monitoring Officer, Council meetings will follow the Council Procedure Rules when considering any matter.

1.5 Decision Making by the Cabinet

Except in specified circumstances and on the advice of the Monitoring Officer, Cabinet meetings will follow the Cabinet Rules when considering any matter.

1.6 Decision Making by Scrutiny Committees

Scrutiny Committee meetings will follow the Scrutiny Rules when considering any matter.

1.7 Decision Making by other Committees or Groups established by the Council.

Except in specified circumstances and on the advice of the Monitoring Officer, other Council Committees or groups will follow those parts of the Council Procedure Rules as apply to them when they meet.

1.8 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.

Access to Information Rules

These rules explain how the Cabinet and other decision making bodies operate, they are based on the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1. Application to Other Meetings

- 1.1 These Rules also apply to Council and all joint committees, Committees, and sub-Committees of the Council.

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

- 2.1 A meeting of Cabinet, its committees and sub committees (decision-making bodies) must be held in public.

- 2.2 However, 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 such judgement being made 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;
- (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.

- 2.3 A resolution to exclude the public from a meeting 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.

- 2.4 The public may only be excluded for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

- 2.5 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.

- 2.6 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.

3 Procedures prior to private meetings

- 3.1 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).
- 3.2 At least 28 clear days before a private meeting, the decision-making body must:-
- (a) publish on the Council's website make available at the offices of the Council a notice of its intention to hold the meeting in private; and
 - (b) make available at the offices of the Council a copy of this notice.
- 3.3 The notice must include a statement of the reasons for the meeting to be held in private.
- 3.4 At least five clear days before a private meeting, the decision-making body must:-
- (a) publish on the Council's website a further notice of its intention to hold the meeting in private,
 - (b) make available at the offices a copy of this further notice.
- 3.5 The notice 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.
- 3.6 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-Chair of the Council.
- that the meeting is urgent and cannot reasonably be deferred.
- 3.7 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 3.6 of these rules 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
- (c) publish that notice on the Council's website.

4 Procedures prior to public meetings

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

- (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.

4.2 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.

5 Access to agenda and connected reports for public meetings

5.1 A copy of the agenda and public reports for a meeting must be made available for inspection by the public:-

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

5.2 However, if the proper officer thinks fit, there may be excluded from the copy of any report provided pursuant to paragraph 7.1 of these rules 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.

5.3 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.

5.4 Nothing in these rules 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.

5.5 Where by virtue of paragraph 7.2 of these rules 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.

5.6 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.

5.7 Agendas will be made available to the public and the media on the Council's website. However, following a request made by a member of the public or on behalf of a media organisation and on payment being made of postage, copying or other necessary charge for transmission, the Council must supply to that person individually or on behalf of a media organisation:-

- (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.

6 Key Decisions

6.1 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.

6.2 In determining the meaning of “significant” for these purposes 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 £126,000 or more, and Capital income or expenditure of £310,000 or more is significant.

7 Publicity in connection with key Decisions

7.1 Where a decision-maker intends to make a key Decision, that decision must not be made until a document has been published 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.

7.2 At least 28 clear days before a key decision is made, the document referred to above must be made available for inspection by the public:-

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

7.3 Where, in relation to any matter:-

- (a) the public may be excluded under paragraph 3 from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not be disclosed to the public,

The document 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.

8 General exception

- 8.1 When the publication of the intention to make a key decision under paragraph 7 is impracticable under these rules, 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).
- 8.2 As soon as reasonably practicable after the proper officer has complied with these requirements he or she must:-
- (a) publish a notice on the Council's website a notice setting out the reasons why compliance with the requirement to give 28 days notice of a key or exempt decision was impractical
 - (b) Make this notice available at the Council's offices.

9 Cases of special urgency

- 9.1 Where the date by which a key decision must be made under paragraph 8 is 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.
- 9.2 As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must:-

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

10 Recording of executive decisions made at meetings.

10.1 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' (or the person presiding or the person nominated to preside at that meeting) must ensure that a written statement is produced for every executive decision.

10.2 The statement 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 Monitoring Officer.

10.3 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).

11 Recording of executive decisions made by officers.

11.1 An Executive Decision is defined as a decision in connection with the discharge of an Executive function by officers through the Council's scheme of delegation, 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.

11.2 As soon as reasonably practicable after an officer exercises delegated authority to make a Delegated Decision a written statement of that decision should be produced. This 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 or Monitoring Officer.

12 Inspection of documents following executive decisions

12.1 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 these rules; 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, 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 on the Council's website or at the Council's offices apart from where they relate to Human Resources matters.

12.2 Those documents available for public inspection will be made available on the Council's website. Where a request on behalf of a media organisation is made for a copy of any of these documents, they must be supplied for the benefit of the media organisation by the Council on payment by the media organisation to the Council of postage, copying or other necessary charge for transmission.

13 Inspection of background papers

13.1 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 these Rules, 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 will be published on the Council's website and made available for inspection by the public at the Council's offices.

14 Additional rights of access to documents for members of Council

14.1 Councillors can see :-

- (a) background papers to public reports ; and
- (b) other relevant material relating to any business to be transacted at a public meeting

14.2 Any document which is required 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 of these rules in relation to that item, must be available for inspection when the item is added to the agenda.

14.3 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 officer immediately after the decision has been made.

14.4 Any document which is required 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.

14.5 These rules 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).

14.6 These rules 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.

14.7 Where it appears to the proper officer that release of 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.

14.8 The rights conferred by these rules 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 Scrutiny Committees

17.1 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 Where a member of a Scrutiny Committee requests a document which falls within these rules, 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 a member of a Scrutiny Committee is not entitled to a copy of a document or part of any such document then 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 Such a report 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.

19.2 Such a report 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 an officer makes an delegated 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) on the Council's website; and
- (b) at the offices of the Council;
- (c) in the case of documents to be available for inspection, 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 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 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 These rules 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 media organisation
- 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 under these rules 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 under these rules 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 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 these rules.

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

CABINET POSITIONS

Name	Portfolio	Responsibilities
Councillor Nigel Barker – Leader Councillor Pat Kerry – Deputy Leader	Strategic Leadership and Finance	• Strategic Leadership • Finance • Strategic Housing • Homelessness • RHL Client Role • Risk Management • Safeguarding • Emergency Planning • Community Safety • Communications, Marketing and Design
Councillor Joe Birkin	Council Services	• HR • Electoral Services • Governance • Legal • ICT • Customer Services • Revenues and Benefits
Councillor Jayne Barry	Growth and Assets	• Regeneration • Property and Estates • Clay Cross Town Board • Programmes and Performance
Councillor Steve Pickering	Environment and Place	• Street-scene • Environmental Health & Licensing • Planning • Climate Change
Councillor Kathy Rouse	Health and Leisure	• Leisure Services • Health Partnerships

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 Meeting of Council

TIMING AND BUSINESS

- 1.1 In a year when there is an ordinary election of Councillors, the Annual Meeting of Council 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.
- 1.2 The annual meeting will:
- (a) elect a person to preside if the Chairman or '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 to this Section;
- (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 Section 15 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 or Chair of the Council or Vice Chair of the Council is not present;
- (b) approve the minutes of the last meeting and the Chairman will sign them as a correct record;
- (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.

3. Extraordinary Meetings

- 3.1 The people or bodies listed below may require the Monitoring Officer in consultation with 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 Head of Paid Service;
 - (d) the Monitoring Officer;
 - (e) the Chief Finance Officer (Section 151 Officer); and
 - (f) 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 Monitoring Officer in consultation with 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
- 3.4 Questions and Motions may be included on the agenda for Extraordinary Meetings if such Questions and Motions were the subject of the formal request for the Extraordinary Meeting.

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.
- 4.2 Council meetings will be subject to a limit of 3 hours with the Chair having the right to extend beyond this where considered appropriate.

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

¹ This does not restrict the agenda to one item of business.

Council or by leaving it at their usual place of residence. Members may provide details in writing of an alternative address or email to which he/she wishes summons to be sent to.

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

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. Members of the Public are limited to:
- Those on the Electoral Role.
 - Those who are Council Tax payers.
 - Those who pay NNDR.
 - 16 and 17 year olds who live in the District or attend school in the District.
- (b) Time allowed for questions and answers shall not, without the consent of the Chair, exceed 15 minutes, or in the case of one questioner, 5 minutes.
- (c) Questions shall not be unduly lengthy and less than 200 words.
- (d) 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 publish questions on the Council's website. When a question is received the Monitoring Officer will send it to the Member to who 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 and on the Council's website.

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 specified under 'Scope of Questions', 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 Chair, 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 (Questions on Notice at Council Meetings) 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. At the Chairman's discretion this may be extended. Questions not dealt with in this time and any extension of 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 published on the Council's web site.. 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 Monitoring Officer will reject any motion which seeks to change Council's Policy or the Council's Constitution. Such a motion will be directed to the appropriate Scrutiny or other Committee.

The Monitoring Officer may reject a motion if:

- (a) it is not about a matter for which the Council has a responsibility or which affects the District;
- (b) it is substantially the same as a motion which has been put at a meeting of the Council in the past six months;

- (c) it requires the disclosure of confidential or exempt information;
- (d) it relates to an item on the agenda for that Council meeting;
- (e) it relates to a planning application that is in the process of being determined by the District Council;
- (f) it relates to an ongoing complaint currently being considered by the District Council; or
- (g) it is in any other way premature;
- (h) the motions contains more than one topic and the topics are unrelated;
- (i) the proposed motion is longer than 300 words.

The Chair of the Council may, on the advice of the Head of Paid Service, refuse a motion which is illegal, scurrilous, improper or out of order.

10.3 Motions Set Out in the Agenda

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

10.4 Changes to the Constitution

- (a) No motions to change any part or parts of the Constitution can be accepted for debate at a Council meeting until they have been considered by Standards Committee. Such a motion will stand deferred until Standards Committee has considered it. If no Standards Committee is due to meet within 30 days, an extraordinary Standards Committee will be called within 30 days of the motion being submitted.
- (b) No changes can be made to the Constitution as part of a Council debate on any motion. Such a motion or part motion will be referred to the Standards Committee in accordance with 10.4 (a).

10.5 Change in Policy

- (a) No motions to change Council Policy can be accepted for debate at a Council meeting until they have been considered by the relevant Scrutiny Committee and Cabinet or if the policy is a regulatory one such as Planning or Licensing policy, the change has been considered by the relevant regulatory committee.

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 Seconder's Speech

The Secunder has the right to speak on a motion, when seconding it.

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
- (g) 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.

12.13 Personal Explanation

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

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 Chair of the Council's Casting Vote

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

14.3 Voting by Roll Call

Unless a recorded vote is demanded (under rule 14.4) the Chair of the Council will take the vote by roll call of those present, 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

The appropriate officers will circulate an attendance register 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.

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

16. Petitions

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

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

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

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

17. Deputations

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

18 Requirements for Members to Withdraw from Meetings

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

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.

Disturbance by Members

- 21.4 If a Councillor is guilty of misconduct by persistently disregarding the ruling of the Chair of the Council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any Councillor may move that the Councillor is not further heard. If seconded, the motion will be voted on without discussion.

21.5 If the Councillor continues to behave improperly after such a motion is carried, any Councillor may move either that the Councillor leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

21.6 If there is a general disturbance making orderly business impossible, the 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 Chair of the Council will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.

22.2 If there is a general disturbance in any part of the meeting room open to the public the Chair of the Council shall order that part to be cleared.

23. Suspension and Amendment of Council Procedure Rules

23.1 Any of the Council Procedure Rules to which this Rule applies may be suspended by motion on notice or without notice.

23.2 Such a motion cannot be moved without notice unless at least one half of the whole number of Councillors of the Council are present.

23.3 Suspension can only be for the duration of the meeting from the point of resolution to the move in to private session.

24. Attendance at Committee Meetings by Members of the Council

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

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.

The Petition Scheme

This section sets out how the Council's Petition Scheme works.
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1. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.
2. Petitions should be sent to: MonitoringOfficer@ne-derbyshire.gov.uk

or posted to:

**The Monitoring Officer
North East Derbyshire District Council
District Council Offices
2013 Mill Lane
Wingerworth
Chesterfield
S42 6NG**

3. Petitions can also be presented to a meeting of the Council. These meetings take place approximately six times per year. The dates and times can be found here: [Monthly meetings calendar - January 2024 - North East Derbyshire District Council \(ne-derbyshire.gov.uk\)](#)
4. If a petition organiser would like to present their petition to the Council or would like their Councillor or someone else to present it on their behalf then they should inform the Monitoring Officer at: MonitoringOfficer@ne-derbyshire.gov.uk at least 10 working days before the meeting. If a petition has received 1,000 signatures or more it will also be scheduled for a Council debate.

Who can submit a petition?

5. Any person (regardless of age) who lives, studies or works in the District is able to submit a petition.

Merging petitions

6. 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?

7. 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.
8. 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

9. 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.
10. The Council will notify petition organisers of the reasons for petitions not being dealt with if it is excluded under one or more of the above grounds.

What will the Council do when it receives a petition?

11. 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 the Council will also publish all correspondence relating to the petition (all personal details will be removed).
12. In the period immediately before an election or referendum the Council may need to deal with a petition differently – if this is the case, then it will explain the reasons and discuss the revised timescale which will apply.

How will the Council respond to petitions?

13. The Council's response to a petition will depend on what a petition asks for and how many people have signed it. If a petition has received 1,000 signatures or more it will also be scheduled for a Council debate.
14. If a petition has less than 1000 signatures on it and you want it debated at full Council, you can ask your local Councillor to submit a motion on your behalf or submit a public question.
15. Where the petition will not be debated at Council, one or more of the following may be undertaken:-
 - writing to the petition organiser setting out the Council's view about the request in the petition.
 - hold public meetings or consultations,
 - explore options to tackle the matter in conjunction with local partners,
 - refer the petition for consideration by one of the Council's Scrutiny Committees.
16. 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.
17. Where a petition relates to specific wards or areas the relevant ward members will be informed when a petition is received and how it will be considered.
18. If a petition is about something over which the Council has no direct control (for example the local railway or hospital) then it will consider making representations on behalf of the community to the relevant body. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then it will inform the lead petitioner of the reasons for this.
19. If a petition is about something that a different Council is responsible for then it 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. The Council will notify the lead petitioner of the action it has taken.

Full Council Debates

20. 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.
21. 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 lead petitioner 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.

22. 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.
23. 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 lead petitioner will receive written confirmation of this decision. This confirmation will also be published on our website.
24. 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 lead petitioners will be informed of this in this case.

Officer Evidence

25. Petitions 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, to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.
26. If a 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
 - Assistant Directors
 - Statutory Officers (Monitoring Officer, Section 151 Officer (Chief Finance Officer), Head of Paid Service)
27. 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.

Dealing with concerns that a petition has not been dealt with properly

28. If a lead petitioner feels that the Council has not dealt with the petition properly, then they have the right to request that one of the Council's Scrutiny Committees review the steps that the Council has taken in response to the petition. This will be the relevant Scrutiny Committee when the matter has been considered by Council, or an alternate Scrutiny Committee when the matter has been dealt with by the relevant Scrutiny Committee. The lead petitioner would be requested to give a short explanation of the reasons why the Council's response is not considered to be adequate. Requests for reviews should be submitted to the Monitoring Officer: MonitoringOfficer@ne-derbyshire.gov.uk within 28 days of the response received to the petition.
29. The relevant Scrutiny Committee will endeavour to consider this 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 that the Council has not dealt with the 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 Cabinet and arranging for the matter to be considered at a meeting of the full Council.

30. Once the appeal has been considered the lead petitioner will be informed of the results within five working days. The results of the review will also be published on the Council's website.

Cabinet Rules

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

1. Meetings of the Cabinet

- 1.1 The Cabinet will meet approximately 8 times a year 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.
- 1.2 Meetings of the Cabinet will be open to the public, subject to the confidentiality provisions set out in the Access to Information Rules.
- 1.3 The quorum for a meeting of the Cabinet will be three.
- 1.4 Meetings of the Cabinet and committees of it will comply with the Access to Information Rules.
- 1.5 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.
- 1.6 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, which shall indicate which are Key Decisions and which are not.
- 1.7 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.
- 1.8 An item may be placed on the agenda of a meeting of the Cabinet and any committee of Cabinet by a member of the Cabinet, a Chair of one of the Scrutiny Committees, Directors, Assistant Directors, the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (Section 151 Officer).

Budget and Policy Framework Rules

This section sets out the Budget and Policy Framework Rules set by Council, which Cabinet then has the responsibility to implement.

1 The Framework for Cabinet Decisions

- 1.1 Council is responsible for approving and adopting the Budget and Policy Framework. Once a Budget and Policy Framework is in place, it will be the responsibility of the Cabinet to then implement it.
- 1.2 The following comprise the Policy framework:
 - Community Safety Partnership Plan
 - Council Plan
 - Food Law Enforcement Plan
 - Housing Revenue Account Business Plan
 - Housing Strategy
 - Licensing Policy Statements under the Licensing Act 2003 and the Gambling Act 2005
 - Development Plans, documents and alterations that together comprise the Local Plan
 - Medium Term Financial Plan
 - Pay Policy Statement under the Localism Act 2011
 - 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
Medium Term Financial Plan (MTFP) including Housing Revenue Account	Joint Scrutiny Committee and Cabinet.
Community Safety Partnership Plan	Communities Scrutiny Committee
Council Plan	Scrutiny Committees and Cabinet
Housing Business Plan and Housing Strategy	Communities Scrutiny Committee
Licensing Policy Statements under the Licensing Act 2003 and the Gambling Act 2005	General Licensing Committee and Licensing and Gambling Acts Committee
Development Plans, documents and alterations that together comprise the Local Plan	Planning Committee and Cabinet
Pay Policy Statement (Localism Act)	
Treasury Management Strategy	

3 Decisions Outside the Budget or Policy Framework

- (a) Subject to these rules the Cabinet, a Director, Assistant Director 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, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, a Director, Assistant Director, a Senior Manager or anybody under joint arrangements discharging Executive Functions want to make such a decision, they shall take advice from the Monitoring Officer and the Section 151 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 (MTFP). 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, Assistant Director or a Senior Manager or anybody 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 meeting of Council 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) The rules for when budgets can be vired are contained in the Finance Rules.

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 (MTFP), 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 (MTFP), 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 Finance Rules 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 (MTFP) 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.

8 Decisions within the Budget and Policy Framework

Where a decision is that of Cabinet within the Budget and Policy Framework, the views of Council may be sought in advance of and to inform the decision of Cabinet. To this end, an agenda item (including a presentation if appropriate) will be placed on the Council agenda.

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 this Constitution.

5 Chairing Scrutiny Committees

The Chairs and Vice Chairs of each Scrutiny Committee will be appointed by Council.

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 Assistant Director of Governance & Monitoring Officer and the Senior Scrutiny Officer, who will have already taken suggestions on

the programme from the Senior Management Team. The Committee work programmes will be referred to Members of 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.

7 Agenda Items

Any Member of a Scrutiny Committee shall be entitled to give notice to the Senior Scrutiny Officer 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 Senior Scrutiny Officer 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 Assistant Director of Governance and 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 (e.g. 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 Assistant Director of Governance and 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 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 Chair of that Committee will inform the Senior Scrutiny Officer, 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 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 on the Council's website 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 into 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 Assistant Director of Governance and 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 Assistant Director of Governance and Monitoring Officer shall notify the decision-taker of the call-in.

- (g) The Assistant Director of Governance and Monitoring Officer may reject it if:
- It relates to a non-executive decision
 - It 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 Assistant Director of Governance and 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 Assistant Director of Governance and 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 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, where appropriate in the opinion of the Assistant Director of Governance and Monitoring Officer, will be considered by the relevant SMT Officer and/or relevant Statutory Officer and their views, comments and advice will be considered by the Scrutiny Committee before the report is submitted to Cabinet, in order to provide a view on the

feasibility of recommendations, including information on the costs, legality, risks and benefits.

- (5) The relevant Cabinet Portfolio Holder will be briefed by the lead officer and/or the Senior Scrutiny Officer 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.....

Signed:

Name: Date.....

Delegation of Council Functions and Executive Functions to Officers

This section sets out the extent to which the powers and duties of the Council are delegated 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 Council 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 .
- 1.6 References to powers of 'the Council' include functions of the Executive (the Cabinet).
- 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
- Finance Rules
- Consideration of the policies and plans of the Council
- The Employee Code of Conduct and adopted protocols
- The requirements of the Senior 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 Finance, Contract 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 Some posts are joint posts with Bolsover District Council and Derbyshire Dales District Council. However, the word "Joint" has been omitted from the scheme descriptions.

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 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. These will be reviewed once a year.

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 they consider 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 an Assistant Director is subject to a limitation that it shall not be exercised if the Head of Paid Service, or a Director, or the Monitoring Officer, or Section 151 Officer, has given a direction to that effect.
- 6.2 The Head of Paid Service, or a Director, may exercise any delegated power possessed by an Assistant Director whilst a direction is in force with respect to that delegation.
- 6.3 In the absence of a Director, an Assistant Director 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 are included in Section 18 of this Constitution.

- 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 in Section 19: Specific Delegations to Officers in this Constitution.

9. General powers delegated to all Directors and Assistant Directors

- 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 where there is no direct delegation covering the matter.
- 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, notices and orders 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). This includes changes to fees and charges for services.
- 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 Assistant Director 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 and payment of honoraria;
 - 9.11.4 Suspension or dismissal of employees below Assistant Director level;
 - 9.11.5 Re-grading of posts below Assistant Director 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 including procurement exercises and finalising subsequent contractual arrangements whilst at all times acting in accordance with the Council's Finance Rules and Contract Procedure Rules.
- 9.14 To acquire, dispose of, grant and obtain rights in land and premises (including licences) on such terms and conditions as considered appropriate where expenditure is within approved budgets and professional valuation advice is obtained confirming best consideration has been obtained.
- 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 Marketing and Design Manager 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 is done afterwards.

- 9.19 To work with partners to achieve and implement the objectives and actions set out in the approved Council Plan, Service Plans, Business Plans, policies, strategies or other plans.
- 9.20 To carry out any duties or responsibilities as contained with the Finance Rules
- 9.21 To carry out any functions contained within section 2 – Council Functions and Local Choice Functions of the Functions Scheme.
- 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.

Members (Councillors) Planning Rules

This section explains the way in which Members set the Authority's Planning Policy and determining planning applications and enforcement issues and sets out the way in which they should carry out these functions.

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.

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 planning 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/prospective 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.
- 4.3 Prospective applicants may engage with the Council in pre-application discussions, in order to get feedback on the issues their scheme is likely to raise in the event that they submit a planning application. If Members are to be involved in such meetings, a protocol will be agreed by Standards Committee and Cabinet in advance of the first meeting.

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. All Planning Committee Members are asked to confirm they are not pre determined in any of the applications in advance of the consideration of planning applications at the meeting. This is then minuted.

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 has 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 Determining on Planning Applications – Predetermination

- 8.1 Predetermination occurs where a Member considering a planning application closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.

In order to ensure that Planning Committee Members are not predetermined Members will be required to state at the start of a meeting, at the same time as they are asked Declare any Interests that they are not predetermined on any of the applications, but rather will consider and determine on it solely on planning grounds and their assessment of the information presented to Committee at the meeting. Those who cannot state that they are not predetermined will be required to leave the meeting during the Committee's consideration and determination on this.

Ward Members are able to call in Application and, if they wish, to then make representations on it as a Ward Members. In these circumstances they would not expect to participate in the Planning Committee's determination on this Application. However, it would be inappropriate for a Local Member who has either called in an application or who represents the Ward in which it was located to speak on the Application at Planning Committee and then go on to take part in the Committee's consideration on it. For this reason, Members of the Committee will be required to Declare an Interest on any applications within their Ward that are considered by Planning Committee and to leave the meeting when it is considered and not participate in the Committee's determination on this.

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 11.2, 11.4 and 11.6.
- 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 Planning site visits currently take place remotely using a conferencing system. However, when or if the Planning Committee chooses to undertake the site visit at the location of the Application as a formal group, they 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 an application is submitted by a serving Councillor, senior officer or senior manager of the Council (Team Manager and above) any Planning Officer or other Planning Team member advising or determining on planning applications submits an application to the Authority for himself/herself or on behalf of any other person, or by the Partner or Relative of the same who submits their own application, they will inform both the Assistant Director, Planning and the Authority's Monitoring Officer and not take part in processing or determining the Application.
- 12.2 Any applications submitted by those set out in 12.1 (above), 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 and oral 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 Growth and Assets 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 these Planning Rules 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 as well as the 3 Statutory Officers;
- 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 Specific Proposals

The Council as Planning 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.

In order to achieve this in an appropriate way, the following Planning Speakers Protocol will be followed.

- (a) A Local Ward Member for the ward where the application is located, The Member who has referred the application to Planning Committee for

determination, the Parish or Town Council where the application is located and the Member of Parliament covering that part of the District where the application is located will be able to register to speak on the application.

- (b) The Agent and the Applicant (one applicant in the case of joint applications) will be able to register to speak on the application.
- (c) Three other people will be able to register to speak in **support** for the application. Three other people will be able to speak in **objection** to an application. Registration will be on a first come first served basis. Those who register to speak will be asked to consult local supporters or objectors and seek to also reflect their views when they address the Planning Committee
- (d) The Chair of the Planning Committee will consider additional requests to speak on a case-by-case basis and on the advice of the relevant Governance, Legal and Planning Officers
- (e) All speakers will have three minutes in which to address the Committee.

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 expected 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 (Development Management) and Governance Manager 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 £50 or more (or where appropriate less than £50) whether accepted or not and those must be registered. This registration should happen within 28 days of receipt. Neither Members nor officers should 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 these Planning Rules.

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 convicted 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.

The Functions Scheme

This section explains the functions which Council is responsible for and those which are carried out by Cabinet and officers through delegated decisions.

1. Introduction

- 1.1 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 Council.

Council Meeting

The following functions may be exercised only by Council:

- 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 2011.
- Setting the Terms of Reference of committees, deciding on their composition including Chairs and Vice Chairs and making appointments to them (excluding committees of the Cabinet).
- 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 Chief Finance Officer and Section 151 Officer and to provide staff
- 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 Council 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 (Assistant Director of Governance and Monitoring Officer)
- Power to appoint staff on or above Assistant Director level, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) (The Employment and Appeals Committee for posts wholly responsible to NEDDC or a specially convened Joint Employment and Appeals Committee for those officers where the officer works for more than one Council).
- Duty to make arrangements for the proper administration of financial affairs (Chief Finance Officer / Section 151 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 Committee)
- Authorisation of persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings (Monitoring Officer / Deputy Monitoring Officer/Legal Services Manager), to 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, Deputy Monitoring Officer (Legal Services Manager)

- 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/ Assistant Directors)

Delegation of Responsibility for Council Functions

The following Committees have been appointed by the Council to exercise Council functions, with the terms of reference

1. Scrutiny Committees*
 - Business Scrutiny Committee*
 - Communities Scrutiny Committee*
 - Environment Scrutiny Committee*
 - Services Scrutiny Committee*
 - The Joint Scrutiny Committee (all four Committees meeting annually to consider the Council Budget proposals)
2. Audit Committee*
3. Planning Committee*
4. Licensing and Gambling Acts Committee*
5. General Licensing Committee*
6. Standards Committee*
7. Joint ICT Committee*
8. Employment and Appeals Committee*

***Training**

*All members will be expected 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) Strategic and Policy co-ordination.

- (b) Recommending 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) Preparing and agreeing other policies and strategies for implementation.
- (d) Recommending to the Council Meeting the annual budget, including the Capital and Revenue Budgets and the level of Council Tax.
- (e) Considering, at least annually, the level of reserves, provisions, and balances held by the Council and recommend any changes to the Council Meeting.
- (f) Making sure that the Annual Budget is implemented and the underlying principles adhered to in any changes required from time to time, including recommending to Council any changes to policy that will materially reduce or increase the services of the Council or create significant financial commitments in future years.
- (g) Taking 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) Carrying-out the Council's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- (i) Considering and responding to recommendations and reports from Scrutiny Committees.
- (j) Monitoring expenditure on the capital programme.
- (k) Approving major service developments or reductions which are Key Decisions.
- (l) Consider the reports of external review bodies on key aspects of overall service delivery.
- (m) Making 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.
- (n) Carrying 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.
- (o) Reviewing and monitoring 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.
- (p) Overseeing the provision of all the Council's services other than those functions reserved to the Council Meeting.
- (q) Securing the management and maintenance of the Council's housing stock.

- (r) Managing and maintaining the Council's non-housing property portfolio.
- (s) Collecting the Council Tax, National Non-Domestic Rates, periodic income and sundry debts.
- (t) Providing, managing and keeping under review the concessionary bus fares scheme.
- (u) Carrying out the Council's powers for emergency planning and responding to civil emergencies.
- (v) Carrying 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.
- (w) Overseeing the Council's overall policy on the voluntary and community sector.
- (x) Approving the purchase, sale or appropriation of land and the leasing (or otherwise) of property
- (y) Authorising the making of compulsory purchase and control orders.
- (z) Writing- off debts.
- (za) Writing-off stocks, stores and other assets and to write off any losses of money or stores or to settle claims.
- (zb) Receiving reports on contract overspends in accordance with limits set out in the Finance Rules and agree the action to be taken.
- (zc) Giving grants or loans to parish/charitable, voluntary bodies or other bodies where permitted by law.
- (zd) Promoting and developing international exchanges and links with towns and cities in other countries.
- (ze) Carrying out the powers and duties of the Council under sections 13 and 14 of the Public Order Act 1986.
- (zf) Being the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs.
- (zg) Conferring 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.
- (zh) Resolving disputes between Cabinet members about the exercise of their functions.

- (zi) Carrying out all functions under the Derbyshire Act 1981 and other local acts except those relating to licensing, registration or regulatory functions
- (zj) Making decisions where no other tier of government has responsibility or where a policy or strategy does not exist.
- (zk) Deciding all Local Choice Functions set out in section 2.1 of this Scheme which the Council Meeting decides should be undertaken by the Cabinet.
- (zl) Deciding 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.
- (zm) The implementation of the Health and Safety at Work etc. Act 1974 in respect of the Council as an employer and all its operations.
- (zn) The appointment, terms of reference and membership of sub-committees to deal with matters within the Executive functions.
- (zo) Approving the level of any fee, charge, rent or other payment due to the Council provided it is within the Policy Framework.
- (zp) Monitoring the implementation of the Council's equalities responsibilities.
- (zq) Considering tenders in excess of the key decision threshold.
- (zr) 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 at Section 10.

All the functions listed in this section are reserved to the Cabinet unless delegated to officers.

Appendix 1 – Committee Terms of Reference

1. Scrutiny Committees

The following Scrutiny Committees have been established:

- (i) Business Scrutiny Committee
- (ii) Communities Scrutiny Committee
- (iii) Environment Scrutiny Committee
- (iv) Services Scrutiny Committee
- (v) The Joint Scrutiny Committee of all Scrutiny Committees

With nine Councillors on each Committee.

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 other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

The Scrutiny Committees will follow the Scrutiny Rules.

Each of the Scrutiny Committees will have a themed responsibility for scrutinising issues and monitoring performance relating to specific aspects of the Council Plan. These are:

Business Scrutiny Committee

Council Plan Goal: A Great Place to Work

Communities Scrutiny Committee

Council Plan Goal: A Great Place to Live Well

Environment Scrutiny Committee

Council Plan Goal: A Great Place that Cares for the Environment

Services Scrutiny Committee

Council Plan Goal: A Great Place to access to access Good Public Services

The Council Plan sets out a range of specific targets and objectives to help achieve these overall goals.

The Council Plan can be accessed at: [The Council Plan 2023-27](#)

Each of the Committees will assess progress against these targets and objectives and, when appropriate, carry out detailed review work on issues related to their delivery. However, within the context of their Council Plan themes, each of the Scrutiny Committees will determine their own work programmes. As part of this they may choose to carry out focused review work on particular issues or policies and following on from this, to draw up their findings and to make specific recommendations to Cabinet for consideration.

Council will refer proposals that would establish new or amend existing policies, which have been made as part of motions proposed at Council meetings to the appropriate Scrutiny Committee. The Committee will be charged with considering the issues raised by the motion and reporting back their findings to Council along with any recommendations, as appropriate.

Within their themed areas, all Scrutiny Committees will:-

- (i) provide 'checks and balances' on the effective delivery of the Council Plan, undertake reviews where necessary and be involved in the policy making process.
- (ii) 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.

Joint Scrutiny Committee

To consider the Council's budget proposals and any other cross cutting work that requires input of all four scrutiny committees.

The Chair of the Joint Scrutiny Committee will be elected at the start of the meeting from one of the Chairs of the four themed scrutiny committees.

2. Audit Committee

Council has established an Audit Committee, in line with the recommendations of the Chartered Institute of Public Finance (CIPFA) that effective governance and internal control arrangements should be in place. The primary role of the Audit Committee is to provide oversight of a range of core governance and accountability arrangements and ensure robust arrangements are maintained. The specific responsibilities of the audit committee are:

Committee will provide oversight of a range of core governance and accountability arrangements and ensure robust arrangements are maintained.

The specific responsibilities of the audit committee are:

- Supporting a comprehensive understanding of governance across the Council and among those charged with governance, fulfilling the principles of good governance.
- Considering the effectiveness of the Council's risk management arrangements. The committee should understand the risk profile of the organisation and seek assurances that active arrangements are in place on risk related issues, for both the Council and its collaborators/partners. This will include monitoring and reviewing of the Council's treasury management arrangements.
- Monitoring the effectiveness of the system of internal control, including arrangements for value for money, supporting standards and ethics and managing the Council's exposure to the risks of fraud and corruption.
- Being satisfied that the Council's statutory statements of account and any reports that accompany them, including the Annual Governance Statement, properly reflect the risk environment, and any actions required to improve it.
- Considering the audit arrangements in place to secure adequate assurance across all operations and where appropriate partners and collaborators.
- Overseeing the independence, objectivity, performance and conformance to professions standards of the internal audit function.
- Supporting effective arrangements for internal audit
- Promoting the effective use of internal audit within the assurance framework
- Considering the opinion, reports and recommendations of external audit and their implications for governance, risk management or control, and monitor management action in response to the issues raised by external audit.

- Contributing to the operation of efficient and effective external audit arrangements supporting the independence of auditors and promoting audit quality
- Supporting effective relationships between all providers of assurance, audits and inspections and the Council, encouraging openness to challenge, review and accountability.
- Reporting annually on how the committee discharged its responsibilities and include an assessment of its performance. This report will be presented to Full Council and be available to the public on the Council's website.

Those appointed to serve on the Audit Committee will have the following key characteristics. They will be:

- Trained to fulfil their role, be objective and have an inquiring and independent approach.
- Promote the good governance principles.
- Have a strong independently minded chair, displaying a depth of knowledge, skills and interest in both the Council's governance and best practice.
- Willing to operate in an apolitical manner.
- Unbiased, treating auditors, officers and decision makers fairly.
- Able to challenge decision makers.
- Have knowledge, expertise and interest in the work of the committee.

3. Planning Committee

There will be a Planning Committee of 11 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 Manager in advance by midday the working day before the meeting.

Deferred Planning Committee consideration of planning application

Councillors must not take part in the Planning Committee's determination of an application, unless they have been present to hear the entire debate, including the officers' introduction to the matter and any speakers comments. If an application has previously been deferred after the public speakers, then the same Councillors will be asked to reconsider the application when it is returned to Planning Committee.

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 Assistant Director of Planning or 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 District Ward Councillor or the Ward Councillor for an adjoining Ward has notified the Assistant Director of Planning / the Planning Manager – Development Management or the application case officer in writing or by e-mail within 3 weeks of the publication of the weekly list of their contention that the application should be determined by the Planning Committee and the notification is supported by one or more material planning considerations, the planning issues to be fully explained by the Member calling it in or the Chair of Planning Committee (or Vice Chair in their absence) has agreed to the application being considered by Planning Committee.
- (d) A District Ward Councillor or the Ward Councillor for an adjoining Ward has notified the Assistant Director of Planning, the Planning Manager - Development Management or the application case officer by email before the application has been determined the material planning considerations why they contend the application should be determined by Planning Committee or the Chair of Planning Committee (or Vice Chair in their absence) has agreed to the application being considered by Planning Committee, and
- (e) the Assistant Director of Planning has accepted the material planning considerations which have been put forward and has advised and/or has received the consent of the Planning Committee Chair or Vice Chair that the application should be heard and decided on by the Planning Committee.
- (e) If a serving Councillor, senior officer or senior manager of the Council (Team Manager and above, Planning Officer or other Planning team member advising or determining on planning applications, submits an application to the Authority for himself/herself or on behalf of any other person, or are the Partner or Relative of the same who submits their own application, they will inform both the Planning Manager and the Authority's Monitoring Officer and not take part in processing or determining the Application.
- (f) 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 delegated by them to the Planning Manager – Development Management or other appropriate officers. A record shall be kept of specific actions carried out under delegation from the Assistant Director of Planning by the Planning Manager – Development Management as part of the Service 'Departmental Delegation Scheme'.

- 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 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.
- Amending or revoking Tree Preservation Orders (TPOs). Where there are any objections or other representations made in opposition to the proposed amendment or revocation of a TPO, the delegation to the officer to be in consultation with the Chair of the Planning Committee.
- 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.

4. Licensing and Gambling Acts Committee

There will be a Licensing and Gambling Acts Committee of between 10 and 15 Councillors which must meet at least once a year by law.

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 other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

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 Council Meeting
To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005 To recommend to Council statements of Licensing Policy under the both the Licensing Act 2003 and the Gambling Act 2005 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. To recommend to Council to resolve whether to issue a Casino Licence	The following matters are reserved to the Council Meeting: (i) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005 (ii) The power to resolved to issue a Casino Licence

4.1 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 Chair 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.

5. General Licensing Committee

There will be a General Licensing Committee of between 10 and 15 Councillors which will meet at least once a year.

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 other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

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 Council Meeting
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. To recommend to Council any licensing policies except the Licensing Act 2003 and the Gambling Act 2005 policies. 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 To make any minor changes and updates to other relevant licensing policies as required	The following matters are reserved to the Council Meeting: (i) Determination of the Council's Hackney Carriages and Private Hire Vehicles, Drivers and Operators Policy (ii) Determination of other licensing policies, as required

5.1 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:

- i. matters arising under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Police and Crime Act 2009);
- ii. private hire and/or hackney carriage matters;
- iii. 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 Chair for the meeting will be determined by the Members present at the meeting.

Schedule of Meetings

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

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

The functions of the General Licensing Sub-Committee include:

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

Delegation of functions to officers

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

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

6. Standards Committee

There will be a Standards Committee of up to 7 Members.

The Committee will be politically balanced.

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 other Committee Members. Substitutes may vote at Meetings.

Any substitutions must be notified to the Governance Manager in advance by midday the working day before the meeting.

If a Substitute Councillor is present at a meeting at which a Councillor (who they are substituting for) joins the meeting during the course of proceedings, the Substitute Councillor may not take part from that point.

Substitute Councillors will not be allowed to sit on Hearing Panels of the Standards Committee.

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.
- Overseeing 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.
- Proactively engaging with Town / Parish Councils to 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.
- Overseeing training provided to Parish Councils on conduct and probity matters including relevant information provided to newly elected Parish Councillors.
- Overseeing 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 or significant other 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.
- Overseeing 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 and to approve amendments to the policy as necessary.
- Overseeing complaints handling and outcomes of Ombudsman investigations.
- 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

7. 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
To interview candidates for posts within the Management Team To appoint candidates to posts within the Senior Management Team, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer To recommend to Council the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers To deal with appeals from the Chief Officers/Deputy Chief Officers, including Statutory Officers, against action taken against them 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	To determine any matter referred to it.

Special arrangements will be put in place by the Monitoring Officer to convene a Joint Employment and Appeals Committee for those officers responsible to other local authorities in addition to the Council.

8. **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 representatives from recognised Trade Unions as follows:-

UNISON
GMB
UNITE

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.

Proper Officer Provisions and Designation of Officers to Statutory Functions

The relevant post holders listed in this section 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	Monitoring Officer
S.84(1)	Receipt of notice of resignation of elected member	Monitoring Officer
S.88(2)	Arranging a Council meeting to appoint a Chair of the Council	Monitoring Officer
S.89(1)	Notice of casual vacancy	Monitoring Officer
S.100 (except 100(D))	Admission of public (including press) to meetings	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	Monitoring Officer
S.100B(7)	The officer to supply copies of documents to newspapers	Monitoring Officer
S.100C(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Monitoring Officer
S.100D(1)(a)	The officer to prepare a list of background papers for inspection.	Monitoring Officer

S.100D(5)(a)	The officer to include in the list of background papers those documents which have been relied on.	Monitoring Officer
S.100F(2)	The officer to determine when a document should not be open to inspection because it discloses exempt information.	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.

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.	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	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	Grant employers certificate for exemptions and declarations in relation to 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

Specific Delegations to officers

This section sets out a specific delegation of powers to Council officers and the scope and scale of these powers.

1. Managing Director and Head of Paid Service

- 1.1 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.

Exception to para 1.1: Suspension of the Monitoring Officer and the Section 151 Officer limited to suspension for a maximum of 2 months.

- 1.2 To act as the Safeguarding and Risk Management lead and as the Council's Senior Risk Officer.
- 1.3 To guide and where appropriate direct Directors and Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
- 1.4 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 to by the Council, Cabinet or its Committees and to act thereon.
- 1.5 To take such action as they consider appropriate in an emergency following consultation with the Leader and/or Deputy Leader as they consider the circumstances will allow. Any decisions taken under this paragraph shall be reported by the Managing Director to the next meeting of Council explaining the reasons for the decision.
- 1.6 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.
- 1.7 To formulate and co-ordinate advice on strategic and corporate policy and value for money issues.
- 1.8 To authorise persons to collect, recover, prosecute or appear on behalf of the Council in any legal proceedings.
- 1.9 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.

- 1.10 To make authorisations of officers from other Councils providing shared services or providing services to carry out appropriate statutory powers within North East Derbyshire.
- 1.11 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 having authority to issue/grant such authorisations.
- 1.12 To exercise any of the powers delegated to the Directors or Assistant directors.
- 1.13 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- 1.14 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.
- 1.15 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.
- 1.16 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.
- 1.17 To grant employer certificates of exemptions and declarations to politically restricted posts under Section 3 of the Local Government and Housing Act 1989.
- 1.18 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 (including the suitable point of the pay scale for the appointment), dismissal, suspension or discipline of staff save that in relation to the Directors and Assistant Directors does not include the appointment and dismissal
 - (iii) approving secondments and temporary appointments of any staff.
- 1.19 Where the decision of the Head of Paid Service taken under the above will incur additional expenditure which cannot be met by approved budgets, then the matter will be determined under the above delegation together

with the Director of Finance and Resources and Section 151 exercising their delegation under 3.10 provided the cost is less than £15,000. Any budget increase above this level must be referred to Council.

- 1.20 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).
- 1.21 Following consideration by JCG, to approve operational policies relating to the management of people within the organisation except where the policy is a new policy or there is significant disagreement with the Unions as to the content. A new policy is one which covers a part of the Employer/Employee relationship not previously covered by a policy.
- 1.22 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 to meet the statutory deadline.
- 1.23 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.
- 1.24 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).
- 1.25 (Further delegated to the Assistant Director of Planning) Making Local Development Orders (section 61A TCPA) in consultation with the relevant Portfolio Holder.
- 1.26 (Further delegated to the Assistant Director of Planning) Creating Simplified Planning Zones (section 82 TCPA) in consultation with the relevant Portfolio Holder.
- 1.27 (Further delegate to the Assistant Director of Planning) Creating Enterprise Zones (section 88 TCPA) in consultation with the relevant Portfolio Holder.
- 1.28 (Further delegated to the Assistant Director of Planning) discharge of Planning Conditions in consultation with the relevant Portfolio Holder.
- 1.29 (i) 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;

(ii) To authorise the enforcement officers of that local authority to issue Fixed penalty Notices, notices relating to enforcement, make decisions, or do

anything required in respect of hackney carriage and private hire licensing enforcement function.

- 1.30 To authorise the making of Public Space Protection Orders.
- 1.31 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.
- 1.32 To act on behalf of the Council as the Council's representative in relation to the Management Agreement with and as owner of Rykneld Homes Limited, this to include making minor changes to the agreements with Rykneld Homes Limited.

2 Director of Growth and Assets

- 2.1 To act as the Emergency Planning / PROTECT lead.
- 2.2 To guide and where appropriate direct Directors and Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
- 2.3 To deputise for the Managing Director and Head of Paid Service in their absence and exercise any powers delegated to them.
- 2.4 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation.
- 2.5 To act on behalf of the Council as the Council's representative in relation to the Management Agreement with and as owner of Rykneld Homes Limited, this to include making minor changes to the agreements with Rykneld Homes Limited.

3 Director of Finance and Resources and Section 151 Officer

- 3.1 To act as the Section 151 Officer for the Council in accordance with the duties set out in the legislation and PREVENT lead.
- 3.2 To have responsibility for the proper administration of the financial affairs of the Council.
- 3.3 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.
- 3.4 To approve the Draft Statement of Accounts prior to consideration by External Audit.
- 3.5 To determine whether an employee who has left the employment of the Council shall be granted early release of pension subject to Council approval of the budgetary implications.
- 3.6 After consultation with the relevant Portfolio Holder to authorise the write-off of bad debts up to an approval limit £5000. Larger debts will be included in a report for information to the Cabinet.
- 3.7 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.
- 3.8 To determine applications under the Regulation of Investigatory Powers Act 2000 and related legislation
- 3.9 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.
- 3.10 To authorise small increases in individual budgets of up to £15,000 per budget on one occasion in any corporate year subject to a delegated decision notice being produced. Where this increase relates to a staffing matter, the delegated decision notice will be a joint one with the Head of Paid Service using his delegation 1.19.
- 3.11 To guide and where appropriate direct Directors and Assistant Directors in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.

- 3.12 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 3.12: Applications for discretionary Disabled Facilities Grants must be submitted to Cabinet.

- 3.13 To act on behalf of the Council as the Council's representative in relation to the Management Agreement with and as owner of Rykneld Homes Limited, this to include making minor changes to the agreements with Rykneld Homes Limited.
- 3.14 Where an area is to be regenerated and a Council House within that area becomes void, to retain the property as void until such time as the regeneration scheme is commenced or a decision is taken not to proceed.
- 3.15 To authorise the use of earmarked reserves (Invest To Save).
- 3.16 In consultation with the Monitoring Officer, to authorise the award of a contract where the annual value of the contract is below the Key Decision Level and the contract is for 4 years or less subject to a delegated decision notice being produced where the total contract value is above the Key Decision Level.

4 Assistant Director of Governance and Monitoring Officer

- 4.1 To act as Monitoring Officer for the Council in accordance with the duties set out in Section 5 of the Local Government Act 1989.
- 4.2 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.
- 4.3 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.
- 4.4 Authority to sign documents in legal proceedings, contract, contracts in accordance with the Contract Procedure Rules whether under seal or not, any document necessary in legal proceedings on behalf of the Council and Information and complaints and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless statute provides otherwise.
- 4.5 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.
- 4.6 To negotiate and settle claims and disputes without recourse to court proceedings.
- 4.7 To represent the Authority and secure the appearance of an advocate on the Authority's behalf in any legal proceedings.
- 4.8 To conduct, authorise and coordinate investigations into complaints under the Members' Code of Conduct and make reports or recommendations about them to the Standards Committee.
- 4.9 To advise whether decisions of Cabinet are in accordance with the Budget and Policy Framework.
- 4.10 To provide advice on the scope and powers and authority to take decisions, financial impropriety, probity and Budget and Policy Framework.
- 4.11 Monitoring and advising upon all aspects associated with the Regulation of Investigatory Powers Act (RIPA).
- 4.12 To monitor the use of the Gifts and Hospitality Registers and to maintain and sign acknowledgement of entries in the Gifts and Hospitality Register.

- 4.13 To authorise officers who are not solicitors to represent the Council in legal proceedings in the Magistrates Court under Section 223 of the Local Government Act 1972 or any other legislation.
- 4.14 To authorise persons to collect recover prosecute or appear on behalf of the Council in any legal proceedings.
- 4.15 Following consultation with the Leader and/or Deputy Leader and relevant Portfolio Holder to make or revoke appointments to outside bodies and following consultation with the relevant party Leader to make changes to the membership of Committees and Sub Committees and inform all Party Leaders of the change.
- 4.16 To amend the Polling Place Scheme between reviews, following consultation with the Leader and Deputy Leader.
- 4.17 To consider and co-ordinate any investigation by the Local Government and Social Care Ombudsman or the Housing Ombudsman subject to informing the Head of Paid Service.
- 4.18 To consider and report on any report of the Local Government and Social Care Ombudsman or the Housing Ombudsman and to decide on and implement the action to be taken and to approve and make compensation payments on the recommendation of the Ombudsman whether or not a budget exists following consultation with the Head of Paid Service, the Leader and Deputy Leader up to a maximum of £5,000 in respect of each recommendation.
- 4.19 To make appropriate changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.
- 4.20 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 provided this is within 6 months of the last attendance at a qualifying meeting by the Councillor.
- 4.21 To designate Neighbourhood Areas in consultation with the Portfolio Holder for Environment.
- 4.22 To start a recruitment process for the appointment of an Independent Person.
- 4.23 To act on behalf of the Council as the Council's representative in relation to the Management Agreement with and as owner of Rykneld Homes Limited, this to include making minor changes to the agreements with Rykneld Hmes Limited.
- 4.24 To grant dispensations to Members for one meeting where the Monitoring Officer has received a written request for a dispensation from a Disclosable

Pecuniary Interest or Significant Other Interest and the Monitoring Officer considers that :

- by not granting a dispensation, the business of the Authority, Cabinet or Committee is likely to be impeded; or
- the political balance of the Committee or Authority is so upset as to alter the outcome of a vote; or
- all members of the Cabinet are unable to participate in business to be carried out by the Cabinet; or
- without the dispensation no Member of the Cabinet would be able to participate; or

Finance, Contracts and Legal Matters

This section gives an overview of 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 section 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 (See Section twenty one).

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 Deputy Monitoring Officer (Legal Services Manager) 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 the Deputy Monitoring Officer (Legal Services Manager) 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 Monitoring Officer or Deputy Monitoring Officer (Legal Services Manager) 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 Legal Services Manager and Deputy Monitoring Officer.
- (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 Monitoring Officer or Deputy Monitoring Officer should be sealed or as required by the Contract Procedure Rules. The affixing of the Common Seal will be attested by the Monitoring Officer, or in their absence, anyone delegated the function by the Monitoring Officer 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.

Finance Rules

This section explains the rules governing the management of the Council's financial affairs. The rules apply to every Member and officer of the Council and everyone acting on its behalf.

1 INTRODUCTION

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

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

- 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
Local Audit and Accountability Act 2014
The Accounts and Audit Regulations 2015.

- 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 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, Cabinet and Audit and Services 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 Finance Rules 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 Finance Rules, 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 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 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 Section 151 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 Rules.
- 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 them. 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 Legal Services Manager, 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 been 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 Assistant Director, 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 they require 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 and as a general rule, they belong to the employer, not the employee..

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 state - 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 Section 151 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 Section 151 Officer
- Members
- Audit and Services Scrutiny Committees
- Individual Directors / Assistant Directors
- 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 state 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 Assistant Director 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. The Whistleblowing Policy is approved by Standards Committee annually. 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 they 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 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 Committee, the Cabinet and after consultation with Senior Officers.

8.3 It is the responsibility of Senior Officers to ensure that budget estimates reflect the agreed Council 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 Joint 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.

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 Services Scrutiny Committees 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 them 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 or for employee related expenses such as training or any other employee related expenditure.

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 Joint Scrutiny Committee and the Cabinet. Cabinet will agree a recommended Programme for submission to the Council.

8.10 Following the approval by the Council 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 Policy Statement and Contract Procedure Rules with respect to Contracts and will be entered into the Contracts Register.

9.2 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.

- 9.3 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.
- 9.4 The Section 151 Officer shall, to the extent they consider necessary, examine final accounts for contracts and they shall be entitled to make all such enquiries and receive such information and explanations as they may require in order to satisfy themselves as to the accuracy of the accounts.
- 9.5 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Legal Services Manager for consideration of the Council's legal liability and, where necessary, to the Section 151 Officer for financial consideration before a settlement is reached.
- 9.6 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.

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 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 they 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 Finance Rules 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 details of their officers designated as Authorised Signatories for the purpose of authorising orders, invoices, timesheets and other types of expenditure. The limits of each signatory's authorisation must also be stated. Changes 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. These must be in accordance with the Council's Contract Procedure Rules.

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 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 a purchase order must be raised and a detailed receipt 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.
- 12.11 All orders must be placed in accordance with the Council's Contract Procedure Rules. 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 matched to the relevant purchase order. Senior Officers must ensure that all charges, recorded against Cards held by officers within their area, have been

properly incurred. 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 themselves 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 purchase order and invoice are 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 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).

12.20 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 them.

- 12.21 Each Senior Officer shall notify the Section 151 Officer and HR as soon as possible, and in the form prescribed by them, 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.
- 12.22 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.
- 12.23 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.
- 12.24 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 they 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 their 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 Legal Services Manager 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 Holder 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 they 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 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 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 Managing Director and Head of Paid Service 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 they consider 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 their 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.

CONTRACT PROCEDURE RULES

1. Introduction and Scope

- 1.1 These Contract Procedure Rules provide the *framework* for the procurement of all goods, services, and *works* for the Council. The Council is an entity that falls under the definition of “*contracting authority*” and will be subject to the rules set out in the prescribed legislation.
- 1.2 All contracts for the supply of goods and services and for the execution of *works* made by or on behalf of the Council shall comply with the provisions of the legislation where required. These Rules cannot be waived, unless explicitly approved by the Council’s *Monitoring Officer*, with the reasons for doing so recorded.
- 1.3 Before any tendering exercise is considered, reference must be made to the Council’s procurement and equalities guidelines. The Council is committed to dealing fairly with all relevant discrimination groups as defined in the Equality Act 2010 (as amended). A failure to consider special requirements for these groups in a tender would be a significant corporate failure, affecting the reputation and standing of the Council.
- 1.4 All procurement arrangements must ensure compliance with the Council’s responsibility in respect of the Freedom of Information Act 2000, Environmental Information Regulations 2004 and the Data Protection Act 2018 and the UK General Data Protection Regulation.
- 1.5 Breach of the Contract Procedure Rules may lead to disciplinary action. Regard must be had to complying with the Finance Rules as part of any procurement process.
- 1.6 If in doubt in respect of any part of the legislation, the procurement process to follow or these rules contact the Procurement Team. There is also a comprehensive user manual and resources on the procurement page of the Intranet. providing practical advice for officers undertaking procurement activity.

Transition Arrangements

- 1.7 The Public Contract Regulations 2015 (“PCR 2015”) will be replaced by the Procurement Act 2023 (“the Act”) on 24 February 2025. Procurements started and contracts awarded before this date will follow PCR 2015 and the old regime. Procurements started and contracts awarded on or after 24 February 2025 will follow the Procurement Act 2023 and the new regime. These rules have been modified to reflect the new regime.

Throughout these rules various terms are shown in *italics*. The glossary contains further details on these terms.

2. Principles and Objectives

- 2.1 When carrying out procurement-related activity the Council must have regard to certain objectives and must treat suppliers equally. The Council can decide how

the “have regard to” objectives are considered and should aim to support best practice within the procurement exercise. How procurement objectives have been taken into consideration during procurement should be recorded alongside other procurement records. The Council must take reasonable steps to ensure that different treatment does not put a supplier at an unfair advantage or disadvantage.

Value for Money

- 2.2 Consideration should be given how to get the best mix of economy, efficiency and effectiveness that achieves intended outcomes over the whole lifetime of a contract.

Maximising Public Benefit

- 2.3 The public benefit objective seeks to encourage thought about the extent to which contracts can deliver greater benefit, for example by collaborating with other *contracting authorities* for a common purpose to reduce resource implications and costs, or considering *social value* or environmental benefits that could be achieved by the contract.

Sharing Information/Transparency

- 2.4 Transparency is a key in public procurement. Information should be shared for the purpose of allowing suppliers and others to understand the Council's policies and decisions relating to procurements. This helps:
- Improve visibility of public sector contracting.
 - Drive accountability in the way decisions are made and services delivered
 - Deliver more effective competition to maximise Value for Money for the taxpayer
 - Uphold the integrity of public procurement.
 - Build public trust.

Integrity

- 2.5 The acting, and being seen to act, with integrity will help in the fight to prevent fraud and corruption. Being able to demonstrate this through good management, prevention of misconduct, and having full control over processes is key to strengthening trust with suppliers and the public.
- 2.6 The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who *works* as a public officeholder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public officeholders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.
- 2.7 Consideration should therefore be given to the Nolan Principles when entering a procurement. This is embedded in our standard tender documentation.

Treat suppliers the same and do not put a supplier at an unfair advantage or disadvantage.

- 2.8 The Council is required to treat suppliers the same unless a difference between the suppliers justifies different treatment. If different treatment of suppliers is justified, the Council must take the appropriate steps to ensure a supplier is not put at an unfair advantage or disadvantage.

Have regard to small and medium sized enterprises (S M E ' s)

- 2.9 The Council must specifically consider requirements from an *SME* perspective, for example by reducing processes which are disproportionately burdensome on *SME* suppliers or through the transfer of unreasonable levels of risk to the suppliers.
- 2.10 To be compliant with the Act, the Council will use the *Central Digital Platform* to publish all notices before publishing elsewhere. Procurements will continue to take place using INTEND which will link to directly to the *Central Digital Platform*.
- 2.11 Use of the *Central Digital Platform* is not required for below-threshold procurements.

3. The National Procurement Policy Statement

- 3.1 The Act sets out a power for Ministers to publish a *National Procurement Policy Statement* (NPPS) which along with the procurement objectives sets out the national strategic priorities for public procurement.
- 3.2 The NPPS sets out the current strategic priorities for public procurement and how *contracting authorities* in England can support their delivery. The Council is required to have regard to the relevant priorities in the NPPS, alongside other local priorities, when carrying out procurements.
- 3.3 The NPPS gives suppliers greater visibility of the national priorities that should be considered by the Council when undertaking procurement. Where relevant to the specific contract, these priorities shall be clearly set out in the tender documents. Policy matters likely to be addressed by the NPPS include *social value* priorities. Inclusion in the NPPS allows for further development and guidance surrounding implementation of these priorities over time.

4. Pre-Procurement Considerations

Risk

- 4.1 Officers involved in procurement activity must identify the different types at the outset. The impact of such risks will also need to be considered in terms of how they could affect the future operation of the contract.

Policies

- 4.2 Regard must be given to the Council's policies when undertaking procurements. This should be proportionate to contract values and the nature/duration of the contract. Cross cutting policies that should be considered are included in tender documentation for advertised contracts, but consideration needs to be given to policies relevant and proportionate to the procurement in question. Consideration to policies should also be given when contracting via *frameworks* or quotes.

Preliminary Market Engagement

- 4.3 Whilst *preliminary market engagement* is not mandatory, engagement with the market should take place wherever practical to help inform the procurement process.
- 4.4 Where *preliminary market engagement* is undertaken, then the *preliminary market engagement* notice must be published before the tender notice or reasons for not publishing a *preliminary market engagement* notice must be given in the tender notice.
- 4.5 There are no minimum timescales required between publishing a *preliminary market engagement* notice and the tender notice. Publishing a *preliminary market engagement* notice is not a commitment to undertake a procurement.

Transparency and Publication Requirements

- 4.6 Prior to commencing a procurement exercise an awareness of the transparency and publishing requirements is required. This will vary depending on the selected procurement route and the value of the contract.

Duty to Consider Lots

- 4.7 There is a duty under the Act to consider lots before entering a procurement process. Considering lots may also contribute to the objective of having regard to and removing barriers for *SME's*.

Conflicts of Interest

- 4.8 All reasonable steps must be taken to identify *conflicts* and potential *conflicts* including personal, professional, or financial and which may be direct or indirect.

Specifications

- 4.9 Where a specification is required, it cannot be used to unnecessarily limit competition. Awareness must be had to non-discrimination duties and regard for procurement objectives, such as opportunities for *SME's* and incorporated *Voluntary Community Social Enterprises*.
- 4.10 The specification must be clear, concise, and unambiguous. It should include information about the requirements and desired features of the goods, services

or *works* being procured. It should be specific enough so that suppliers reading it can understand what is being requested and should be comprehensive enough to cover all the relevant aspects of the product or service.

Approvals

- 4.11 The Council's Finance Rules explain the rules governing the management of the Council's financial affairs and includes all financial matters relating to contracts entered through a procurement process.
- 4.12 All relevant approvals must be in place ahead of commencing a procurement process. These must be in line with the Council's Budget and Policy Framework and Delegation Scheme. This will include relevant approvals in line with key decision thresholds and authority to incur expenditure with an approved budget in place.

Key Decisions

- 4.13 A "*key decision*" means an executive decision, which is likely to result in the Council incurring expenditure or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates or to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the district.
- 4.14 In determining the meaning of "significant" for these purposes the Council has decided that revenue income or expenditure of £125,000 or more, and capital income or expenditure of £310,000 or more is deemed significant.
- 4.15 Contracts with a value that exceeds the relevant key decision limit should be recorded on the Forward Plan and approved by Delegated Decision or the Cabinet as appropriate.

5. Thresholds

- 5.1 The Act sets out certain obligations that are triggered at set financial *thresholds*. The *thresholds* (for goods, services and *works*) are defined in Schedule 1. They include VAT and are revised every two years:

- goods and services (local government) - £214,904
- *light touch* - £663,540
- *works* - £5,372,609

Contracts below these values are *below threshold contracts*.

Frameworks

- 6.1 *Frameworks* can be used for any value and can help save time and money by removing the need to run a lengthy and expensive tender process. Use of 'call-off' contracts with approved suppliers simplifies the process considerably. *Frameworks* can also provide more protection from commercial risks. However,

even under a *framework* the assessment of risks remains the Council's responsibility.

6.2 The thresholds (Section 5) apply to contracts procured under a *framework* so there is still an obligation to meet transparency requirements. These vary dependent on the contract value and are detailed in Section 7 below.

6.3 The contract terms will be in a form defined by the *Framework Agreement*

7. Contract Values

7.1 The rules on valuation of contracts are important, particularly in relation to determining whether contracts are above or below threshold. Estimating the values of a contract must not be approached with the intention of *disaggregation* by artificially subdividing contracts for the purposes of evading the above-threshold regime.

7.2 Appendix one provides a summary of this section for ease of reference.

Contracts below £30,000 (inclusive of VAT)

7.3 These are not subject to a formal procurement process.

7.4 It is good practice (for all but small value and routine purchases – see 7.5 below) to request written quotations. Should insufficient suppliers return a quote, the award can still proceed subject to the *authorised officer* being satisfied that procurement objectives are broadly being met.

Up to £1,000 (inclusive of VAT)

7.5 For low value awards it is the responsibility of the authorising officer to be satisfied that procurement objectives are broadly being met. Purchase Orders must be raised in all instances and sufficient funds approved in advance.

£1,000 - £5,0000 (inc VAT)

7.6 Procurements shall be by written quotations, using the template request for quotes form, requested from a minimum of one supplier.

7.7 A record of the successful quote should be retained by the Client Officer.

7.8 A purchase order must be raised in all instances and sufficient funds approved in advance. Purchase orders should be raised at the point of contract award not when an invoice is received.

7.9 No notices are required.

7.10 The contract terms will be the Council's Terms and Conditions. These are on the Council's website and referenced on the purchase order.

£5,000 to £30,000 (inclusive of VAT)

- 7.11 Procurements shall be by written quotations requested from at least three suppliers using the template request for quotes form. Should insufficient suppliers return a quote, the award can still proceed subject to the *authorised officer* being satisfied that procurement objectives (detailed in 2. Above) are broadly being met.
- 7.12 A record of the successful quote should be recorded on the INTEND contract management database.
- 7.13 The contract award details must be published on the Contracts Register
- 7.14 A purchase order must be raised in all instances and sufficient funds approved in advance. Purchase orders should be raised at the point of contract award not when an invoice is received.
- 7.15 No notices are required.
- 7.16 The contract terms will be the Council's Terms and Conditions. These are on the Council's website and referenced on the purchase order.

8. Below Threshold Contracts

- 8.1 There are lower obligations for below threshold procurements under the Act. Advertising is not required, and less notices are required. For all *below threshold contracts* consideration must be given to the Council's procurement objectives (see section 2 above). Barriers for small and medium-sized enterprises must be considered and how any such barriers can be removed or reduced. A record should be maintained for procurement decisions.

£30,000 – Threshold (inclusive of VAT)

- 8.2 *Preliminary Market Engagement* can be undertaken as required.
- 8.3 There is no requirement under the Act to advertise below threshold procurements. However, the Council's own internal governance requires that procurements over £50,000 should be advertised. This does not apply where a *framework* is being used (see section 6 above)
- 8.4 Where the procurement is below £50,000 and the *authorised officer* has chosen not to advertise, procurements shall be by written quotations requested from at least three suppliers and using the template request for quotes form
- 8.5 Procurements over £50,000 must be advertised on INTEND (which links to the *Central Digital Platform*) before any other medium.
- 8.6 A record of the successful quote should be recorded on the INTEND contract management database.

- 8.7 The contract award details must be published on the Contracts Register via the INTEND Contract Management database.
- 8.8 A purchase order must be raised in all instances and sufficient funds approved. Purchase orders should be raised at the point of contract award not when an invoice is received.
- 8.9 Notices are not required where a procurement isn't advertised. Where a procurement is advertised notices are required. A schedule of notices required can be found on the procurement page of the Intranet.
- 8.10 The contract terms will be the Council's Standard Short Form Contract for goods and services. An appropriate standard form of contract (ie JCT) will define terms and works. All works contracts must be reviewed by legal services.

9. Above Threshold Contracts

Open Procedure

- 9.1 The open procedure is a single stage procurement where there is no restriction on who can submit tenders. All information needs to be provided at the point of tender and made available to all suppliers.
- 9.2 *Preliminary Market Engagement* can be undertaken as required
- 9.3 Procurements must be advertised using INTEND (which links to the *Central Digital Platform*) before any other medium.
- 9.4 *Conditions of participation* can be used to assess legal/financial capacity and technical ability. However, where *conditions of participation* are set, and a supplier fails to meet them, they must not be awarded the contract.
- 9.5 Assessment and award must use MAT principles (see 15.1 below)
- 9.6 Assessment summary data must be collated for the *Assessment Summary*
- 9.7 The contract award details must be published on the Contracts Register
- 9.8 A purchase order must be raised in all instances and sufficient funds approved in advance. Purchase orders should be raised at the point of contract award not when an invoice is received.
- 9.9 Notices are required
- 9.10 The contract terms will be in a form agreed with the Legal Services Manager who will review all above threshold contracts.

Competitive Flexible Procedure for above Threshold Contracts

9.11 The *Competitive Flexible Procedure* is multistage procurement best suited for:

- Common off the shelf requirements where a large market exists, and an initial participation stage is needed to limit the number of suppliers submitting tenders.
- Where requirements are clear and low risk, but engagement may be beneficial in delivering better outcomes including value for money.
- where the requirement is of a specialist nature and engagement with suppliers would be beneficial in helping them to understand the requirement and potential solutions.
- when the Council may not want to limit the market through an early participation stage without first reviewing the product, technology, or software being supplied.
- for town and country planning, architecture and engineering, or data processing, where several stages may be needed to reach a final solution.

9.12 There is no limit to the number of stages or supplementary processes that can be included in the *competitive flexible procedure*. The intention of each stage, and any use of selection or intermediate assessment criteria should be clearly set out in the tender notice and any *associated tender documents*.

9.13 A preferred supplier/post tender negotiation stage can form part of the process to allow clarification or confirmation of any commitments made in the tender or to engage in post-tender negotiation with the final supplier(s), if it does not have the effect of altering the competition outcome and it follows the process outlined in the tender notice and any *associated tender documents*. It should be conducted in a transparent and auditable manner, details of discussions/negotiations, key points or outcomes must be recorded and kept.

9.14 *Preliminary market engagement* is recommended as it provides the opportunity to understand: the market, the deliverability of requirements, feasibility of alternative options and identify whether innovative solutions could help to deliver better public services and deliver value for money.

9.15 Procurements must be advertised using INTEND (which links to the *Central Digital Platform*) before any other medium.

9.16 *Conditions of participation* can be used to assess legal/financial capacity and technical ability. However, where *conditions of participation* are set, and a supplier fails to meet them, they must not be awarded the contract.

9.17 Assessment and award must use MAT principles (see 15.1 below)

9.18 Assessment summary data must be collated for the *Assessment Summary*

9.19 The contract award details must be published on the Contracts Register

9.20 A purchase order must be raised in all instances and sufficient funds approved in advance. Purchase orders should be raised at the point of contract award not when an invoice is received.

9.21 Notices are required

9.22 The contract terms will be in a form agreed with the Legal Services Manager who will review all above threshold contracts.

10. Time limits (Above Threshold Contracts)

10.1 The minimum time periods for above threshold procurements are:

Scenario	Tendering period (days)
Where tenders can't be submitted electronically, and all associated tender documents are not provided at the same time as the tender notice	35
Where tenders can't be submitted electronically but all associated tender documents are provided at the same time as the tender notice	30
Where tenders are submitted electronically but all associated tender documents are <u>not</u> provided at the same time as the tender notice	30
Where tenders are submitted electronically, and all associated tender documents are provided at the same time as the tender notice	25
A qualifying planned procurement notice has been issued	10
Where the Council considers there to be a state of urgency that means any other applicable minimum tender period is impractical	10
Where you have included a condition of participation stage, and only pre- selected suppliers are invited to submit a tender	10
Where you have included a conditions of participation stage and only pre- selected suppliers are invited to submit a tender, AND you have agreed a timescale with those suppliers	No minimum

11. Direct award

11.1 Direct award is when a public contract is awarded without a competitive tendering procedure and the public contract is placed directly with the supplier of the Council's choosing. Direct award can only be considered where one or more of the grounds for direct award are met and should only be used where a competitive tendering procedure has been explored and is not appropriate or a competitive tendering procedure cannot be used, even under reduced timescales or a limited form as permitted in the Act.

11.2 Schedule 5 of the Act states a direct award can be used for:

- **Prototypes and development** - when procuring a prototype or other novel good or service aimed at testing the suitability or understanding the viability of production or supply in quantity or other research, study or development on a commercial basis.
- **Single Supplier:-**
 - where competition is absent for technical reasons or due to the supplier having intellectual property or other exclusive rights.
 - Where there is an absence of competition for technical reasons and provided there are no reasonable alternatives, only a particular supplier can supply the goods, services or *works* required.
 - where the contract is for the creation or acquisition of a unique work of art or artistic performance.
- **Commodities** - where goods are purchased on the commodity market.
- **Advantageous terms on insolvency** – where the award of a contract to a particular supplier will ensure terms particularly advantageous to the Council due to the supplier is undergoing insolvency proceedings.

Direct Award -Urgency

11.3 The grounds for direct award in cases of urgency are also set out in Schedule 5 of the Act which states:

The requirement for goods, services or works is strictly necessary for reasons of extreme urgency and cannot be procured via a competitive tendering procedure and has been brought about by circumstances unforeseeable by and unattributable to the contracting authority.

11.4 The concept of 'unavoidable urgency' would not apply if the Council has simply not allowed sufficient time to undertake a re-procurement of a contract

11.5 The reference to the goods, services or *works* being 'strictly necessary' means that the contract awarded must only be used for obtaining the goods, services and *works* that are necessary to cope with the urgency of the situation and not for wider use or the longer term; a separate procurement should be commenced if the goods, services or *works* are required for the longer term.

11.6 Even if a competitive tendering procedure cannot be carried out, undertaking some form of informal competition before awarding the contract should be considered. Carrying out any informal competition does not fetter in any way the discretion to rely on this direct award ground.

11.7 Direct Award under grounds of urgency should be used by exception and must be approved by a Senior Officer. Advice should also be sought from the Procurement Team.

Direct Award following unsuccessful open procurement

11.8 Following an unsuccessful competitive tendering procedure there is provision to 'switch' to direct award in very specific circumstances:

- *Tenders* would be disregarded in an assessment,
- tenders do not satisfy requirements or the *award criteria*.
- there is evidence of corruption or collusion between suppliers or between suppliers and *contracting authorities*.
- there is a *material* breach of a procedural requirement in the tender notice or *associated tender documents*.

11.9 Direct award can also be used for additional or repeat goods, services or *works* from the same supplier where the original contract was awarded under a competitive tendering procedure. The timeframe in which the original contract was competitively tendered must be within 5 years and the intention to rely on a direct award for subsequent procurements must be set out in the tender notice and *associated tender documents*.

11.10 For all direct awards:

- The contract award details must be published on the Contracts Register
- A purchase order must be raised in all instances and sufficient funds approved.
- A Transparency Notice is required
- A Contract Details Notice is required
- The contract terms will be in a form agreed with the Legal Services Manager.

12. Light Touch Contracts

12.1 *Light touch* contracts are wholly or mainly for the supply of services of a kind specified in regulations. These "*light touch* services" are set out in Schedule 1 of the Procurement Regulations 2024 and are identified using common procurement vocabulary (CPV) codes. There are likely to be only minimal opportunities for the Council to utilise *light touch* contracts.

12.2 The Procurement Team will advise where such opportunities present.

13. Dynamic Markets

13.1 *Dynamic markets* are lists of qualified suppliers who are eligible to participate in future procurements. Only above threshold contracts can be awarded under a *dynamic market*.

13.2 *Dynamic markets* are not public contracts and therefore follow different rules. Procurement advice must be sought before considering this route.

14. Conditions of Participation

14.1 *Conditions of Participation* (previously known as selection criteria) are not

mandatory but it is expected that most above threshold procurements will need to confirm a supplier's legal and financial capacity, or technical ability, to perform the contract.

14.2 *Conditions of Participation must:*

- Be related to a supplier's legal and financial capacity, or technical ability to perform a contract.
- Be a proportionate means of ensuring a supplier's relevant capacity or ability, having regard to the nature, complexity and cost of the contract.
- Allow for equivalents (eg when requesting qualifications or memberships)
- Be distinct from award criteria, focussing only on the supplier's capacity and ability and not their tender submission.

14.3 *Conditions of Participation must not:*

- Require suppliers to submit audited annual accounts unless they're required to under the Companies Act 2006
- Require suppliers to have insurances needed to deliver the contract in place prior to contract award.
- Require qualifications without allowing for equivalents.
- Require suppliers to have been awarded a contract by a specific *contracting authority* previously.

Financial Tests

14.4 Suppliers may be asked to provide the following information about their 'economic and financial standing':

- A copy of their audited annual accounts, where the supplier has been required to obtain audited annual accounts in accordance with Part 16 of the Companies Act 2006 or an overseas equivalent or
- Alternative forms of evidence that are equivalent to this (for suppliers not required to have audited accounts).

This is to ensure that certain suppliers such as *SMEs*, *VCSEs* or recent start-ups are not disadvantaged by the *conditions of participation*.

Insurance

14.5 The Council may ask for insurances where they are proportionate to the delivery of the contract. However, it is not permitted to ask suppliers to have such insurances in place prior to contract award. The Council may request that suppliers demonstrate their capability to obtain the required insurance after contract award, such as a quotation or other proof of intention.

14.6 Where there is a legal requirement for the insurance to be in place, outside of the contract, evidence of this may be required as part of the *conditions of participation*.

Technical Ability

14.7 Conditions relating to technical ability may include, but are not limited to:

- Qualifications
- Experience & past performance
- Modern slavery statements
- Data protection
- Carbon reduction plans
- Project-specific questions relating to the supplier's ability to perform the contract

15. Assessment and Award

15.1 A contract can only be awarded to the *most advantageous tender* (MAT). The MAT is the tender that both satisfies the Council's requirements and is the best tender in respect of the award criteria. MAT may be determined based on a wide range of factors; this may include price and quality criteria in addition to wider social and environmental issues where that is decided to be relevant for the best solution.

15.2 Award criteria must:

- relate to the subject-matter of the contract,
- be sufficiently clear, measurable and specific,
- not break the rules on technical specification
- be a proportionate means of assessing tenders, having regard to the nature, complexity and cost of the contract,
- be accompanied by the "assessment methodology" describing how tenders are to be assessed by reference to the award criteria and specify whether failure to meet one or more criteria would disqualify a tender, and
- if there is more than one criterion, detail their relative importance by
 - i. weighting each as representing a percentage of the total importance,
 - ii. ranking them in order of importance, or
 - iii. describing it in another way.

15.3 When developing award criteria, the Council's procurement objectives and the NPPS must be considered.

15.4 The award criteria should be sufficiently described in the tender notice and/or *associated tender documents* to allow suppliers to prepare their tenders.

15.5 In addition to the award criteria, there are five key requirements set out in the Act that must be followed when assessing tenders:

- If a supplier does not satisfy the *conditions of participation* the Council must disregard the tender
- If a supplier submits a tender which breaches a procedural requirement set out in the tender notice or *associated tender documents* or the Council may disregard the tender

- Where there is evidence of fraud or corruption or collusion the Council may disregard the tender.
- If a supplier submits an abnormally low-priced tender for the performance requirements of the contract the Council may disregard the tender *

15.6 If a supplier is not a United Kingdom supplier or *treaty* state supplier, or intends to sub-contract the performance of all or part of the contract to a supplier that is not a United Kingdom supplier or *treaty* state supplier the Council may disregard their tender **

**Before disregarding an abnormally low tender, the supplier must be notified that their price is considered to be abnormally low and they must be given the opportunity to demonstrate that they will be able to perform the contract for the price offered. If the supplier satisfactorily demonstrates that they will be able to perform the contract for the price offered, the tender may not be disregarded as abnormally low.*

***Contracting authorities are permitted, but not required, to disregard tenders from suppliers that are not from a country with which the UK has signed a relevant international agreement on procurement or where the supplier intends to subcontract the performance of all or a part of the contract to a subcontractor that is not from such a country. In deciding to exclude non-UK and non-Treaty State suppliers the contracting authority must consider its other general duties under the Act*

Assessment Methodology

15.7 The assessment methodology will describe how tenders are to be assessed in accordance with the award criteria. Ensuring a robust assessment methodology is developed and the process is properly documented, including the justification of the award decision, will ensure an audit trail of the evidence required to stand up to internal and external scrutiny.

Assessment Summaries

15.8 The assessment summary must be issued following assessment and award to all suppliers that submitted an *assessed tender*.

Contract Award Notice

15.9 The contract award notice must be published before entering into contract.

15.10 A contract award notice is not required for below-threshold contracts or *below threshold contracts* that are awarded under a *framework*

Contract Details Notice

15.11 The contract details notice must be published within 30 days of the contract being entered into. If the contract is valued at £5 million or more (subject to exceptions), a copy of the contract (redacted where appropriate) and the agreed

key performance indicators must also be published within 90 days of the contract being entered into

- 15.12 The 30 days publication requirement does not apply to below-threshold procurement where publication should be made as soon as reasonably practicable.

16. Contract Modifications

- 16.1 On the occasion that the execution of *works* or goods or services to be supplied constitutes an extension to an existing contract, and it is the view of the relevant Senior Officer that it would not be in the interest of the service of the Council to tender the contract, then a contract modification may be considered, subject to the conditions detailed below. The decision must be recorded by a delegated decision notice.

Modifications to Below Threshold Contracts

A below- threshold contract may be modified in any way provided that the value remains below the relevant threshold.

If a modification would take the value above the relevant threshold it becomes a *convertible contract* and the rules that apply to above threshold contracts apply. This provision adds flexibility but should not be used as avoidance by procuring *below threshold contracts* that can reasonably be expected to increase above the threshold during their life.

Modifications to Above Threshold Contracts

Above threshold contracts may only be modified in a way which is permitted by the Act. The grounds under which above threshold contracts may be modified are:

- where the change is a permitted modification under one of the circumstances listed in Schedule 8 of the Act or
- where the change is not a substantial modification or
- where the change is a below threshold modification

- 16.6 Only one of these grounds needs to be satisfied to make a compliant contract modification. If it is not possible to make a modification under any of these grounds then it would be necessary to undertake a new procurement process.

- 16.7 Officers considering an above threshold modification should refer to the user manual on the Intranet for further information on compliant contract modifications and seek advice from the Procurement Team.

17. Contract Governance

Records

- 17.1 Certain records must be kept for each above threshold procurement undertaken. These obligations include any communications with suppliers in relation to the award of or entry into a contract, made before the contract is entered into and documentation that is sufficient to explain a *material* decision made during the award of or entry into a contract.
- 17.2 These records must be kept for a minimum period of three years following entry into the contract. If a decision is made to award a contract, but it is not entered into, the three years runs from the date of award.

Remedies

- 17.3 *Remedies* are available to suppliers that suffer, or are at risk of suffering, loss or damage because of the Council failing to comply with the obligations under the Act.
- 17.4 A supplier has 30 days from when it first knew about the breach to raise a claim for breach of statutory duty. *Remedies* can be both pre contractual and post contractual. Successful claims can lead to a *set aside* decision and/or the award of damages.

Contract Management

- 17.5 There is a requirement to acquire, record and publish contract information throughout the management phase of the procurement lifecycle, including:
- Contract performance data, in the form of key performance indicators (KPIs),
 - Information on poor supplier performance and breach of public contract,
 - Information about payments made under public contracts
- 17.6 Data must be published on a supplier's KPI scores for most contracts with a total value of £5m or more. Also, for all above threshold contracts, serious incidents of poor supplier performance, or breach of contract, as and when they occur must be published.
- 17.7 The INTEND Contract Management database will be used to record all information pertaining to procurement activity undertaken at the Council.

Signing and Sealing of Contracts

- 17.8 The *Monitoring Officer* maintains a list of approved signatories.
- 17.9 The Officer responsible for securing the signature of the contract must ensure that the person signing for the other contracting party has relevant authority.
- 17.10 Where contracts are completed by each side adding their formal seal, the affixing of the Council's seal will be attested by an elected member and the Solicitor to the Council, or in their absence, any officer delegated the function.

17.11 An entry of every sealing shall be made and consecutively numbered in the register. The seal must not be affixed without the authority of the Cabinet, a committee, 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 breach of contract; or
- the price paid or received under the contract is a nominal price and does not reflect the value of the *works*, goods or services; or
- there is any doubt about the authority of the person signing for the other contracting party.

17.11 Agreements shall be completed as follows:

Contract Type	Method of Completion	By
Below Threshold Contracts for goods and services	Signature	Approved Signatory
Works contracts over Key Decision (£310,000)	Sealed	Officer delegated with function and elected member
All Above Threshold Contracts	Sealed	Officer delegated with function and elected member

Archiving and lodgement of records

17.12 All contracts must be recorded on the Contracts Register.

Bonds and Guarantees

17.13 The *authorised officer* shall determine, based on advice from the Section 151 Officer, the degree of security (if any) required to protect the Council from a contractor default. This may be a bond or some other form of financial or performance guarantee.

17.14 Where a *performance bond* and/or parent company guarantee is required, then the tender documents must provide for this.

Liquidated damages

- 17.15 Above threshold contracts for the execution of *works*, or for the supply of goods or services 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 the relevant Senior Officer in consultation with the *S151 Officer* and *Monitoring Officer*.

18 Exempt Contracts

- 18.1 An exempt contract is a type of contract listed in Schedule 2 of the Act.
- 18.2 Schedule 2 part 1 covers contracts that are always exempt due to the nature of the relationship between the *contracting authority* and the other party to the contract ("counterparty exempted contracts").
- 18.3 Schedule 2 part 2 covers contracts that are exempt because of the nature of the subject matter of the contract ("subject matter exempted contracts").

Counterparty exempted contracts

- Vertical Arrangements (previously known as "teckel")
- 18.4 This exemption applies where a *contracting authority* owner has the prescribed form of control and the controlled person carries out more than 80% of its activities for or on behalf of the *contracting authority* owner. (Eg a controlled person is a local authority trading company that the *contracting authority* owner has set up to provide services).

- Horizontal arrangements

- 18.5 Horizontal exemptions apply only to contracts between *contracting authorities* where the:

- the arrangement aims to achieve a common objective in connection with the exercise of the public functions of the co-operating *contracting authorities*;
- the arrangement it is solely in the public interest;
- no more than 20% of the activities envisaged by the arrangement are intended to be carried out for reasons other than for the purposes of the co-operating *contracting authorities*' public functions
- Defence contracts - a defence and security contract between a *contracting authority* and the government of another state or territory.
- Utilities contracts - a contract between a utility and relevant joint venture to which the utility is a party.

Subject Matter Exempted Contracts

- 18.6 These contracts do not qualify as exempted if, on award of the contract, it is considered that the goods, services or *works* representing the main purpose of the contract could reasonably be supplied under a separate contract to which part 2 would not apply. This means that when considering whether goods,

services or *works* could reasonably be supplied under a separate contract, regard must be had to the practical and financial consequences of awarding more than one contract.

18.7 Schedule 2 of the Act provides a full list of subject matter exempted contracts. This includes:

a) Land and buildings

Contracts for the acquisition (by whatever means) of (or the acquisition of an interest in or right over) land, buildings or any other complete work or a contract concerning an interest or right over any such things.

- Financial services
- Contracts for the lending of money in any currency to a *contracting authority*.
- Contracts for the provision or carrying out of an investment service or activity, or of an ancillary service, in relation to a financial instrument by an investment firm or a qualifying credit institution.
- Contracts for the provision of services to the Bank of England.

b) Employment

Employment contracts which are defined by reference to relevant employment legislation at paragraph 18(2)) of the Act and other contracts with individuals appointed to a public office (which may include the appointment of non-executive directors of a public authority or members of a public enquiry).

c) Legal services

Contracts for specified legal services which would be inappropriate to open those contracts to competition. These are contracts relating to judicial, other dispute resolution proceedings, notary and services that must be carried out by a particular person under order of a court, tribunal or act.

18.8 Procurement advice should be sought before applying any of the above exemptions.

18.9 All contracts that fall within the above exemptions shall be notified in writing to the *S151 Officer* and the *Monitoring Officer* via a Delegated Decision.

20. Engagement of Consultants

20.1 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 there are insufficient resources available to meet the needs of the service. Where such services are available in-house, the *authorised officer* must consult with the Head of Paid Service before taking any decision to make an external appointment.

- 20.2 Where external consultants or advisors are to be procured, the appropriate route to procurement should be used. Consideration should be given to using an appropriate *framework* as these provide an expedient and compliant route to market for such services.
- 20.3 In *estimating relevant contract values*, regard must be given to the rules regarding *aggregation*.
- 20.4 As part of the engagement process, the *authorised officer* shall ensure that any consultant working for the Council has the appropriate qualifications and experience required to act on behalf of the Council. Relevant indemnity insurances should also be in place.
- 20.5 In all instances a contract must be in place and 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.
- 20.6 External consultants and technical officers contracted to supervise contracts must follow the Council's Contract Procedure Rules and Finance Rules without exception and their contracts for services must state this requirement.

Agency Recruitment

- 20.7 Agency recruitment is not contained within these rules and should follow existing HR processes. However, procurement of agency service should be undertaken in line with these Contract Procedure Rules.

Glossary

Aggregation

Culmination of contract modifications which increase the value presenting a risk of exceeding thresholds.

Assessed Tender

An assessed tender is a tender which, has not been disregarded during the procurement process (for example because it did not meet a procedural requirement) and has been assessed for the purposes of determining the most advantageous tender (that is to say, where a multi-stage competitive flexible

Associated Tender Documents

Documents that supplement the tender notice and provide duplicate information or further detail about the procurement. Could include the specification, assessment methodology, terms and conditions etc.

Authorised Officer

Officer designated with responsibility for approving the procurement. Must have sufficient authority granted and must adhere to the Finance Rules.

Award Criteria

Criteria to evaluate and rank tenders for the purpose of awarding a public contract to the most advantageous tender (MAT).

Below Threshold Contracts

A contract with an estimated total value (including VAT) less than the threshold amount for the type of contract.

Central Digital Platform

The central online system provided by the Cabinet Office on Gov.uk for the publication of notices, documents, and other information in relation the the Procurement Act.

Competitive Flexible Procedure

Not an “open Procedure” but any other such competitive tendering procedure considered appropriate for the purpose of awarding a public contract.

Conditions of Participation

Formerly known as selection criteria. The conditions that a supplier must satisfy if they are to be awarded a public contract. Help assess a supplier's legal and financial capacity and technical ability.

Conflict of Interest

A person using an official position to further private interests, or the interests of others, misuse information acquired in the course of official duties, or disclose information which is held in confidence.

Contracting Authorities

A public authority including a local authority is a contracting authority and will be subject to the rules set out in the Procurement Act.

Convertible Contract

A below threshold contract where, as a result of modifications, the value exceeds the relevant threshold.

Damages

Damages are imposed if the court finds that a party breached a duty under contract or violated some right.

Disaggregation

artificially subdividing contracts for the purposes of evading the above-threshold regime.

Dynamic Market

A market made of members who meet the conditions for membership. Does not constitute a public contract.

Estimated Value

Total estimated value, at the time, of a contract including all available options (ie modifications/extensions_ including VAT.

Exclusions

Excludable Supplier – where a discretionary exclusion ground applies, contracting authorities have the discretion on whether to exclude an excludable supplier from a procurement procedure or contract award.

Excluded Supplier - where a mandatory exclusion ground applies, contracting authorities must exclude the supplier from a procurement procedure or contract award (some exemptions apply)

Find a Tender Service

The public portal for all High-value notices published in England, Scotland, Wales and Northern Ireland. It is used by public buyers to advertise contracts, and by suppliers to access these opportunities. Part of the Central Digital Platform.

Framework

A “framework” is a contract between a contracting authority and one or more suppliers that provides for the future award of contracts. A contract with suppliers that provides for the award of future contracts is known as a “call-off contract”. The framework must set out certain information relating to the call-off contracts, such as the price payable under call-off contracts or the mechanism for determining. The call off is effectively the order of goods, services or works against the Framework.

An open framework is a scheme of frameworks that provides for the award of Successive frameworks on substantially the same terms.

Light Touch Contract

A contract wholly or mainly for the supply of services of a kind specified in Schedule 1 of the Procurement Regulations 2024.

Liquidated damages

Liquidated damages are a sum of money specified in some contracts that are to be paid by one party to another as compensation for intangible losses. For example, a contractor may owe the contracting authority a sum per day for every day past a project deadline where substantial completion is not achieved.

Material Decision

A decision is material if the contracting authority is required to publish or provide a notice, document or any other information relating to it, or if the contracting authority is required, by the Act, to make the decision.

Monitoring Officer

A designated senior officer who is responsible for matters relating to the conduct of councillors and officers and, to be responsible for the operation of the council's constitution.

Most Advantageous Tender (MAT)

Most advantageous means the tender that satisfies requirements, and best satisfies the award criteria. The focus for awarding contracts does not have to be the lowest price or that price/cost must always be weighted higher than non-price factors. MAT allows for assessment of the lowest price only,

but contracts awarded based on MAT may also be determined based on a wide range of factors – this may include price and quality criteria in addition to wider social and environmental issues where that is decided to be relevant for the best solution.

National Procurement Policy Statement

The Ministerial statement setting out the Government's strategic priorities in relation to procurement that a contracting authority must have regard to during their procurement activities.

Performance Bonds

A performance bond is a financial guarantee to one party in a contract against the failure of the other party to meet its obligations. It is also referred to as a contract bond. A performance bond is usually provided by a bank or an insurance company to make sure a contractor completes designated projects.

Preliminary Market Engagement

Engagement with suppliers before a tender notice is published.

Procurement Review Unit

A new team established in the Cabinet Office to exercise procurement oversight.

Public Contract

Any contract for the supply of goods, services and works to a contracting authority, or any framework contract, which has an estimated value above an applicable threshold

Remedies

Remedies are court-ordered resolution or compensation to one party's breach of contract.

S151 Officer

A designated Officer who is responsible for making the necessary arrangements for local financial and management controls, under S151 of the Local Government Act 1972.

Senior Officer

An officer designated in the following positions – Managing Director, Director, Statutory Officer, Assistant Director

Set aside decision.

If following legal challenge the court is satisfied that there has been a breach of an enforceable duty by the contracting authority, the pre-contractual remedies are: (a) An order setting aside the decision or action. (b) An order requiring the contracting authority to take any action.

SME's

Suppliers that have fewer than 250 staff and have a turnover of an amount less than or equal to £44m or a balance sheet total of an amount less than or equal to £38m.

Social Value

Social value in procurement is about making sure that what we buy creates an overall positive impact on people and communities. It can be divided into three main areas:

- social: this is about improving the wellbeing of individuals and communities, encouraging interconnectedness and mutual support among people.
- economic: this focuses on promoting economic policies and business practices that uplift society's wellbeing.
- environmental: this stresses the importance of sustainable processes that take care of both the social and physical environment, ensuring a viable future for everyone.

Standstill

The standstill period is a defined period between the notice of the contract award decision and the award of the contract. The purpose of the standstill period is to allow unsuccessful tenderers to consider the feedback on their submissions; and give unsuccessful them an opportunity to ask for further information or call for a review of the decision.

State of Urgency

State of urgency' is not a defined term in the Act and is at the discretion of the contracting authority. It should only be used in exceptional circumstances and the decision to reduce the minimum time period must be based on an objective need for urgency and where following the usual time scales would have a genuine adverse effect.

Supplier Information System

A new addition to be included in the Central Digital Platform for suppliers to register and store their details so that they can be used for multiple bids and see all opportunities in one place.

Tender

An invitation to bid for goods, services and works

Threshold

Contracts with an estimated value of not less than the threshold amount for the type of contract is a public contract and subject to the main rules in the Procurement Act

Treaty State

A state, territory or organisation of states or territories that is party to an international agreement specified in Schedule 9 of the Procurement Act, other than the United Kingdom

Treaty State Supplier

A supplier that is entitled to the benefits of an international agreement specified in Schedule 9 of the Procurement Act.

Voluntary Community Social Enterprises

A diverse range of organisations and entities that operate for the greater good of society. Within the VCSE sector, you'll find voluntary and community groups, social enterprises, charities, and nonprofit organisations, all driven by a shared commitment to creating positive social impact.

Works

Generally, construction, mechanical and engineering and infrastructure related projects or programmes. Activities will be classified within a CPV code listed in Schedule 3 of the Procurement Regulations 2024.

Contract Value	Action	Transparency	Contract Requirement	Assess/Award
Frameworks (any value)	Identify relevant framework Can direct award or use a competitive process. Conditions of participation can be set where a competitive process used	Notices required Requirement to publish on Contracts Register	Contractual requirements defined by Framework. Purchase Order must be raised, and sufficient funds must be approved	Conditions of participation used to assess legal/financial capacity and technical ability. Assessment and award must use MAT principles.
Up to £1,000 TBC (inclusive of VAT)	No advertising required. Authorising officer discretion. Not formal procurement	Notices not required. No requirement to publish on Contracts Register	Council's Terms and Conditions Purchase Order must be raised, and sufficient funds must be approved.	Authorising officer decision.
£1,000 TBC - £5,000 (inclusive of VAT)	No advertising required. At least one written quotation requested.	Notices not required. No requirement to publish on Contracts Register Request for quote must use Request for Quotes (not advertised) standard template A record of the successful quote to be retained by the client officer	Council's Terms and Conditions Purchase Order must be raised, and sufficient funds must be approved.	Authorising officer decision
£5,000 to £30,000 (inclusive of VAT)	No advertising required.	Notices not required.	Council's Terms and Conditions	Authorising officer decision based on quotations received.

	A minimum of three written quotations requested.	Requirement to publish on Contracts Register Request for quote must use Request for Quotes (not advertised) standard template Successful quote to be recorded on INTEND	Purchase Order must be raised, and sufficient funds must be approved	Use MAT principles as a guide
‘£30,000 – Threshold (inclusive of VAT) Current Thresholds: Goods/services £214,904 (inc VAT) Works £5,372,609 (inc VAT)	Preliminary market engagement (optional). Advertising optional under £50,000. A minimum of three written quotations requested. Advertising on INTEND required over £50,000.	Notices required when advertised Requirement to publish on Contracts Register Request for quote must use Request for Quotes (not advertised) standard template when not advertising (< £50k) Request for quote must use Request for Quotes (advertised) standard template when advertising (> .£50k) Successful quote/award details to be recorded on INTEND	Councils Standard Short Form Contract for <u>goods</u> and services Appropriate standard form contract (ie JCT) for <u>works</u> Legal to review all works contracts Purchase Order must be raised, and sufficient funds must be approved	Supplier suitability cannot be assessed as a way of reducing bids. Authorising officer decision based on bids received. Use MAT principles as a guide.
Above Threshold Open Procedure	Have regard to minimum timescales. Preliminary market engagement (optional)	Notices required Requirement to publish on Contracts Register	Contractual requirements to be agreed with Legal Services Manager	Conditions of participation used to assess legal/financial capacity and technical ability. Assessment and award must use MAT principles.

	Advertising required on INTEND Single stage procurement, no limit on number of bidders. Set conditions of participation (as required) Define award criteria	Invitations to Tender must use the Invite to Tender standard template when advertising Contract details including award to be recorded on INTEND	Purchase Order must be raised, and sufficient funds must be approved	Assessment summary data collated for Assessment Summary
Above Threshold Competitive Flexible Procedure	Have regard to minimum timescales. Preliminary market engagement (optional) Advertising required on INTEND. Multiple stages can be used. Preferred supplier stage/post tender negotiation permitted. Set conditions of participation (as required) Define award criteria	Notices required Requirement to publish on Contracts Register Invitations to Tender must use the Invite to Tender standard template when advertising Contract details including award to be recorded on INTEND	Contractual requirements to be agreed with Legal Services Manager Purchase Order must be raised, and sufficient funds must be approved	Conditions of participation used to assess legal/financial capacity and technical ability. Must be clarity and transparency about each stage in multiple stage procurement. Assessment and award must use MAT principles. Assessment summary data collated for Assessment Summary

Employment Rules

This section explains the arrangements for the employment and dismissal of senior officers.

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	Designated Independent Person means a person appointed under section 28(7) of the Localism 2011 Act.
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.
Chief Finance Officer	Section 151 Local Government Act 1972
Proper Officer	Monitoring Officer or Deputy Monitoring 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 (Section 151 Officer) and the Monitoring Officer);
 - (c) Senior Officers (this means Directors,) and
 - (d) Heads of Service (this means the 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 at a meeting of the Council.

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 (Section 151 Officer) must be taken by Council 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 2011 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.

Appendix to the Constitution One - Members' Allowance Scheme

1 The Scheme

This scheme applies from 1 April 2025

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 £6356.50 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. Where the employee pay scales are increased by a flat rate amount, the increase will be the same as the increase in percentage in scale point 43 of the employee pay scales resulting from the flat rate increase. 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. Where the employee pay scales are increased by a flat rate amount, the increase will be the same as the increase in percentage in scale point 43 of the employee pay scales resulting from the flat rate increase.

4 Renunciation

A Councillor or Co-optee 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) ending 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 them 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 Co-optees' Allowance

A co-optees' allowance of £547.75 per annum shall be paid to co-opted members.

- 8 Any changes in the allowances shall be backdated in accordance with Regulation 10(6) of Statutory Instrument No. 1021-2003 to 1 April of the year in which the changes occur.
- 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 2023 at an amount equivalent to the annual pay award for employees.

Members' Allowance Scheme – Schedule 1

Special Responsibility Allowances as at 1 April 2025

Post		No	Relative Responsibility £
Cabinet	Leader	1	21,850.71
	Deputy Leader	1	15,701.51
	Other Cabinet Members	4	10,014.59
Scrutiny Committee	Chairman	4	4781.20
	Vice Chairman	4	1592.71
Audit Committee	Chairman	1	4781.20
	Vice Chairman	1	1592.71
Standards Committee	Chairman	1	4781.20
	Vice Chairman	1	1592.71
General Licensing Committee and Licensing and Gambling Acts Committee	Chairman	1	4781.20
Planning Committee	Chairman	1	9562.35
	Vice-Chairman	1	1592.71
Council	Chairman	1	6041.18
	Vice-Chairman	1	1592.71
Main Opposition Group	Leader	1	6041.18

Table last updated April 2025

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.

Appendix to the Constitution Two - 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>
Breakfast	Before 11am	£5.61
Lunch	12-2pm	£7.73
Tea	3-6pm	£3.04
Evening Meal	After 7pm	£9.37
Overnight allowance	N/A	£79.82
Overnight allowance (LGA)	N/A	£91.04

Tables last updated April 2025

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 Cabinet, a committee, 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 unless the body provides its own travel and subsistence payments;
- (5) Any activity which the member has been asked to attend in connection with member development;
- (6) Any conference or seminar approved by the Council;
- (7) Any meeting which the member has been requested to attend by the Senior 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 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.

Protocol on Gifts and Hospitality

- 1 This Protocol relates to offers of gifts, favours or hospitality worth £50 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 by using the Council's online system, to the Monitoring Officer within 28 days of being offered or receiving it any gift or hospitality worth £50 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.

The Code of Conduct for Councillors

1. The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Each councillor's individual conduct affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
2. Councillors, represent local residents, work to develop better services and deliver local change. The public have high expectations of Councillors and entrust them to represent their local area and to take decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
3. Importantly, Councillors should be able to undertake their role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.
4. This Code has been designed to protect the democratic role of Councillors, encourage good conduct and safeguard the public's trust in local government.

Introduction

1. The Local Government Association (LGA) has developed a Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance.
2. All councils are required to have a local Councillor Code of Conduct. This is North East Derbyshire's Code of Conduct for Councillors which is based on the LGA Model Councillor Code of Conduct. North East Derbyshire District Council will be referred to as "the District Council" throughout.

Definitions

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

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

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

Purpose of the Code of Conduct

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

General principles of councillor conduct

4. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles. These are in Appendix A to this Code. This Code should be read in conjunction with these principles.
5. Building on these principles, the following general principles have been developed specifically for the role of Councillor.
6. In accordance with the public trust placed in me, on all occasions:
 - I act with integrity and honesty

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

In undertaking my role:

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

Application of the Code of Conduct

7. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.
8. This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:
 - You misuse your position as a Councillor
 - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;
9. The Code applies to all forms of communication and interaction, including:
 - at face-to-face meetings
 - at online or telephone meetings
 - in written communication
 - in verbal communication
 - in non-verbal communication
 - in electronic and social media communication, posts, statements and comments.
10. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.
11. Although this Code of Conduct applies to you only when you are acting as a Councillor, you should be aware that your actions can reflect on and damage the reputation of the Council even when you are acting in a private capacity. You should remember this in whatever you do and particularly on Social Media. Those who know you are a Councillor will assume that you are posting on Social Media or saying things as a Councillor and not as a private individual.
12. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor conduct

13. This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made to the Monitoring Officer against you. This may result in action being taken.
14. Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

First: Respect

As a Councillor:

- I treat other Councillors and members of the public with respect.
 - I treat District Council employees, employees and representatives of partner organisations and those volunteering for the District Council with respect and respect the role they play.
15. Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.
 16. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.
 17. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the District Council, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and District Council employees, where concerns should be raised with the District Council's Head of Paid Service in line with the District Council's Protocol for Councillor – officer relations which is in the District Council's Constitution and in line with other employee policies.

Second: Bullying, harassment and discrimination

As a Councillor:

- I do not bully any person.
 - I do not harass any person.
 - I promote equalities and do not discriminate unlawfully against any person.
18. The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of

power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

19. The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.
20. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
21. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the District Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

Third: impartiality of officers of the District Council

As a Councillor:

- I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the District Council.
22. Officers work for the District Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Fourth: Confidentiality and access to information

As a Councillor:

- I do not disclose information:
 - a. given to me in confidence by anyone
 - b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

iv. the disclosure is:

- reasonable and in the public interest; and
- made in good faith and in compliance with the reasonable requirements of the District Council; and
- I have consulted the Monitoring Officer prior to its release.
- I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.
- I do not prevent anyone from getting information that they are entitled to by law.

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

Fifth: Disrepute

As a Councillor:

- I do not bring my role or the District Council into disrepute.

24. As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or the District Council and may lower the public's confidence in you or the District Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the District Council into disrepute.
25. You are able to hold the District Council and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the District Council whilst continuing to adhere to other aspects of this Code of Conduct.

Sixth: Use of position

As a Councillor:

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

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

Seventh: Use of District Council's resources and facilities

As a councillor:

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

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

Examples include:

- Office support
- Laptop and/or iPad or other technology
- Stationery
- Transport
- Access to and use of District Council buildings and rooms.

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

Eighth: Complying with the Code of Conduct

As a Councillor:

- I undertake Code of Conduct training provided by the District Council.
- I cooperate with any Code of Conduct investigation and/or determination.
- I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

Protecting your reputation and the reputation of the District Council

Ninth: Interests

As a Councillor:

- I register and disclose my interests.
30. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the District Council.
31. You need to register your interests so that the public, District Council employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.
32. You should note that failure to register or disclose a disclosable pecuniary interest (DPI) as set out in Table 1, is a criminal offence under the Localism Act 2011. Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.

Tenth: Gifts and hospitality

As a Councillor:

- I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the District Council or from persons who may apply to the District Council for any permission, licence or other significant advantage.
 - I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 and where appropriate any with a value less than £50 within 28 days of its receipt.
 - I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.
33. In order to protect your position and the reputation of the District Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, contact the Monitoring Officer for guidance.

Eleventh: Training

34. You are expected to attend essential training to carry out your different roles as a Councillors and encouraged to attend any other relevant training which the Council may deem is required from time to time. For instance after your appointment to a relevant Committee or Sub-Committee or after changes in legislation, policy or procedure affecting the relevant Committee or Sub-Committee outlined above; and/or as frequently as set out in Appendix C.
35. 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.

Dispensations

36. The District Council may grant you a dispensation to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.
37. Requests for dispensation must be made, in writing to the Monitoring Officer, on one of the following grounds:
 - That so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business.
 - That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter.
 - That the District Council considers that the dispensation is in the interests of persons living in the Authority's area;
 - That, without a dispensation, no member of the Cabinet would be able to participate in the matter; or
 - That the District Council considers that it is otherwise appropriate to grant dispensation.

Pre determination or bias

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

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

- (a) the Head of Paid Service
- (b) the Chief Finance Officer (Section 151 Officer); or
- (c) the Monitoring Officer,

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

Councillors for more than one Council - 'Dual Hatters'

39. If you are a Councillor at the District Council and at another Council and the second Council pays you allowances you will have a Disclosable Pecuniary Interest in relation to the second Council. This is most common where a Councillor is a County Councillor as well as a District Council. The County Council pay Members' Allowances and therefore under the Regulations this qualifies as a Disclosable Pecuniary Interest.
40. Where there is a matter that concerns the other Council you should seek advice on your position and the need to declare the interest.
41. Parish Councils generally do not pay Members' Allowances and so the issue is one of "another interest" rather than a Disclosable Pecuniary Interest.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

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

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

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

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

Non participation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the Chamber or room where the meeting is being held unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

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

Disclosure of Non-Registerable Interests

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

8. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

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

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

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

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

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

Table 1: Disclosable Pecuniary Interests

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

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

Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge) (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were

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

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

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

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

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

Appendix C

Essential training

Training	Scope	Frequency
Planning Committee	Planning legislation and case law. Local Plan policies. Procedures. Role on Planning Committee. Role of a Member of Local Planning Authority Planning Code of Good Practice Relationship to Members' Code of Conduct Development proposals and Interests under Members' Code of Conduct Fettering Discretion in the Planning Process Lobbying of and by Councillors Contact with applicants, developers and objectors Role of Officers Decision Making Public Speaking at Meetings Site Visits How to determine Planning Applications	Prior to sitting on Planning Committee minimum of every two years. Refresher training may be given more frequently.
Licensing Committee and its Sub-Committees	Licensing legislation, policies and procedures relevant to the remit of the Committee and its Sub-Committees. General Principles of each Act Role of Members Ward Member Role Licensing Objectives Determining Licensing Applications	Prior to sitting on the Committee or its Sub- Committees minimum of every 12 months.
Joint Employment and Appeals Committee and its Sub-Committees	Recruitment and selection. HR Legislation, policies and practice within the remit of the Committee and its Sub-Committee	Prior to sitting on the Committee or its Sub- Committee

Employee Appeals 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; • 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
Chair (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 / Services Scrutiny Committee	Understanding of Local Government Finances Legislation, case law, policies and procedures relevant to the remit of the Committee and its Sub-Committees	Prior to sitting on the Committee or its Sub- Committees minimum of every four years.

Social Media Guidance for Councillors

1. Introduction

- 1.1 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.
- 1.2 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.
- 1.3 For the purposes of this guidance, the term 'social media' covers sites and applications including but not restricted to Facebook, X, 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.
- 1.4 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

- 2.1 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.
- 2.2 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

- 3.1 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.

3.2 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

4.1 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.

4.2 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.

4.3 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.

4.4 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.

4.5 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.

4.6 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.

- 4.7 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.
- 4.8 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.
- 4.9 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.
- 4.10 Do not use the Council's logo, or any other Council related material on a personal account or website.
- 4.11 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.
- 4.12 Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.
- 4.13 Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, the Monitoring Officer and the police.
- 4.14 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

- 5.1 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.
- 5.2 Breaches of this guidance may amount to a breach of the Council's code of conduct for members.
- 5.3 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.
- 5.4 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. Keeping your personal and family life private

- 6.1 Make sure you maintain a divide between your personal and family life, and your public profile. On Facebook, we strongly recommend you use a Facebook 'Page' rather than a 'profile' for your councillor role. This can help you maintain separation and balance. Other social media platforms, such as Instagram and X have similar options too. Make sure you also set up the privacy control settings offered on each platform
- 6.2. Don't share personal information such as your personal phone number, date of birth, home address – or photos that make any of these obvious. You also need to 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 also comfortable to do so?"
- 6.2 Once a piece of content is on social media, you lose nearly all control about how it will be used.

7. The golden rule to follow

- 7.1 If you are unsure about posting something, stop and ask for advice first before doing anything else.
- 7.2 Social media works in the public domain. Once something is published it is 'out there' for everyone to see and very easily it can:

go viral

be altered or changed without your consent

be taken out of context

be shared around the world.

Using social media as an elected (or co-opted) member of a council is very different from using it as someone who isn't. Councillors have additional responsibilities because of their position.

8. 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.

9. Guidance on Capturing Social Media Posts

- 9.1 Posts made using third party sites such as Facebook or X are not held by or within the control of the Council - posts can be deleted by site administrators without the 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.
- 9.2 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.

10. Relationship to the Member Code of Conduct

- 10.1 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.

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 blogs 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.

EMPLOYEE CODE OF CONDUCT

The code provides a set of standards of conduct expected of employees at work and the link between work at the Council and their private lives.

The code applies to all employees at North East Derbyshire District Council.

SECTION ONE: OVERVIEW

The Seven Principles of Public Life

Council employees are both servants of the public and stewards of public resources. The Seven Principles of Public Life (also known as the Nolan Principles) set out below, apply to North East Derbyshire District Council employees.

1. Selflessness

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

2. 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.

3. Objectivity

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

4. 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

5. 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.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

SECTION TWO: EMPLOYEE CODE OF CONDUCT STANDARDS

Employees are expected to conduct themselves at all times in a manner that will maintain public confidence in both their integrity and the services provided by the Council.

It is expected every employee should adhere to the following:

Personal Behaviours

1. Be honest and maintain at all times a high standard of integrity, conduct and professionalism
2. Behave in an appropriate manner and not bring the Council's reputation into dispute, this includes use of Social Media both personally and professionally.
3. Treat others with respect and courtesy including colleagues and customers.
4. Not use offensive or abusive language or behaviour.
5. Take all steps reasonably possible to attend for work and achieve regular attendance at work
6. Arrive for work punctually, dressed appropriately and fit to carry out the duties of the job role (this includes wearing your ID badge and personal protective equipment/clothing appropriate for the role).

Accountability & Responsibility

1. Perform faithfully the duties specified within your job role and in your contract of employment.
2. At all times ensure value for money and where it is part of your duties, provide appropriate advice to Councillors and other employees impartially.
3. Be committed to delivering quality services at all times working within the Council's policies and procedures.
4. Take reasonable care of your own health and safety and others that may be affected by your work activities.

Personal Interests

1. You must not put your private interests or those of relatives or friends before your duty to the Council or use your position to further private interests of relatives and friends.
2. Declare to your Assistant Director/Director any conflicts of interests and any personal circumstances which may result in a potential conflict of interest at the earliest opportunity.
3. It is a serious criminal offence for an employee to offer, receive or provide something of value as an inducement or reward for doing or not doing something or for showing favour or disfavour within their role.
4. You must not use Council property, equipment, vehicles or intellectual property/information for private/personal use.
5. You must seek permission from the Council should you undertake any paid or unpaid secondary appointment and this must not conflict with your job role at the Council.

SECTION THREE: KEY PRINCIPLES

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 manager any deficiency in the provision of service and must report any impropriety or breach of procedure.

Respect

Employees are expected to be professional, courteous and show mutual respect towards others. The Council expects good working relationships. Any behaviour that causes unreasonable offence or distress is to be avoided. Rude and offensive behaviour by an employee towards any individual e.g. a colleague, manager, customer, resident or Councillor is not acceptable. Employees are responsible for ensuring they have understood what behaviour is required of them and complying with Council expectations in terms of behaviour and conduct, as set out in this policy.

Any employee found to have breached this may subject to further action under the Council's Disciplinary Policy.

Dress Code and Appearance

As a public sector and customer focused organisation, the Council is keen to ensure a professional workplace culture. The Council expect all employees to be professional and presentable when undertaking job duties for the Council (including when working remotely).

Smart/casual business clothing Council uniform or protective clothing appropriate to the job role, should be worn at all times. The Council may choose to relax this requirement during unusually hot or cold weather whilst ensuring health and safety standards are met. Should this be the case, it will be confirmed to all employees via a corporate communication.

It is recognised some teams may have different dress codes and appearance expectations specific to the job role. The Council expects employees to use common sense, as it is important all employees dress/appearance in the workplace reflects our professional approach and gives confidence to our residents, customers and external partners.

Disclosure of Information

The law requires that certain types of information must be available to Members, Auditors, Government Departments, Service Users and the public. 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. Employees must not prevent access to information where there is a legal right to access it. Employees are expected to seek guidance from their manager if they are unsure.

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.

Only employees authorised by their Director to do so, may talk to the Press or otherwise make public statements on behalf of their Service or the Council. An employee contacted by the media should refer the matter to the Communications Team who will deal with the request as appropriate.

Political Neutrality

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 the individual rights of all Members are respected.

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.

Employees 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 will have been informed of this in writing, but any employee who is in any doubt about their position should contact their Assistant Director, Director, the Council's Head of Paid Service or the Council's Monitoring Officer.

The political activities which are restricted for these Officers mainly cover the following areas:-

- Standing as a candidate for election to the House of Commons, European, Parliament or a Local Authority (other than a Parish Council)
- Holding office in a political party at any level, except in limited roles concerned only with the internal membership of the party.
- Canvassing at an election.
- Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

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. For a list of politically restricted posts please contact the HR Team.

Relationships

- a) **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.
- b) **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.
- c) **Contractors**
All relationships with contractors or potential contractors must be made known to the appropriate Director. 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 or have an official relationship with contractors and have previously had or currently have a relationship in a private, financial or domestic capacity, must declare that relationship to their Director.

Appointments 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 of work with them. Similarly employees must not be involved in decisions relating to discipline, promotion or adjustments for any other employee who is a relative, partner or close friend.

Outside Commitments

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.

Officers 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 Assistant Director, Director or the Council's Monitoring Officer. Employees must submit their request in writing providing full details of the appointment/activity. The request will then be considered by the Assistant Director or Director in consultation with HR.

Engagement in external business, employment, appointment or activities will be deemed to act detrimentally to the Council's interests where it may give rise to or contribute to an employee's sickness absence or deterioration in performance.

Work should not be undertaken that would render you unavailable for duty during your normal office hours, conflict with your duty to the Council or be inconsistent with your position as a public servant.

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

Employees should regularly review their personal circumstances and take steps to deal with any conflict of interest.

Employees must declare to their line manager in writing, 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.

Employees must declare any financial interests which could conflict with the Council's interest.

Employees must declare to their Assistant Director, Director or the Council's Monitoring Officer, any Membership of any Organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about its rules or membership or conduct e.g. Freemasons.

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 Assistant Director, Director or the Council's Monitoring Officer.

Conflict of Interest

Responsibility is placed on every Officer to disclose to their Manager, Assistant Director or Director, where a conflict of interest may be present.

Where a potential conflict of interest exists, public perception must be taken into consideration.

A conflict of interest occurs when an employee has a clash between their personal interests and their professional duties or responsibilities. This arises when an employee has a personal interest relating to the professional matter before them as a Council employee. This may be for example:

- Being involved in the recruitment of a relative or friend to a Council role with or without disclosure of the fact.
- Failing to disclose that you are related to a job candidate the Council is considering hiring
- Posting adverse comments and views about the Council to social media or talking to the press about the same.
- Failing to investigate a subordinate or co-worker's wrongdoing because they are a friend or relative
- Making a purchase or business choice to boost a business that you have a stake in or that a friend or relative has a stake in.
- Accepting consulting fees and providing advice to another body which is in a contractual or tendering relationship with the Council.
- Taking advantage of confidential information learned on the job for your own benefit
- Starting a business that competes with or for the Council's business.
- Receiving and accepting an offer of hospitality or a gift from a potential or actual tenderer for a Council contract.

Equalities

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, respect and equity.

Separation of Role in Tendering

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.

Employees in contractor or provider units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

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.

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 & Gifts

The basic rules are:

- You should not place yourself in a position where your own integrity and the integrity of the Council may be called into question.
- Any offer, gift, favour or hospitality should only be accepted where you are satisfied that any purchasing, planning or other Council decisions are not compromised.
- You must not accept cash or gift vouchers in any circumstances.
- You should only accept meals/refreshments where you are representing the Council.
- All offers of gifts and hospitality whether accepted or rejected should be recorded in the Council's Gifts and Hospitality Register.

Employees must treat with extreme caution any offer, gift, favour or hospitality made to them personally.

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, an employee should seek advice from their Director and/or the

Council's Monitoring Officer, particularly where there is doubt about the legitimacy of any offer of hospitality or gift.

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.

Acceptance by employees of hospitality at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal.

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.

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.

Employees must not accept personal gifts from contractors and outside suppliers. Insignificant tokens such as pens or diaries may be accepted.

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 (from the value of £25 or more or of less value but where it might be considered contentious) made to them and accepted by them personally or on behalf of the Council.

Sponsorship – Giving and Receiving

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.

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 their Assistant Director, Director or the Council's Monitoring Officer 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.

Photographs of Employees At Work

The Council may on occasion use an employee's image/photo as part of our communications activities, for example on the internet or social media when explaining the services the Council deliver to residents. The Communications Team explain how the photos will be used by the Council.

You do have the option not to consent to your image being used and there will be no adverse consequences should you do this. You should do this by informing your Manager, HR and the Communications Team in writing or by email. If you have any questions at all, please speak to your manager in the first instance.

SECTION FOUR: BREACH OF THE EMPLOYEE CODE OF CONDUCT

Investigations of alleged breaches of this code will be dealt with under the Council's Disciplinary Policy. If employees are in any doubt about any aspects of this code or whether they may be in breach of this code, they should seek advice from their manager, Assistant Director, Director or the Council's Monitoring Officer.

Any employee who does not act in accordance with the employee code of conduct, whether intentionally or not, may be in breach of the terms and conditions of employment and this may result in an investigation and potentially disciplinary action.

The Council may withhold an employee's pay, should they fail to comply with the Employee Code of Conduct and where this would be viewed as a breach of contract. For example, when an employee fails to attend for work on time without good reason and/or contacting their manager in advance to notify them they would not arrive for work on time.

Rules for Councillor – Officer Relations

1 INTRODUCTION

- 1.1 The purpose of these rules 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 These rules also seek 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 rules reflect good practice. They aim 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 rules apply to all Members. Breach of those provisions can be the basis for a complaint to the Monitoring Officer under the Members' Code of Conduct. The Employee Code of Conduct is part of the terms of conditions of 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 these rules 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 These rules are also read in conjunction with the Members Planning Rules and the Protocol on Gifts 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

- 3.1 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 officers and engaging with them in an appropriate manner and in a way 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: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- (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

they are 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 Chair of a committee or sub-committee or Leader of the Council 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 their name. Any issues which cannot be resolved as the result of a decision/negotiation between the relevant Chair and an officer in this area should be referred to the Head of Paid Service for resolution. Where individual Members wish to place an item on an agenda they should notify the appropriate meeting Chair 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 Chair or Spokesperson prior to a Committee meeting to a presentation to a full political group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.
- 5.7 The only basis on which the Council can lawfully provide support services to Members (e.g. office support, laptop, iPad or other technology, stationery, transport, access to and use of District Council buildings and rooms etc) 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, commercial 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 their access to the documents is reasonably necessary to enable the Member to perform properly their 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 Assistant Director as appropriate, whose staff holds the document in question (with advice from the Monitoring Officer). It follows from this that the Member must give the reason for the enquiry. Written reasons will be provided on request. In the event of dispute, the question falls to be determined by the relevant Committee - i.e. the Committee in connection with whose functions the document is held or the 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 Codes of Conduct.
- 6.12 The 'Need to Know' principle is applicable to Councillors only. The Freedom of Information legislation (FOIA) is separate from the 'Need to Know principle' and is for the public generally. In the right circumstances, the FOIA can be used by any of the public (including Members), to ask for information from a public body. Thus councillors can use the 'Need to Know' principle and FOI in appropriate circumstances to find out information from the District Council.

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 the Portfolio responsibility for that area of activity.
- 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 the law and 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 on a Delegated Decision form – a DD. 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 examination by a Scrutiny Committee.
 - (b) Officers may have written reports for presentation by a Cabinet Member 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 current code of recommended practice on local authority publicity.
- 9.5 Information on Council services will be produced in collaboration with Corporate Communications and will be impartial reflecting Council approved policy.
- 9.6 All news releases will be written and issued by Corporate Communications 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.

11. THE ROLE OF THE SECTION 151 OFFICER

- 11.1 The Section 151 Officer has a specific statutory function in relation to the management of the financial affairs of the Council and ensuring that they comply with legislation and the Council's own financial rules.

12. THE ROLE OF THE MONITORING OFFICER

The Monitoring Officer has a specific statutory function in relation to ensuring that the Council's actions are within the Council's powers, in relation to being the guardian of the Council's Constitution and in relation to assisting the Standards Committee in terms of dealing with complaints that District or Parish Councillors have breached the relevant Council's Code of Conduct.

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 [not absolute] confidentiality	• Seek to improperly 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 using their position as a Member nor improperly to gain an advantage or disadvantage for themselves 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 Head of Paid Service, the Monitoring Officer or the Chief Finance/Section 151 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.	

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 become Members or 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 the Members' 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 their 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.