

SAFE WELL PROSPEROUS CONNECTED

# CONSTITUTION

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## SUMMARY AND EXPLANATION

### A1.01 THE COUNCIL'S CONSTITUTION

North Lincolnshire Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### A1.02 WHAT'S IN THE CONSTITUTION?

**Article 1** of the Constitution commits the Council to the framework to achieve the Council's objectives and strategic ambition for the area.

The role of the Council is to work with citizens and partners in leading the area and promoting prosperity and wellbeing, whilst preventing harm and prioritising the most vulnerable, thus achieving better outcomes for the people and place of North Lincolnshire and being safe, well, prosperous and connected.

The Council Plan has been published for 2022 - 2025 [Council Plan - North Lincolnshire Council \(northlincs.gov.uk\)](https://www.northlincs.gov.uk/council-plan)

The Council's ambition is for the area of North Lincolnshire to be the #BestPlace place for its residents.

For 2022-25 the priorities for the Council are:

- Keeping people safe and well
- Enabling resilient and flourishing communities
- Enabling economic growth and renewal
- Providing value for money for local taxpayers

**Articles 2 - 16** explain the rights of citizens and how the key parts of the Council operate:-

- Members of the Council [Article 2]
- Citizens and the Council [Article 3]
- The Council Meeting [Article 4]
- Chairing the Council [Article 5]
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### **A1.03 HOW THE COUNCIL OPERATES**

The Council comprises 43 Councillors elected every four years. Councillors are democratically accountable to residents of their wards. The overriding duty of councillors is to the whole community but they have a special duty to their constituents.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here the councillors decide certain of the Council's policies and set the budget each year. The functions and operation of the Council are described in more detail in Article 4. However, the key roles of Council are the debating and approval of the budget, the promotion of community engagement and the receipt and confirmation (where necessary) of minutes of meetings of Committees.

### **A1.04 HOW DECISIONS ARE MADE**

The Executive is the part of the Council which is responsible for most day to day strategic and operational decisions, some of which are delegated to officers. The Executive is made up of the Leader and a Cabinet of councillors appointed by the Leader. When major decisions are to be discussed or made, details are published on the Council's website insofar as they can be anticipated. If these major decisions are to be discussed at a meeting of the Executive, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **A1.05 OVERVIEW AND SCRUTINY**

There are three Overview and Scrutiny Panels called "Scrutiny Panels" (although more may be appointed if necessary) which support the work of the

Executive and the Council as a whole. They allow citizens to have a greater say in council matters by holding public enquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Scrutiny Panels also monitor the decisions of the Executive. They can “call in” a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision, or refer the decision to full Council. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

#### **A1.06 THE COUNCIL’S STAFF**

The Council has people working for it called “officers” to give advice, implement decisions and manage the day-to-day delivery of services. Officers have a duty to ensure that the Council acts within the law and uses its resources wisely. The Chief Financial Officer and Monitoring Officer have specific duties in this regard. A protocol governs the relationships between officers and members of the Council.

#### **A1.07 CITIZENS’ RIGHTS**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights whilst others depend on the Council’s own processes. Local agencies/advice centres can advise on the legal rights of individuals.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:-

- Vote at local elections if they are registered.
- Contact their local councillor about any matters of concern to them.
- Obtain a copy of the Constitution.
- Attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed.
- Petition to request a referendum on a Mayoral form of Executive.
- Find out from the Executive what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when.
- Attend meetings of the Executive where key decisions are being discussed or decided.
- See reports and background papers and any record of decisions made by the Council and Executive.
- Complain to the Council about a standard of service provided by

- the Council in accordance with the Council's Complaints
- Procedure.
- Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own Complaints Process
- Complain to the Monitoring Officer of the Council if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct
- Inspect the Council's accounts and make their views known to the Council's external auditor.

Citizens are required to treat members and officers with respect. Citizens must not abuse Council staff or members and must not bully or harass them.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen please contact the Council at the Church Square House, High Street, Scunthorpe or at any of its Local Link offices.

## **A1.08 EUROPEAN UNION WITHDRAWAL**

References to legislation including statutory instruments contained within this document may have been superseded by changes derived from the European (Withdrawal) Act 2018 ("the Act") and subordinate legislation introduced as a result of Brexit. Users should check references contained within to ensure they are up to date. No liability is accepted for reliance or loss arising from the specified legislation or procedure which has subsequently been amended by the Act or European Union Exit Statutory Legislation from the date of publication.

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## PART B ARTICLE 1 - THE CONSTITUTION

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### **B1.01 POWERS OF THE COUNCIL**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **B1.02 THE CONSTITUTION**

This Constitution and all its appendices is the Constitution of the North Lincolnshire Council.

### **B1.03 PURPOSE OF THE CONSTITUTION**

The purpose of the Constitution is to:-

- (a) Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations.
- (b) Support the active involvement of citizens in the process of local authority decision making.
- (c) Help councillors represent their constituents more effectively
- (d) Enable decisions to be taken efficiently and effectively
- (e) Create a powerful and effective method of holding decision makers to public account
- (f) Ensure that no-one will review or scrutinise a decision in which they were directly involved
- (g) Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reason for decisions
- (h) Provide a means of improving the delivery of services to the community.

### **B1.04 INTERPRETATION AND REVIEW OF THE CONSTITUTION**

Where the Constitution permits the Council to choose between different courses of action, the Council will normally choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## PART B ARTICLE 2 - MEMBERS OF THE COUNCIL

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### **B2.01 COMPOSITION AND ELIGIBILITY**

(a) Composition

The Council comprises 43 members otherwise called councillors. One, two or three councillors are elected by the voters of each ward. There are 17 wards.

(a) Eligibility

Only registered voters of the area or those living or working there are eligible to hold the office of councillor.

### **B2.02 ELECTION AND TERMS OF COUNCILLORS**

The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **B2.03 ROLES AND FUNCTIONS OF ALL COUNCILLORS**

(a) Key Roles

All councillors will

- (i) collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the council; and
- (vi) maintain the highest standards of conduct and ethics.

(b) Role Descriptions

The Council has adopted role descriptions for all councillors and these are attached set out in an appendix to Part E of this Constitution.

(c) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part D of this Constitution.

## **B2.04 CONDUCT**

Councillors will at all times observe the ‘Nolan’ principles of public life as established by the Committee on Standards in Public Life and as required by the Localism Act 2011 and the Members Code of Conduct and Protocol on member/officer relations set out in Part E of this Constitution. The Code of Conduct was adopted by the Council on 15 May 2012 and endorsed on 17 July 2012 as well as the procedures for dealing with complaints that a councillor may have breached the Code of Conduct.

## **B2.05 ALLOWANCES**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part F of this Constitution.

## PART B ARTICLE 3 - CITIZENS AND THE COUNCIL

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### B3.01 CITIZENS' RIGHTS

Citizens' rights to documents for Council and executive meetings are as set out in the Access to Information rules in Part D of this Constitution:

(a) Voting and Petitions

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an Elected Mayor form of constitution.

(b) Information

Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive when key decisions are being considered, subject again to restrictions when confidential or exempt information is likely to be disclosed;
- (iii) record and film public meetings;
- (iv) find out from published notices what key decisions will be taken by the Executive and when;
- (v) see reports and background papers, and any records of decisions made by the Council and the Executive, except where those papers contain exempt or confidential information; and
- (vi) inspect the Council's accounts and make their views known to the External Auditor.

(c) Participation

Citizens have the right to petition the Council in accordance with the rules set out in the Council Procedure Rules and contribute to investigations by overview and scrutiny panels.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;

- (ii) the Local Government Ombudsman for England after using the Council's own complaints scheme; and
- (iii) the Council's Standards Committee about a breach of the Councillors' Code of Conduct.

### **B3.02 CITIZENS' RESPONSIBILITIES**

Citizens must not be violent, abusive, harassing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

Citizens must treat councillors and officers with respect and may be excluded from meetings if they cause nuisance, disturbance and annoyance.

## PART B ARTICLE 4 - THE FULL COUNCIL

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### B4.01 MEANINGS

(a) Policy Framework

The Policy Framework means the following plans and strategies:-

as specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

- Licensing Authority Policy Statement
- Crime and Disorder Reduction Strategy
- Local Transport Plan
- Plans and Strategies which together comprise the Development Plan
- Youth Justice Plan
- Council Plan 2022 - 2025

(b) Budget

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) Housing Land Transfer

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

### B4.02 FUNCTIONS OF THE FULL COUNCIL

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution (except where delegated under Article 15);
- (b) Approving or adopting the Policy Framework, the budget (including the level of Council Tax) and any application to the Secretary of State in respect of any housing land transfer;



- (c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part D of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which will be contrary to the Policy Framework or contrary to or not wholly in accordance with the budget;
- (d) Electing the Leader of the Council;
- (e) Agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;
- (f) Adopting an Allowances Scheme under Article B2.05;
- (g) Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (h) Confirming the appointment of the Head of Paid Service and dismissal of the Head of Paid Service, Chief Financial Officer and Monitoring Officer;
- (i) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills;
- (j) All local choice functions set out in Part C of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (k) All other matters which, by law, must be reserved to Council.

#### **B4.03 COUNCIL MEETINGS**

There are three types of council meeting:-

- (a) The Annual Meeting;
- (b) Ordinary Meetings, and
- (c) Extraordinary Meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part D of this Constitution.

#### **B4.04 RESPONSIBILITY FOR FUNCTIONS**

The Council will maintain the tables in Part C of this Constitution setting out the responsibility for the Council's functions which are not the responsibility of the Executive.

## PART B ARTICLE 5 - CHAIRING THE COUNCIL

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### B5.01 ROLE AND FUNCTION OF THE MAYOR

The Mayor, and in his/her absence the Deputy Mayor, will have the following roles and functions.

#### Ceremonial Role

The Mayor is the First Citizen of North Lincolnshire. Accordingly the Mayor has an official role together with the Lord Lieutenant in any Royal visits to North Lincolnshire and is also involved in many other official ceremonies and receptions. He/she acts as an ambassador for both the Council and the whole of North Lincolnshire in a ceremonial role. The Mayor hosts an annual civic dinner and also has an annual civic service.

In a 12 month period the Mayor and Deputy attend around 600 functions, many of which are events organised by outside organisations, voluntary sector organisations, other district councils, town councils, members of the public etc.

#### Chairing the Council Meeting

The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities:

- (a) To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- (b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive nor hold Committee Chairs are able to hold the Executive and Committee Chairs to account;
- (d) To promote public involvement in the Council's activities;
- (e) To be the conscience of the Council, and
- (f) To attend such civic and ceremonial functions as the Council and the Mayor determine appropriate.

The role description of the Mayor is set out in an appendix to Part E of this Constitution.

In accordance with Section 9C (4) of the Local Government Act, 2000 neither the Mayor or Deputy Mayor can be members of the Executive.

## **PART B ARTICLE 6 - OVERVIEW AND SCRUTINY COMMITTEES**

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### **B6.01 TERMS OF REFERENCE**

The council will appoint one or more Overview and Scrutiny Committees (called panels) which will have terms of reference to cover the entire area of the work of the council and to scrutinise local health services in accordance with the Health and Social Care Act legislation. One scrutiny panel has also been designated as the Council's Crime and Disorder Committee under the Police and Justice Act 2006 and one deals with flood risk management. Details of the current overview and scrutiny panels are contained in the Overview and Scrutiny Procedure Rules at Part D of this Constitution.

### **B6.02 GENERAL ROLE**

Within their terms of reference, Scrutiny Panels will:-

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- (b) make reports and/or recommendations to the Cabinet in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Executive; and
- (e) scrutinise local health services (and wider determinants of public health) in accordance with the Health and Social Care legislation with the aim to improve the health of the local population and/or the quality of health services.

### **B6.03 SPECIFIC FUNCTIONS**

- (a) To scrutinise the effectiveness of council policies and strategies and performance of council services within the scope of scrutiny panels.
- (b) On behalf of the council to scrutinise Executive decisions within the scope of scrutiny panels.
- (c) On behalf of the council to scrutinise Executive recommendations to the council, including financial implications insofar as they are within the scope of scrutiny panels.
- (d) To scrutinise the effectiveness of partnership working with external organisations and the impact of policies adopted by external

organisations in areas where the council has a legitimate interest and that fall within the scope of scrutiny panels.

- (e) To request written evidence from and/or invite attendance by appropriate individuals to advise scrutiny panels in exercising its role. Such individuals will have expertise in the areas subject to scrutiny, e.g. they may be service users affected by the issues under review, professionals in the relevant discipline or representatives of external organisations.
- (f) To conduct and commission research to inform the work of scrutiny panels, where appropriate.
- (g) To question members of the Executive about Executive decisions/recommendations or about wider performance or policy issues relevant to their portfolio.
- (h) To question council officers about reports on which Executive or other decisions are based, the effectiveness of council policies/strategies and the performance of council services.
- (i) To make recommendations to the cabinet or other local bodies on issues arising from scrutiny reviews.
- (j) To develop procedures and carry out health scrutiny functions defined in The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, and associated legislation and guidance.
- (k) To develop the arrangements required under the Flood and Water Management Act, 2010 and the Localism Act, 2011 to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

#### **B6.04 PROCEEDINGS OF OVERVIEW AND SCRUTINY PANELS**

Scrutiny Panels will conduct these proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part D of this Constitution.

## **PART B ARTICLE 7 - THE EXECUTIVE**

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### **THE ROLE OF THE EXECUTIVE**

#### **B7.01 ROLE**

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

#### **B7.02 FORM AND COMPOSITION**

The Executive will consist of the Executive Leader with at least 2, but not more than 10, councillors appointed to the Executive by the Leader.

#### **B7.03 LEADER**

The Leader will be a councillor elected to the position of Leader by the Council, which will normally be made at the Annual Meeting of the Council. The Leader will hold office for a four year term or until:

- (a) he/she resigns from the office, or
- (b) he/she is disqualified from being a councillor under section 92 of the Local Government Act 1972 or their office is vacated, or
- (c) he/she is no longer a councillor, or
- (d) he/she is removed from office by resolution of the Council following a notice of motion.

#### **B7.04 OTHER EXECUTIVE MEMBERS**

- (i) Other Executive Members shall be councillors appointed by the Leader. The appointments will normally be reported to the Annual Meeting of the Council. Executive Members will hold office until:
  - (a) they resign from office, or
  - (b) they are disqualified from being councillor under section 92 of the Local Government Act 1972 or their office is vacated, or
  - (c) they are no longer councillors, or
  - (d) until the next Annual Meeting of the Council, or
  - (e) they are removed from office either individually or collectively by decision of the Leader of the Council or where the office of the Leader and Deputy are vacated.

- (ii) If a member of the Executive becomes unable to act for any reason the Leader may appoint a different councillor to act in place of that member for the period of the incapacity. The incapacitated member shall cease to be a member of the Executive during that period. The period may not extend beyond the next Annual Meeting of the Council. The Leader shall inform the Director: Governance and Communities immediately of such appointment and shall inform the Council at its next available meeting.

## **B7.05 PROCEEDINGS OF THE EXECUTIVE**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part D of this Constitution.

## **B7.06 RESPONSIBILITY FOR FUNCTIONS**

The Leader will provide the Director: Governance and Communities with sufficient information to enable him/her to maintain a list in Part C of this Constitution setting out which individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions (portfolios).

## **PART B ARTICLE 8 - REGULATORY AND OTHER COMMITTEES**

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### **B8.01 REGULATORY AND OTHER COMMITTEES**

The Council will appoint committees to discharge functions as set out in Part C of this Constitution.

## PART B ARTICLE 9 - THE STANDARDS COMMITTEE

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### **B9.01 STANDARDS COMMITTEE**

The Council will establish a Standards Committee.

### **B9.02 COMPOSITION**

The membership and terms of reference of the Standards Committee is set out in Part C of this Constitution. The Council will ensure that at all times the following minimum standards will apply.

(a) Membership

The Standards Committee will be composed of at least:

- ◆ seven members of the Council
- ◆ Two co-opted members

(b) Voting

Co-opted members will not be entitled to vote at meetings.

(c) Quorum

The proceedings of the committee will not be valid unless at least three elected members are present at the meeting.

(d) Chairing the Committee

The Chairman of the committee will be appointed by the Council.

### **B9.03 ROLE AND FUNCTION**

The terms of reference of the Standards Committee are set out in Part C of this Constitution.



## PART B ARTICLE 10 - AREA COMMITTEES AND FORUMS

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### **B10.01 CONSULTATION**

The Council is committed to the principles of establishing and involving local views in decision-making. In order to do this effectively it is necessary to establish a two-way dialogue with citizens. The Council will employ a range of methods to further these principles.

Amongst these methods the Council may establish a number of area committees or forums. These will be purely deliberative bodies and will have no responsibility for service delivery or carrying out the functions of the council.

## PART B ARTICLE 11 - JOINT ARRANGEMENTS

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### **B11.01 JOINT ARRANGEMENTS**

The Council and the Executive may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### **B11.02 JOINT ARRANGEMENTS**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below the Executive may only appoint Executive Members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive if the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.
- (e) Pursuant to section 75 of the National Health Service Act 2006 and Regulation 10 of the NHS Bodies and Local Authorities Partnership Arrangement Regulations 2000, which will allow a joint committee with health bodies to include a non-executive member.

- (f) Details of any joint arrangements including any delegations to joint committees are set out in the Council's Scheme of Delegations in Part C of this Constitution.

### **B11.03 ACCESS TO INFORMATION**

- (a) The Access to Information rules in Part D of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the Access to Information rules in Part V A of the Local Government Act 1972 will apply.

### **B11.04 DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES**

- (a) The Council may delegate non executive functions to another local authority or, in certain circumstances, the executive of another local authority and may receive them.
- (b) The Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances and may receive them.
- (c) The decisions whether or not to delegate and to accept such a delegation from another local authority shall be reserved to the Council and the Executive where mixed functions are involved.

### **B11.05 CONTRACTING OUT**

The Council (for functions which are not executive functions) and the Executive (for executive functions) may contract out to another body or organisations functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

## PART B ARTICLE 12 - OFFICERS

### B12.01 TERMINOLOGY

“Officers” means all employees and staff engaged by the Council to carry out its functions. This includes those engaged under short term, agency or other non-employed situations.

### B12.02 MANAGEMENT STRUCTURE

- (a) General - The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) Full Council will designate one of its officers as Head of Paid Service (see below) and others will be designated Directors. These are Chief Officers for the purpose of this Constitution and relevant legislation. The Council may vary these posts and responsibilities from time to time to meet its needs, to achieve maximum efficiency and best value. A Senior Management Structure Chart is set out at Part G of this Constitution.
- (c) The Council will also designate further statutory officers including the Monitoring Officer and Chief Financial Officer. The Council has designated the following posts and roles as follows:

Post	Statutory Officer Role
Chief Executive	Head of Paid Service (and Returning Officer)
Deputy Chief Executive	To deputise for the Head of Paid Service, as required.
Director: Governance and Communities	Chief Financial Officer
Director: Children and Families	Director of Children’s Services
Director: Adults and Health	Director of Adult Social Services
Director of Public Health	Director of Public Health
Assistant Director: Governance and Partnerships	Monitoring Officer
Service Manager: Democracy	Council’s Scrutiny Officer

Such posts will have the functions described in Articles B12.03 to B12.08 below.

- (d) Structure - The Head of Paid Service will determine and publicise a structure of the senior officer leadership of the Council. This is set out in Part G of this Constitution.

### **B12.03 FUNCTIONS OF THE HEAD OF PAID SERVICE**

- (a) Discharge of Functions by the Council - The Head of Paid Service will, where they consider it appropriate to do so, report to Full Council on proposals for the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions, the organisation of officers and the appointment and proper management of staff.
- (b) The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.
- (c) In consultation with the Monitoring Officer and the Chairman of the Standards Committee to deal with the granting of any dispensations to members who have declared a conflict of interest in decisions taken or to be taken, save those dispensations granted under the Localism Act 2011.
- (d) To appoint or remove the Council's lead representative to the Children's Multi-Agency Resilience and Safeguarding Board (CMARS) constituted under section 16 (e) of the Children and Social Work Act 2017 and to hold such lead representative to account for the effective working of the CMARS.

### **B12.04 FUNCTIONS OF THE MONITORING OFFICER**

- (a) Maintaining the Constitution - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, officers and the public. The Monitoring Officer is authorised to make minor amendments to the Constitution and will keep it under review.
- (b) Ensuring lawfulness and fairness of decision making - After consulting (so far as practicable) with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Full Council, or to the Executive in relation to an Executive function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of suspending the proposal or decision being

implemented until the end of the first business day after the day on which consideration of that report has been concluded.

- (c) Supporting the Standards Committee - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) To grant dispensations to members on the grounds set out in sub-sections (a) and (d) of Section 33(2) of the Localism Act, 2011.
- (e) Arrangements – The Monitoring Officer is the Council's Proper Officer for the Standards provisions under the Localism Act 2011 and is responsible for the discharge of the Council's 'Arrangements' under the Act, including the establishment and maintenance of the register of members' interests and procedures for considering alleged breaches of the Code of Conduct.
- (f) Proper Officer for Access to Information - The Monitoring Officer will ensure that Decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible (with the exception of any information determined to be exempt or confidential as defined in legislation).
- (g) Advising whether Executive Decisions are within the budget and Policy Framework.
- (h) Providing Advice - The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, lawful decision making and governance requirements, probity and budget and Policy Framework issues to all councillors.
- (i) Restrictions on Posts - The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

#### **B12.05 FUNCTIONS OF THE CHIEF FINANCIAL OFFICER**

- (a) Ensuring lawfulness and financial prudence of financial decision making - After consulting (so far as is practicable) with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council, or to the Executive in relation to an executive function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) Administration of Financial Affairs - The Chief Financial Officer will have responsibility for the proper administration of the financial affairs of the Council.
- (c) Contributing to Corporate Management - The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) Providing Advice - The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, financial administration, financial propriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) Give Financial Information - The Chief Financial Officer will provide appropriate financial information to the media, members of the public and the community (with the exception of any information determined to be exempt or confidential as defined in legislation).

#### **B12.06 FUNCTIONS OF THE DIRECTOR OF CHILDREN'S SERVICES**

- (a) To be responsible for the day-to-day management and performance of the Children and Young People's Service.
- (b) To be the officer appointed for the purposes of Section 18(2) of the Children Act 2004, except those functions excluded under Section 18(3) of the Act.
- (c) To discharge the functions conferred on or exercisable by the council in its capacity as Local Education Authority and Children's Services Authority.
- (d) Insofar as they are not within the authority of the appropriate cabinet member the powers and duties of the council under the enactments noted in Schedule 1 of the Local Authority Social Services Act 1970 other than those for which the Director: Adults and Health has responsibility.

#### **B12.07 FUNCTIONS OF THE DIRECTOR OF ADULT SOCIAL SERVICES**

- (a) To discharge the Council's social service functions, other than those for which the Council's Director: Children and Families is responsible for under section 18 of the Children's Act 2004.
- (b) To be the officer appointed for the purposes of section 6 of the Local Authority Social services Act 1970.
- (c) To be accountable for the delivery of the Council's social care functions in respect of adults (other than those for which the Director: Children

Services is responsible) and in particular under the Social Services Act 1970, the Care Act 2014 and other Health and Social Care legislation including–

- (i) accountability for assessing local needs and ensuring availability and delivery of a full range of adult social services (ii) professional leadership, including workforce planning (iii) leading the implementation of standards (iv) managing cultural change (v) promoting local access and ownership and driving partnership working (vi) delivering an integrated whole systems approach to supporting communities, and (vii) promoting social inclusion and wellbeing.

## **B12.08 FUNCTIONS OF THE DIRECTOR OF PUBLIC HEALTH**

- (a) Responsibility for the Council's Public Health functions for the purposes of Section 73 A of the National Health Services Act 2006.
- (b) Discharging the responsibilities for Public Health within North Lincolnshire in accordance with the requirements of the Health and Social Care Act 2012 and the National Health Service Act 2006 and other legislation.
- (c) Managing the Council's Public Health functions (where these are not specifically delegated to other Directors).
- (d) Exercising the Council's functions in planning for, and responding to, emergencies that present a risk to public health.
- (e) Co-operating with the Police, the Probation Service and Prison Service to assess the risk posed by violent or sexual offenders.
- (f) Providing the Council's public health response as a 'responsible authority' under the Licensing Act 2003.
- (g) To develop and maintain the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy for North Lincolnshire and to discharge the responsibilities for research in relation to Public Health and Wellbeing.
- (h) To write an Annual Report on the health of the local population.
- (i) To discharge any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations – these include services



mandated by regulations made under the National Health Service Act 2006.

- (j) To discharge such other public health functions as the Secretary of State may specify in Regulations.

#### **B12.09 FUNCTIONS OF THE SCRUTINY OFFICER**

- (a) Promote the role of overview and scrutiny committees
- (b) Provide support for overview and scrutiny committees, and
- (c) Provide support and guidance to members and officers in relation to overview and scrutiny committees

#### **B12.10 DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCIAL OFFICER**

The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### **B12.11 CONDUCT**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part E of this Constitution.

#### **B12.12 EMPLOYMENT**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part D of this Constitution.

## PART B ARTICLE 13 - DECISION MAKING

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### **B13.01 RESPONSIBILITY FOR DECISION MAKING**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part C of this Constitution along with local schemes of delegation which Directors are required to keep up to date.

### **B13.02 PRINCIPLES OF DECISION MAKING**

All decisions, whether they are the responsibility of the Executive or not, will be made in accordance with the following principles.

- Proportionality (i.e. the action should be proportionate to the desired outcome)
- Decisions should be taken on the basis of due consultation and professional advice from officers
- Respect for human rights
- A presumption in favour of openness
- Clarity of aims and desired outcomes
- Taking into account all relevant considerations
- Ensuring that decisions are properly recorded

### **B13.03 TYPES OF DECISION**

Decisions reserved to Full Council. Decisions relating to the functions listed in Article B4.02 will be made by the Full Council and not delegated.

Key Decisions:

- (a) A key decision means an executive decision which is likely
  - (i) to result in the Council incurring expenditure or the making of savings (including the receipt or loss of income) over £350,000 in any one financial year; or

- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority
- (b) In accordance with Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in determining the meaning of “significant” for the purposes of this Article the Council shall have regard to any guidance for the time being issued by the Secretary of State.
- (c) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part D of this Constitution.

#### **B13.04 DECISION MAKING BY THE FULL COUNCIL**

Subject to Article B13.08 the Council Meeting will follow the Council Procedure Rules set out in Part D of this Constitution when considering any matter.

#### **B13.05 DECISION MAKING BY THE EXECUTIVE**

Subject to Article B13.08 the Executive will follow the Executive Procedure Rules set out in Part D of this Constitution when considering any matter.

#### **B13.06 DECISION MAKING BY OVERVIEW AND SCRUTINY PANELS**

Overview and Scrutiny Panels will follow the Overview and Scrutiny Procedure Rules set out in Part D of this Constitution when considering any matter.

#### **B13.07 DECISION MAKING BY OTHER COMMITTEES AND SUB COMMITTEES ESTABLISHED BY THE COUNCIL**

Subject to Article B 13.08 other council committees and sub committees will follow those parts of the Council Procedure Rules set out in Part D of this Constitution as apply to them.

#### **B13.08 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **B13.09 DECISION MAKING BY OFFICERS**

Officers are authorised to take both executive and non-executive decisions under the Council's Constitution and through decisions by members from time to time in relation to specific matters or projects. The following Regulations apply to such decisions taken by officers.

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations, 2012 ('2012 Regulations') and the Openness of Local Government Bodies Regulations, 2014 ('2014 Regulations') a written record of officer decisions made in connection with the discharge of certain executive and non-executive functions must be published and made available for inspection by members of the public as soon as reasonably practicable after they are made, along with any background papers.

### Executive decisions taken by officers

Regulation 13 (4) of the 2012 Regulations requires that as soon as reasonably practicable after an officer has made an executive decision, the officer must produce a written statement which must include:

- a record of the decision including the date it was made;
- a record of the reasons for the decision;
- details of any other options considered and rejected by the officer when making the decision;
- a record of any conflict of interest declared by any executive member who is consulted by the officer in relation to the decision; and
- in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's Chief Executive.

Guidance issued by DCLG, August 2014 requires that decisions taken by officers following an express authorisation by the council's executive should be recorded but those types of decision that are purely operational or administrative in nature do not need to be recorded.

DCLG recommends that decisions to allocate social carers to particular individuals, to review housing benefit or to allocate market stalls to traders are examples of the type of decision that do not need recording under the 2012 Regulations. Whereas, decisions taken by officers to award contracts above specified values (see the Council's requirements below) or to exercise compulsory purchase powers, to award discretionary rate relief or to change the opening hours of libraries are cited as the type of decision taken by an officer that should be recorded.

The Council expects that decisions to award contracts to the value of £100k and above under the contract procedure rules to be recorded, save those

contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities.

Officers should complete the Officer Decision Record developed by Democratic Services and seek advice from Democratic Services if in any doubt as to whether a decision they are proposing to take falls within the 2012 Regulations.

#### Non-executive decisions taken by officers

Regulation 7 (3) of the 2014 Regulations requires an officer to produce as soon as reasonably practicable after a 'decision' has been taken a written record containing the following information:

- the date the decision was taken;
- a record of the decision taken along with reasons for the decision;
- details of alternative options, if any, considered and rejected; and
- where the decision falls under Regulation 7 (2) (a), the names of any member of the relevant local government body who has declared a conflict of interest in relation to that decision.

Regulation 7 (2) provides that a 'decision' falls within these requirements, if it would otherwise have been taken by the relevant local government body or committee or sub-committee of that body but it has been delegated to an officer either:

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to –
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which, in either care, materially affects that relevant local government body's financial position.

Guidance issued by DCLG, August 2014 recommends that purely routine administrative decisions and those of a day to day operational nature do not need to be recorded or those decisions that require to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

DCLG cites decisions to award contracts above a specified value (see the Council's requirements below), decisions to carry out major road works and those determining licensing or building control applications as the type of decision taken by an officer that should be recorded.

The Council expects that decisions to award contracts to the value of £100k and above under the contract procedure rules to be recorded, save those contracts relating to placements for individuals care and support or such other

categories of contract that are exempted by the Director: Governance and Communities.

Officers should complete the Officer Decision Record developed by Democratic Services and seek advice from Democratic Services if in any doubt as to whether a decision they are proposing to take falls within the 2014 Regulations.

Background papers that have been relied upon under either category of decision must be made available for public inspection, subject to the usual rules relating to confidential or exempt information.

### **B13.10 DECISION MAKING DURING RECESS**

Notwithstanding any other provisions contained within this constitution the following provisions shall apply during any council recess.

- (a) A Cabinet Member may take any decision which in his or her opinion must be taken during the period of any council recess and which falls within their delegated powers but shall consult the chair and vice chairman of the relevant scrutiny panel before doing so.
- (b) The Leader may take any decision which in his or her opinion requires to be taken during the period of the recess and falls within the delegated powers of the Cabinet but before doing so shall consult the chair and vice chairman of the relevant scrutiny panel.
- (c) The Chief Executive may take any decision which in his or her opinion requires to be taken during the period of the recess and does not fall within the delegation to the cabinet or any cabinet member but prior to doing so shall consult the Leader, Deputy Leader and the Leader of the opposition party.

### **B13.11 RECORDING DECISIONS**

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, the person presiding, must ensure that a written statement is produced for every executive decision made.

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-maker when making the decision;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any executive member of the decision-making body which made the decision, or consulted if the decision is made by an officer; and

(e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

The decision record must be made available for public inspection along with any background papers (except to the extent that exempt or confidential information would be disclosed) as soon as reasonably practicable after the decision is made.

## **PART B ARTICLE 14 - FINANCE CONTRACTS AND LEGAL MATTERS**

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### **B14.01 FINANCIAL MANAGEMENT**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part D of this Constitution.

### **B14.02 CONTRACTS**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part D of this Constitution.

### **B14.03 LEGAL PROCEEDINGS**

The Assistant Director: Governance and Partnerships is authorised to institute, defend, settle or participate in any legal proceedings in cases where such action is necessary to give effect to decisions of the Council or in any case where that officer considers that that action is necessary to protect the Council's interests.

Where any document is necessary to any legal procedure or any proceedings on behalf of the Council, it will be signed by the Assistant Director: Governance and Partnerships or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **B14.04 THE COMMON SEAL OF THE COUNCIL**

The Common Seal of the Council, including an electronic version approved by the Assistant Director: Governance and Partnerships, will be kept in a safe place in the custody of the Assistant Director: Governance and Partnerships. 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. The Common Seal, including an electronic version, will be affixed to those documents which in the opinion of the Assistant Director: Governance and Partnerships should be sealed. The affixing of the Common Seal will be attested by the Assistant Director: Governance and Partnerships or any other officer authorised by him in writing.



### **B15.01 DUTY TO MONITOR AND REVIEW THE CONSTITUTION**

The Executive, the Standards Committee and the Assistant Director: Governance and Partnerships will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of Constitution by Standards Committee and Monitoring Officer -

A key role for the Standards Committee and the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In order to achieve these purposes the Monitoring Officer may:

- (a) observe meetings of the different parts of the member and officer structure;
- (b) undertake an audit trail of sample decisions;
- (c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in the Council with those in other comparable authorities or national examples of best practices.

### **B15.02 CHANGES TO THE CONSTITUTION**

- (a) Approval

Substantive changes to the Constitution will only be approved by the Full Council.

- (b) Minor amendments

The Assistant Director: Governance and Partnerships shall be authorised to make minor changes to the Constitution from time to time including to reflect legislative change, reorganisation and structural changes, changes in job descriptions and to correct any typographical errors or inconsistencies.

- (c) Consultation

If the proposed change would result in a different form of governance arrangements the Council will take reasonable steps to consult local electors and other interested persons in the area when drawing up proposals and must either pass a resolution or hold a binding referendum in accordance with arrangements set out in the Local Government Act 2000 as amended.

## **PART B ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

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### **B16.01 SUSPENSION OF THE CONSTITUTION**

(a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council or Executive, as appropriate to the extent permitted within those Rules and the law.

(b) Procedures to Suspend

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved taking account of the purposes of the Constitution set out in Article 1.

(c) Rules Capable of Suspension

Only the Council Procedure Rules, Executive Procedure Rules, Contract Procedure Rules may be suspended.

### **B16.02 INTERPRETATION**

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **B16.03 PUBLICATION**

(a) The Director: Governance and Communities will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Director: Governance and Communities will ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations. It will also be published on the Council's website and available to be purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Director: Governance and Communities will ensure that the Summary of the Constitution is made widely available within the area and is updated as necessary.

## Responsibility for Functions PART C - Contents

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### Responsibility for Functions

Responsibility for Local Choice Functions .....	C1.01
Responsibility for Council Functions .....	C1.02
Responsibility for Executive Functions .....	C1.03

## PART C - RESPONSIBILITY FOR FUNCTIONS

This part indicates whether “local choice functions” are:

- (a) the responsibility of the Council and its committees; or
- (b) the responsibility of the Executive, or
- (c) they are, or are not, the responsibility of the Executive to a specified extent.

### C1.01 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Body	Membership	Delegation of Functions
1. Local Act Functions	Council	All members of the Council	
2. Determination of an appeal against any decision made by or on behalf of the Council	Appeals Committee	Members of the Council	
3. The appointment of Review Boards under Regulations under Section 34 (4) of the Social Security Act 1998 (Determination of Claims and Reviews)	Council	All members of the Council	
4. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	The Executive	All members of the Executive	Executive member for Children's Services after considering advice from the relevant Scrutiny Panel

5. The making of arrangements pursuant to Section 94(1), (1 A) and (4) to the School Standards and Framework Act 1998 (Admission Appeals)	The Executive	All members of the Executive	Executive member for Children's Services after considering advice from the relevant Scrutiny Panel
6. The making of arrangements pursuant to Section 95(2) of the School Standards and Framework Act 1998 (Children to whom Section 87 Applies: Appeals by Governing Bodies)	The Executive	All members of the Executive	Executive member for Children's Services after considering advice from the relevant Scrutiny Panel
7. Any function relating to contaminated land	The Executive	All members of the Executive	Director: Economy and Environment
8. The discharge of any function relating to the control of pollution or the management of air quality	The Executive	All members of the Executive	Director: Economy and Environment
9. The service of an abatement notice in respect of a statutory nuisance	The Executive	All members of the Executive	Director: Economy and Environment
10. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	The Executive	All members of the Executive	Director: Economy and Environment

11.The inspection of the authority's area to detect any statutory nuisance	The Executive	All members of the Executive	Director: Economy and Environment
12.The investigation of any complaint as to the existence of a statutory nuisance	The Executive	Members of the Executive	Director: Economy and Environment
13.The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	The Planning Committee	Members of the Council	Director: Economy and Environment
14.The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The Executive	All Members of the Executive	All Directors
15.The making of agreements for the execution of highways works	The Executive	All members of the Executive	Director: Economy and Environment
16.The appointment of any individual  (a) to any office other than an office in which he is employed by the authority  (b) to any body other than (i) the authority (ii) a joint committee of two or more authorities, or	The Council in relation to non- executive functions; the executive in relation to executive functions	All members of the Council in relation to non-executive functions; All members of the Executive in relation to executive functions	Director: Governance and Communities



(c) to any committee or sub-committee of such a body and the revocation of any such appointment			
17. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	The Executive	All members of the Executive	Leader of the Council
18. Any function of a local authority in their capacity as a harbour authority (to the extent that those functions are not contained in a local Act)	The Executive	All members of the Executive	
19. Functions relating to the preparation, submission and modification of a Local Area Agreement (Sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007)	The Executive	All members of the Executive	

## **C1.02 RESPONSIBILITY FOR COUNCIL FUNCTIONS**

The Council will appoint the following Committees, with membership, terms of reference and delegations as shown:-

### **APPEALS COMMITTEE - TERMS OF REFERENCE**

#### **APPEALS COMMITTEE - TERMS OF REFERENCE**

##### **Delegated**

To hear and make decisions in respect of appeals in relation to:-

- (a) grading and re-grading
- (b) grievances and dignity at work
- (c) disciplinary matters
- (d) dismissals on grounds of redundancy, capability or some other substantial reason
- (e) against actions short of dismissal imposed by the Investigation and Disciplinary Sub Committee in relation to the Head of Paid Service, Chief Finance Officer or Monitoring Officer (Statutory Governance Officers) and to consider whether to uphold the original decision, impose lesser sanctions than those already imposed, or remove all sanctions imposed.

##### **Membership**

3 members of the Council

##### **Delegations**

Authority is delegated to the Director: Governance and Communities in consultation with any three members of the Committee (including at least one member from the opposition group) to take decisions on procedural matters in respect of matters referred to the Committee prior to the meeting of the Committee. If the appeal concerns the Director: Governance and Communities and/or an employee within that service area this delegation shall be exercised by the Chief Executive, or the Deputy Chief Executive.

## **LICENSING COMMITTEE - TERMS OF REFERENCE**

### **Advisory**

- (a) To receive the outcome of consultations required to be carried out under section 5 of the Licensing Act 2003 and recommend to the council any revision to the local statement of licensing policy as a result of such consultation. The statement of licensing policy shall be reviewed at least every three years and revisions made and published at such times as considered appropriate.
- (b) To recommend to council any revisions to the Statement of Principles: Gambling following required consultations in accordance with section 349 of the Gambling Act 2005. The statement shall be reviewed at least every three years and revisions made and published at such times as considered appropriate.

### **Delegated**

- (a) To exercise the functions of the council as the licensing authority for the purposes and requirements of the Licensing Act 2003. To delegate these functions, where appropriate, to the Licensing Activities Sub-Committee or Director: Economy and Environment in accordance with the above legislation, and as defined and detailed in the statement of licensing policy in accordance with guidance issued by the Secretary of State (sections 3 to 10 of the above Act refers).
- (b) To promote the four licensing objectives as defined in section 4 of the Licensing Act 2003
  - the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance and
  - the protection of children from harmwhilst carrying out its functions and those delegated to the Licensing Activities Sub-Committee.
- (c) To comment on any draft guidance and respond to any consultation documents issued by the Secretary of State.
- (d) To exercise the functions of the Council as the licensing authority for the purposes and requirements of all other relevant legislation, including that relating to acupuncture and body piercing, animals and pet shops, betting, gaming and lotteries, hackney carriage and private hire vehicles (taxis), house to house and street collections, street trading consents, public entertainment, and sex establishments (Please note this list is not exhaustive). To delegate these functions to the Director: Economy and Environment (see Scheme of Delegations to Officers) or to the Licensing (Miscellaneous) Sub-Committee to determine the grant, renewal, variation, transfer or revocation of any licence, permit, consent, permission, registration, certificate or other like document under such legislation.

- (e) To set and review appropriate licensing conditions.
- (f) To set and amend fees and charges for licences, consents and other permissions, together with hackney carriage and private hire tariffs.
- (g) To set and review standard conditions attached to licences, consents and other permissions where applicable.
- (h) To set and review procedures for giving required notices and determining applications for licences, consents or other permissions at meetings of the Committee and its Sub-Committees.
- (ii) To determine the action to be taken as regards general relevant licensing issues including new/revised legislation, regulations, codes of practice or circulars. (This would include reviewing delegated powers to take account of any changes to legislation.)
- (j) To set the fees for gambling premises in accordance with paragraph 3.2 of the report of the Director of Neighbourhood and Environmental Services of 7 November 2006.
- (k) To determine applications for small lotteries in accordance with paragraph 3.5 of the report of the Director of Neighbourhood and Environmental Services of 7 November 2006.

### **Membership**

10 members of the Council

## **LICENSING (ACTIVITIES) SUB-COMMITTEE**

### **Delegated**

- (a) To determine any application made under the Licensing Act 2003 as defined and detailed in the statement of licensing policy in accordance with guidance issued by the Secretary of State.
- (b) To consider any revocation or refusal of registration of applications for small lotteries.

### **Membership**

3 members of the Licensing Committee

## **LICENSING (MISCELLANEOUS) SUB-COMMITTEE**

### **Delegated**

- (a) To determine any appropriate applications in accordance with other relevant legislation as set out in paragraph (d) of the Committee's Terms of Reference above.
- (b) To determine applications where the number of machines exceeds the number as stated in paragraph 3.2 of the report of the Director of Neighbourhood and Environmental Services submitted to the Licensing Committee on 6 April, 2006.

### **Membership**

5 members of the Committee

### **Delegations**

See Scheme of Delegations to Officers.

## **PLANNING COMMITTEE - TERMS OF REFERENCE**

### **Advisory**

- (a) Matters relating to the council's functions as Planning Authority under the Town & Country Planning Acts, and all other associated legislation relating to planning, development and building control including Structure and Local Plans.

### **Delegated**

- (a) To exercise the functions of the council as Local Planning Authority for the purposes of the control of development including the determination of applications for planning permission and other applications under the Town & Country Planning legislation, the Town & Country Planning General Development Orders, and any Orders or Regulations made thereunder and in accordance with the council's planning policies.
- (b) Matters relating to Listed Building Control.
- (c) To deal with applications for grants for repair or maintenance of buildings of architectural or historic interest and matters in connection with the acquisition, restoration and disposal of buildings (excluding terms for the disposal of buildings) or materials for conservation purposes.
- (d) Matters relating to Building Conservation.
- (e) Matters relating to the designation of Conservation Areas.
- (f) Matters relating to the making of Tree Preservation Orders and Statutory Notices served under the Town & Country Planning legislation.
- (g) Matters relating to the planting, maintenance and felling of trees outside highway limits.
- (h) The council's powers and duties under the Hedgerows Regulations 1997
- (i) Matters relating to the reclamation of derelict land.
- (j) To deal with all matters relating to the making of Orders under Sections 45, 51, 51A and 51B of the Town & Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- (k) Enforcement, including the service of Statutory Notices and the authorisation of legal proceedings.

- (l) Matters relating to deposited plans under the Health & Safety at Work etc. Act, 1974, the Building Act 1984 and the Building Regulations 1991 (as amended), and any other subordinate legislation.
- (m) This Committee shall have no authority in relation to land transactions.
- (n) Functions relating to public rights of way (Paragraphs 1-34 of Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
  - (i) Power to create footpath or bridleway by agreement. Section 25 of the Highways Act 1980
  - (ii) Power to create footpaths and bridleways. Section 26 of the Highways Act 1980
  - (iii) Duty to keep register of information with respect to maps, statements and declarations. Section 31A of the Highways Act 1980
  - (iv) Power to stop up footpaths and bridleways. Section 118 of the Highways Act 1980
  - (v) Power to determine application for public path extinguishment order. Section 118ZA and 118C(2) of the Highways Act 1980
  - (vi) Power to make a rail crossing extinguishment order. Section 118A of the Highways Act 1980
  - (vii) Power to make a special extinguishment order. Section 118B of the Highways Act 1980
  - (viii) Power to divert footpaths and bridleways. Section 119 of the Highways Act 1980
  - (ix) Power to make a public path diversion order. Section 119ZA and 119C(4) of the Highways Act 1980
  - (x) Power to make a rail crossing diversion order. Section 119A of the Highways Act 1980
  - (xi) Power to make a special diversion order. Section 119B of the Highways Act 1980
  - (xii) Power to require applicant for order to enter into agreement. Section 119C(3) of the Highways Act 1980
  - (xiii) Power to make an SSSI diversion order. Section 119D of the Highways Act 1980

(xiv)	Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA, and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980
(xv)	Power to decline to determine certain applications.	Section 121C of the Highways Act 1980
(xvi)	Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980
(xvii)	Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980
(xviii)	Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B(7) of the Highways Act 1980
(xix)	Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980
(xx)	Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980
(xxi)	Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980
(xxii)	Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980
(xxiii)	Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981.
(xxiv)	Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981
(xxv)	Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981
(xxvi)	Duty to keep register of prescribed information with respect to applications under section 52(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981



- |          |   |   |
|----------|---|---|
| (xxvii)  | Power to prepare map and statement by way of consolidation of definitive map and statement. | Section 57A of the Wildlife and Countryside Act 1981      |
| (xxviii) | Power to designate footpath as cycle track.   | Section 3 of the Cycle Tracks Act 1984.                   |
| (xxix)   | Power to extinguish public right of way over land acquired for clearance.                   | Section 294 of the Housing Act 1981                       |
| (xxx)    | Power to authorise stopping up or diversion of highway.                                     | Section 247 of the Town and Country Planning Act 1990     |
| (xxxi)   | Power to authorise stopping up or diversion of footpath, bridleway or restricted byway.     | Section 257 of the Town and Country Planning Act 1990     |
| (xxxii)  | Power to extinguish public rights of way over land held for planning purposes.              | Section 258 of the Town and Country Planning Act 1990.    |
| (xxxiii) | Powers to enter into agreements with respect to means of access.                            | Section 35 of the Countryside and Rights of Way Act 2000. |
| (xxxiv)  | Power to provide access in absence of agreement.  | Section 37 of the Countryside and Rights of Way Act 2000. |
- (o) To deal with all matters referred by the Director: Economy and Environment relating to the registration of common land and town/village greens and the exercise of protective powers under the Commons Registration Act 1965, the Commons Registration (New Land) Regulations and the Commons Act 2006 where applicable.
- (p) Matters relating to the creation, stopping up and diversion of highways.

## **Membership**

8 members of the Council

## **Delegations**

The following matters are delegated to officers as shown:-

- (a) Determination of applications for permission, approval or consent, requirements for assessment, issuing of notices and completion or modification of agreements or obligations under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991 and the Environment Act 1995, or any subordinate rules, orders or regulations made under that legislation.
- (b) Determination of all matters required to be dealt with as part of the management and administration of the council's development control function and powers, including (but not exclusively):
  - Details submitted pursuant to conditions
  - Matters relating to protected trees
  - Consultation with other bodies on planning matters
  - Enforcement of planning control (see scheme of delegations to Director: Economy and Environment)
  - Appeals
  - Screening opinions under the 1999 Environmental Assessment Regulations.
- (c) Payment of historic building and conversion grants in response to applications fulfilling the relevant criteria, subject to finance being available within the current budget.

## **Exceptions to the Delegation Scheme**

- (a) Applications made by members of the council, senior officers (unit manager level and above), any officer responsible to the Director: Economy and Environment or the spouse or partner of any of the foregoing who resides at the same address, and/or applications relating to any land in which any of the foregoing have an interest.
- (b) Applications vetoed by any member of the council.
- (c) Approvals contrary to policy - i.e. departures and potentially justifiable exceptions.

- (d) Applications which have aroused significant public interest on valid planning grounds or an objection from a statutory consultee, at the discretion of the Director: Economy and Environment or their nominated representative.
- (e) Applications subject to a parish council objection on valid planning grounds where the recommendation is to grant permission or applications specifically supported by the parish council where the recommendation is to refuse.
- (f) Applications subject to a request from a member of the public that the matter be referred to the Planning Committee so that they may address the committee.
- (g) Confirmation of tree preservation or other orders or directions which are the subject of an objection.

## **STANDARDS COMMITTEE - TERMS OF REFERENCE**

### **Advisory**

- (a) Advising the Council on the amendment or revision of the Code of Conduct and the appointment or removal of the Independent Person/s.

### **Delegated**

- (a) Promoting and maintaining high standards of conduct by members and co-opted members as defined under section 27 of the Localism Act 2011 ('Act').
- (b) Assisting members and co-opted members to observe the Code of Conduct adopted by the Council pursuant to section 28 of the Act.
- (c) Advising the Council on the amendment or revision of the Code of Conduct and the appointment or removal of the Independent Person/s.
- (d) Monitoring the operation of the Code of Conduct and the 'Arrangements' and making appropriate revisions to the 'Arrangements' as considered necessary.
- (e) Advising, training or arranging to train members, co-opted members and Independent Person/s on matters relating to the Code of Conduct and the Arrangements.
- (f) Granting dispensations to members and co-opted members pursuant to the provisions of section 33 (b), (c) and (e) of the Act and on such other grounds as referred by the Monitoring Officer.
- (g) Dealing with any referrals as considered appropriate by the Monitoring Officer and to receive regular reports from the Monitoring Officer on the discharge of any delegations afforded to that position.
- (h) To consider any complaints relating to an alleged breach of the Code of Conduct in accordance with the 'Arrangements' and to convene, as appropriate, sub-committees ('Assessment Panels') to consider such matters.
- (i) To make determinations in respect of complaints that members and co-opted members of the Council and Parish and Town Councils in the area may have breached the Code of Conduct and to convene, as appropriate, sub-committees ('Hearings Panels') to consider such matters and to impose, or recommend the imposition of, the sanctions detailed in the 'Arrangements'.

- (j) To deal with the grant of exemptions from political restriction in respect of any post holder and give directions on any post to be included in the list of politically restricted posts maintained by the authority.

### **Membership**

5 members of the Council  
1 Co-opted non-voting member

All members, save for the 1 co-opted member, are voting members of the committee.

### **Delegations**

See Scheme of Delegations to Officers

## **AUDIT COMMITTEE - TERMS OF REFERENCE**

### **Delegated**

#### **Internal and External Audit**

- (a) To approve the audit charter and annual audit plan
- (b) To consider the head of internal audit's annual report and opinion, including -
  - a summary of internal audit activity (actual and proposed);
  - the level of assurance it can give over the Council's control framework; and
  - the performance and effectiveness of internal audit (including compliance with Public Sector Internal Audit Standards, results of the Quality Assurance and Improvement Programme, and relevant external inspections).
- (c) To consider significant issues arising from internal audit reviews carried out and high risk agreed actions not implemented within a reasonable timescale.
- (d) To consider the external auditor's annual letter, relevant reports, and the auditors ISA 260 report on the conclusion of the accounts
- (e) To consider specific reports as agreed with the external auditor.
- (f) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (g) To be kept informed over the appointment of the Council's external auditor by Public Sector Appointments Limited (PSAA).
- (h) To provide the Audit Committee the opportunity to meet in private with Internal / External Audit without any other officers present at the end of each meeting, if required.
- (i) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA (if applicable).

#### **Regulatory Framework**

- (a) To maintain an overview of the Council's constitution and governance arrangements in respect of contract procedure rules, financial regulations and the shared services programme with North East Lincolnshire Council.
- (b) Consider the effectiveness of the authority's risk management arrangements. Review the risk profile of the organisation and assurances that action is being

taken on risk-related issues, including partnerships with other organisations. This includes:

- Receiving an annual report from the Director of Governance and Communities on the effectiveness of the Council's risk management arrangements (and periodic updates where applicable).
  - Approval of the risk management strategy
- (c) To consider the effectiveness of the Council's anti-fraud and corruption arrangements. This includes:
- Receiving an annual report of the outcome of the Council's anti- fraud and corruption activities (and periodic updates where applicable)
  - Approval of the anti-fraud and corruption strategy and supporting policies such as the whistle-blower's charter and to receive an annual report on whistleblowing activity within the Council.
- (d) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- (e) To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
- (f) To consider the Council's arrangements for corporate governance and agreeing necessary action to ensure compliance with CIPFA / SOLACE governance framework and approval of the Code of Corporate Governance.
- (g) To consider the Council's compliance with its own and other published standards and controls.
- (h) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (i) Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.
- (j) To review the governance and assurance arrangements for significant partnerships or collaboration.
- (k) To report to Full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

## **Financial Reporting**

- (a) To approve the accounting policies to be used to prepare the accounts.
- (b) To review and/or approve the annual statement of accounts. Specifically, to consider whether the approved accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (c) To consider the auditors ISA 260 report on the conclusion of the accounts.

## **Membership**

5 members of the Council

## **Delegations**

See Scheme of Delegations to Officers



## **HEALTH AND WELLBEING BOARD – TERMS OF REFERENCE**

- (a) To prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- (b) To encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under Section 75 of the National Service Health Act 2006 (i.e., lead commissioning, poor budgets and/or integrated provision) in connection with the provision of health and social care services.
- (c) To encourage close working between commissioners of health-related services and the board itself.
- (d) To encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.
- (e) To consider other health related functions which are linked to the functions detailed above and to the overall objective of improving the health and wellbeing of the citizens of North Lincolnshire.

### **Membership**

1 Voting member of the Council

2 Non-Voting Members of the Council

(Statutory officers/organisations or their representatives)

### **Delegations**

See Scheme of Delegations to Officers

## **APPOINTMENT AND EMPLOYMENT COMMITTEE – TERMS OF REFERENCE**

### **Delegated**

- (a) To consider the appointment of the Chief Officers and the Monitoring Officer, as defined in the Constitution and in accordance with The Local Authorities (Standing Orders) (England) Regulations 2001, as amended.
- (b) To convene an Investigatory and Disciplinary Sub-Committee to consider allegations concerning the Head of Paid Service, Chief Finance Officer or Monitoring Officer (the Statutory Governance Officers).
- (c) To consider the dismissal and suspension of the Statutory Governance Officers as defined above, any suspension to be reviewed at a frequency determined by the Committee.
- (d) Where dismissal of a Statutory Governance Officer is recommended following a hearing by the Investigation and Disciplinary Committee, to appoint an Independent Panel to consider proposals and offer recommendations to Council on the dismissal of the Statutory Governance Officer, such Independent Panel to comprise of at least two independent persons who have been appointed under section 28(7) Localism Act 2011.

## **MEMBERSHIP**

5 members of the Council with one place reserved for a member of the Executive.

## **INVESTIGATORY AND DISCIPLINARY SUB-COMMITTEE**

### **Delegated**

- (a) To consider allegations against the Head of Paid Service, Chief Finance Officer or Monitoring Officer (the Statutory Governance Officers) in accordance with Local Authorities (Standing Orders) (England) Regulations 2001, as amended.
- (b) To determine whether an allegation against a Statutory Governance Officer can be dealt with through informal resolution, or whether such allegation requires further investigation or other appropriate action through some other procedure.
- (c) To give informal, unrecorded warnings in situations where it is decided no formal action is required.

- (d) To appoint an Independent Investigator (II) to investigate any disciplinary matter concerning the Statutory Governance Officers, and commission report(s) from the II.
- (e) To hear allegations, consider the report and recommendations from the II, consider the views of the Statutory Governance Officer, and determine what action (s) (if any) short of dismissal should be imposed or to make a recommendation for dismissal to full Council.
- (f) To make recommendations regarding the suspension of a Statutory Governance Officer

## **MEMBERSHIP**

3 Members of the Appointment and Employment Committee

### **C1.03 RESPONSIBILITY FOR EXECUTIVE FUNCTIONS: CABINET**

- (i) The Cabinet consists of nine members of the council. All functions, which are neither regulatory nor reserved to council, are functions to be exercised by the Executive. The Cabinet collectively will exercise the following functions:
  - (a) To consider matters relating to the major plans, strategies and policies of the council, including leading on the preparation of the council's policy framework.
  - (b) To provide leadership in the promotion and improvement of the area's economic, social and environmental well-being.
  - (c) To encourage fair and appropriate levels of community engagement and consultation in all aspects of the council's business.
  - (d) To identify issues to which the council should attach priority and ensure that those priorities are given proper effect.
  - (e) To recommend budgetary frameworks and processes that support the council's priorities, plans, strategies and policies.
  - (f) To lead on budget and performance monitoring across the whole range of council activities.
  - (g) To review key areas of the council's performance, drawing on internal and external sources.
  - (h) To provide the council's representation on major partnership bodies.
  - (i) To provide a focus for national, regional and sub-regional networking.
  - (j) To clarify the council's position on issues of importance through appropriate internal and external communications.
  - (k) To receive Scrutiny Panel reports and if thought appropriate act upon the recommendations.
  - (l) To review the effectiveness of elected members in the different roles required under local government modernisation.
  - (m) To respond to issues raised by the council's Chief Executive in terms of the structure, culture and general well-being of the organisation.
  - (n) To ensure that appropriate decision-making arrangements are in place and maintain their effectiveness.

- (ii) Individual cabinet members have delegated responsibility for the functions detailed in their portfolios and may delegate such functions to officers.
- (iii) Notwithstanding that an item may have been delegated to a Member of the Cabinet or an officer, an officer may refer a decision which has been delegated to him/her to the relevant Cabinet Member and a Cabinet Member may refer a matter which has been delegated to him/her to the Full Cabinet for decision.

## **HEALTH AND CARE INTEGRATED COMMISSIONING COMMITTEE (COMMITTEES IN COMMON) – TERMS OF REFERENCE**

May need updating in summer/autumn with Health changes

### **Delegated**

- (a) To facilitate joint commissioning arrangements between North Lincolnshire Clinical Commissioning Group and North Lincolnshire Council, via a 'Committees in Common' approach.
- (b) To consider and approve the integrated financial plan and other aspects of aligned budgets.
- (c) To administer, oversee and approve the Better Care Plan and Section 75 agreement.
- (d) To consider and agree any proposals relating to the planning and successful implementation of the Better Care Plan and Section 75 agreement.
- (e) To consider, approve and implement a single prioritisation framework for areas of mutual interest.

### **Membership**

This Committee is a Committee of Cabinet, acting in accordance with the council's constitution, including the Executive Procedure Rules and Access to Information Procedure Rules. The Committee has three members, each of whom is a member of the Executive. As such, political proportionality does not apply.

## **GREATER LINCOLNSHIRE JOINT STRATEGIC OVERSIGHT COMMITTEE**

### **A. Summary of Greater Lincolnshire Joint Strategic Oversight Committee arrangements**

**The core functions of the Greater Lincolnshire Strategic Oversight Committee are to:**

- (i) Facilitate cooperation and collaboration between Lincolnshire County Council, North Lincolnshire Council and North East Lincolnshire Council, in so far as it relates to their executive functions on the following themes:
  - (a) The development and application of strategy across the Greater Lincolnshire economic region
  - (b) The development of opportunities to gain greater alignment across Greater Lincolnshire, where scale and scope are required and can enhance upper tier functions
  - (c) The strategic alignment of investment across Greater Lincolnshire
- (ii) Consider strategic use of public funds across the common functions and activities of the Councils, to benefit the economy and support the collective ambitions of the three councils and the region.
- (iii) Act as a formal link between the three upper tier local authorities in Greater Lincolnshire on activity related to the above themes

### **B. Terms of Reference and Membership**

- (a) Develop and recommend for consideration by each of the authorities, proposals relating to the core functions of the joint committee.
- (b) Act as an advocate for investment in the sustainable economic development of Greater Lincolnshire and maintain oversight for delivery arrangements relating to the core functions.
- (c) Align and make recommendations on capital expenditure programmes that operate across Greater Lincolnshire, to ensure the strategic ambitions are effectively delivered in relation to the core functions.
- (d) Consider reports from sub-regional groups, or other such body or subcommittee/committee and refer recommendations back to the three Councils for further attention.
- (e) Consider and make recommendations in relation to strategic funding for activities aligned to the core functions.
- (f) The committee shall comprise of the Leader and one Executive Member from each Council. The joint committee will be chaired on a rotating basis by the Leader of each of the three local authorities (first year 2021/22 – Lincolnshire County Council). A co-opted member representative from the Greater

Lincolnshire Local Enterprise Partnership will be in attendance as a non-voting member (together with its Chief Executive or nominated officer as supporting officer).

- (g) Any recommendations made by the joint committee must be referred back to each of the three authorities for consideration through existing democratic processes.
- (h) The Secretariat of the Greater Lincolnshire Joint Strategic Overview Committee is also to be on a rotating basis (first year 2021/22 North Lincolnshire Council). Meetings are open to the press and public, and agendas, minutes and papers are published by the Secretariat, in line with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

## **HUMBER LEADERSHIP BOARD – TERMS OF REFERENCE**

The core functions of the Humber Leadership Board are to:

- (i) Facilitate cooperation and collaboration between the Humber local authorities on cross Estuary working on the following themes:
  - (a) Clean Growth
  - (b) Ports including a potential Freeport
  - (c) Shared management of Estuary assets
  - (d) Co-ordinating joint marketing of the Humber for inward investment in relevant sectors
- (ii) Enable collective decision-making on issues that require sub-regional agreement from the constituent authorities.
- (iii) Ensure local democratic and financial accountability, working with both the Hull & East Riding and Greater Lincolnshire LEPs and the use of public funding streams which are allocated by Government to the LEPs
- (iv) Act as the formal link between local authorities in the Humber on activity relevant to the above themes

Based on these core functions, the current Terms of Reference for the Humber Leadership Board are to:

- (a) Consider, approve and implement decisions relating to the agreed strategic themes -  
of clean growth, ports including a potential Freeport, shared management of Estuary assets and co-ordination of joint marketing of the Humber for inward investment in relevant sectors, across the Humber, particularly with regard to the Duty to Cooperate, including expenditure of external funding within the sub region on relevant activities.
- (b) Act as an advocate for investment in the sustainable economic development of the Humber sub region and be the managing body for delivery arrangements relating to the four identified strategic themes.
- (c) Align and decide on capital expenditure programmes and ensure policy and programmes are effectively delivered in relation to the sub region's identified four strategic themes.
- (d) Receive reports from both the Hull & East Riding and Greater Lincolnshire LEPs and their sub committees/boards as well as proposed constituent combined authorities and local authorities; and when so minded, refer any recommendations back to the originating body for further consideration.
- (e) Consider strategic funding allocations for operational activities aligned to the four strategic themes identified.
- (f) Be the representative democratic body of the Humber sub region at regional, national and international level.



- (g) Contribute to emerging policy and ensure that decisions of the Humber Leadership Board will be subject to the scrutiny committee process arrangements of each proposed combined authority or local authority (unless and until Joint Scrutiny Committee process arrangements are established).
- (h) The Committee shall comprise of the Leader and one Executive member from each Council. (Also, one observer representative of the Hull and East Riding and Greater Lincolnshire LEPS).
- (i) The quorum of the Committee shall be four members, which must include at least one Committee member from each of the four member Local Authorities.
- (j) Authority to establish a sub-committee with terms of reference for a sub-region of the geographic areas of Hull City Council and East Riding of Yorkshire Council.
- (k) Any decision made by the Joint Committee requires unanimous agreement.
- (l) The Secretariat of and accountable body for the Humber Leadership Board is North East Lincolnshire Council. Meetings are open to the press and public, and agendas, minutes and papers are published by the Secretariat, in line with the Local Government Transparency Code.

## **DELEGATED DECISION MAKING FOR CABINET MEMBER PORTFOLIO HOLDERS**

- (a) Decisions will be taken either by all the members of the Cabinet as collective majority decisions or by individual cabinet member portfolio holders.
- (b) Cabinet member portfolios are decided by the Leader and are as set out below. Specific delegated powers have been given to individual Cabinet Members who may make decisions within their areas of responsibility (Portfolios). As with Cabinet Decisions there are specific legal requirements that must be observed in order to ensure that any decisions made are open and transparent.
- (c) The contents of each service theme within portfolios shall be interpreted broadly and any activity or function not specifically referred to is deemed to be included within the portfolio theme to which it most closely relates. In the event of uncertainty, the Leader of the Council, after consultation with the Cabinet, where appropriate, will arrange for the discharge of the function in question either by the Cabinet or cabinet member portfolio holder or by an officer.
- (d) If a cabinet member is not able to make a decision in respect of an item that is delegated to him/her the Leader or in his/her absence the Deputy Leader may exercise the delegation or further delegate that decision to another cabinet member.
- (e) Pursuant to the relevant strategic and functional areas of responsibility, cabinet members are delegated the following general decision-making powers, in addition to any other specific delegations detailed in their portfolio:
  - (i) To approve modifications to existing policies, strategies or plans (except those forming the Policy Framework)
  - (ii) To approve statutory notices for consultation purposes
  - (iii) To make recommendations to Cabinet in respect of the outcomes of consultation relating to the council's policy framework
  - (iv) To monitor service delivery, performance and budgets and determine proposals for alternative service delivery and approve associated budget virements that are £350k or more
  - (v) To write off stock with a value over £10k
  - (vi) To receive and determine action in response to qualifying petitions received under the petition scheme
  - (vii) To authorise grant funding and approve procurement and contractual matters for the portfolio area pursuant to the council's Financial

Regulations, Contract Procedure Rules and Standing Orders (approve procurements where whole life contract is over £1m)

- (viii) To take such other executive decisions arising from the functions and responsibilities of the portfolio, save as provided otherwise in the Constitution

## **LEADER OF THE COUNCIL - PLACE SHAPING & CONNECTIVITY PORTFOLIO**

- (a) The Leader is responsible for providing overall political leadership for the council in relation to the co-ordination and delivery of council policies, strategies and services.
- (b) The Leader is responsible for leading the cabinet in its work to deliver the policy framework and to deliver services to the local community.
- (c) The Leader will chair the Cabinet.
- (d) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Lead on financial strategy and medium-term financial plan
  - (ii) Community and Place Leadership
  - (iv) Promotion of North Lincolnshire as the best place to live, work, visit and invest
  - (v) Communications and Public Relations
  - (v) Representation at national, regional and sub-regional level
  - (vi) Devolution and other regional growth initiatives and partnerships
  - (vii) Promotion of Diversity within the Council and North Lincolnshire
  - (viii) Ambassador for Place partnerships with business and business representatives
  - (ix) Public Sector Place and system transformation
  - (x) Economic Growth
  - (xi) Economy Recovery Post Covid-19
  - (xii) Digital Agenda
  - (xiii) Strategic Lead for Broadband and Mobile Connectivity Development
  - (xiv) Strategic Lead for Highways
  - (xv) Commercial Property and Investment Strategy
  - (xvi) Traded Services and Commercial Development, including with schools, public, private and voluntary sectors
  - (xvii) Fleet Management and Vehicle Engineering
  - (xviii) Corporate Landlord (operational buildings and facilities management)
  - (xix) Bereavement Services, Cemeteries and Crematoria

- (xx) Strategic Lead for markets
- (e) Additional decision-making powers to:
  - (i) Appoint the Deputy Leader and cabinet members
  - (ii) Determine which individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions (portfolios)
  - (iii) Determine the agenda for meetings of the Executive
  - (iv) Take any decision which in his or her opinion requires to be taken during the period of the recess and falls within the delegated powers of the Cabinet but before doing so shall consult the chair and vice chairman of the relevant scrutiny panel
  - (vi) Sell, purchase, acquire and dispose of land and property outside the scope of officer delegation

## **DEPUTY LEADER - ADULTS & HEALTH PORTFOLIO**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) To undertake responsibilities of the Leader in his absence and deputise for the Leader as required
  - (ii) To be the vice-chair of Cabinet
  - (iii) Strategic Lead for Health and Social care integration
  - (iv) Adult Social Care (as defined in the Care Act, Mental Health Act and Mental Capacity Act)
  - (v) Social Work Professional Standards (Adults) and Adult Safeguarding
  - (vi) Integrated Health and Social Care Commissioning
  - (vii) Promote sufficient, high quality and sustainable care market
  - (viii) Champion vulnerable adults and carers across the Health and Wellbeing Board partnerships and the NHS
  - (ix) Promote the improvement in health and wellbeing outcomes across North Lincolnshire
  - (x) Public Health Statutory Commissioned Services (e.g., sexual health, substance misuse)
  - (xi) Vulnerable Adult Engagement, Advocacy and Complaints
  - (xii) Housing sufficiency to meet needs of vulnerable adults
  - (xiii) Public Health Improvement and promotion (e.g., healthy lifestyles, making every contact count, suicide prevention)
  - (xiv) Strategic lead Housing Advice and Homelessness Prevention
  - (xv) Emergency Planning and Civil Contingencies
  - (xvi) Public Health Protection functions including outbreak planning and control (including Covid-19)
  - (xvii) Shared Services Lead (Joint Committee)
  - (xviii) Organisational Development (including post Covid-19)
  - (xix) Human Resources
  - (xx) Workforce Development
  - (xxi) Organisational Health and Safety
  - (xxii) Ensure all council policies support Public Health priorities

- (b) Additional specific delegated decision powers to:
  - (i) Approve Statements of Purpose for North Lincolnshire Council Care Quality Commission regulated provision
  - (ii) Receive Annual reports in respect of Statutory Complaints

## **CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR CHILDREN & FAMILIES**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Statutory Lead Member for Children's Services and all related responsibilities under section 19 of the Children Act 2004
  - (ii) Strategic local leadership and development of the education and children's services sector including housing for Care leavers and homeless prevention for young people
  - (iii) Champion across North Lincolnshire to drive for high educational standards for all children and young people, and in particular for the most disadvantaged groups
  - (iv) Children's social care, including Adoption and Fostering
  - (v) Promote sufficient, high quality and sustainable education and children's social care provider market
  - (vi) Schools' capital investment
  - (vii) Children's Safeguarding
  - (viii) To promote children's literacy
  - (ix) Strategic Lead for Public Transport
  - (x) Education Access and Inclusion and Disability
  - (xi) School Intervention, Improvement, Learning and Professional Standards
  - (xii) Youth Justice
  - (xiii) Children's Early Help and Family Support
  - (xiv) Vulnerable Children Engagement, Advocacy and Complaints
  - (xv) Corporate Parenting
  - (xvi) Social Work Professional Standards (Children)
- (b) Additional specific delegated decision-making powers to:
  - (i) Approval of the Schools and Early Years Funding Formula
  - (ii) Approval of the Local Admissions arrangements for Maintained Schools
  - (iii) Appointment of local authority governors
  - (iv) Appointment of Education Appeals panel members



- (v) Approval of the Statement of Purpose for Ofsted regulated provision
- (vi) Receive the Annual Statutory Complaints report

## **CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR FINANCE, GOVERNANCE AND VETERANS**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Financial Services, including Accounting and Budgeting, Internal Audit and Assurance and Procurement, Capital Investment Strategy and Capital Programme
  - (ii) Collection of council tax and NNDR
  - (iii) Administration of Housing Benefit and Local Council Tax Support
  - (iv) Veterans - Armed forces champion and Armed Forces Covenant
  - (v) Information Governance
  - (vi) ICT
  - (vii) Democratic Services, including Electoral and Mayoral Services; Member Services
  - (viii) Legal Services
  - (ix) Arrangements for Coroner's, Local Land Charges and Registration Services
- (b) Additional specific delegated decision-making powers to:
  - (i) Be consulted by the Director: Governance and Communities on proposals to write off debtor accounts in excess of £5000 for any one debtor
  - (ii) Approve the grant of Discretionary Rate Relief
  - (iii) Approve changes to the capital programme in excess of £350k

## **CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR ENVIRONMENT AND STRATEGIC PLANNING**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Environmental Improvement, Sustainability and Energy Management
  - (ii) Municipal Waste Management, including refuse collection, disposal and recycling
  - (iii) Street Cleaning and Grounds Maintenance
  - (iv) Public Conveniences
  - (v) Strategic Council Planning and Performance
  - (vi) Spatial Planning
  - (vii) Strategic Housing
  - (viii) Development Control and Planning Enforcement
  - (ix) Building Control

## **CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR HIGHWAYS AND FLOODING**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Highways and Local Transport Plan
  - (ii) Drainage and Flood Risk Management

## **CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR RESIDENT ENGAGEMENT AND RURAL PARTNERSHIPS**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Town and Parish Council Liaison
  - (ii) Citizen and public engagement, including Residents' Panel
  - (iii) Council wide Stakeholder Engagement and Consultations
  - (iv) Customer Services and Information
  - (v) Customer representation and complaints
  - (vi) Voluntary and community sector – capacity building and relationships
  - (vii) Rural Services Network

**CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR SAFER, STRONGER COMMUNITIES – ASHBY, BOTTESFORD & SCUNTHORPE ('URBAN')**

- (a) The functions and areas of policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Safer neighbourhoods/community safety partnership
  - (ii) Community Wardens, parking and public space protection order enforcement
  - (iii) CCTV, Security and Out of Hours Centre
  - (iv) Lifelong learning, library function, skills and employability
  - (v) Culture, Heritage and Arts, including Museums and Normanby Hall

For the avoidance of doubt, the policy and decision-making powers under paragraph (a) above extend to all of North Lincolnshire.

- (b) Working with the Cabinet Member Safer, Stronger and Communities - Rural to promote within and relating to Urban communities:
  - (i) Leisure, Outdoor Activities and Sports, Positive Activities
  - (ii) Tourism, including promoting North Lincolnshire visitor attractions
  - (iii) Community Grants and External Funding Development

Within part (b) of this portfolio reference to 'Urban' communities means the wards of Ashby, Bottesford, Brumby, Crosby and Park, Frodingham, Kingsway with Lincoln Gardens and Town.

## **CABINET MEMBER AND PORTFOLIO HOLDER WITH RESPONSIBILITY FOR SAFER, STRONGER COMMUNITIES – RURAL**

- (a) The functions and areas of council policy and decision-making responsibility to the extent that they are not non-executive are:
  - (i) Public Protection including Trading Standards; Water and Food Safety
  - (ii) Environmental Protection; Licensing; and Animal and Housing Standards
  - (iii) Leisure, Outdoor Activities and Sports, Positive Activities
  - (iv) Tourism, including promoting North Lincolnshire visitor attractions
  - (v) Community Grants approval and External Funding Development
  - (vi) Public Rights of Way, Countryside Access and Nature Reserves

For the avoidance of doubt, the policy and decision-making powers under paragraph (a) above extend to all of North Lincolnshire.

- (b) Working with the Cabinet Member for Safer, Stronger Communities - Ashby, Bottesford & Scunthorpe (Urban) to promote within and relating to Rural communities:
  - (i) Lifelong learning, library function, skills and employability
  - (ii) Culture, Heritage and Arts, including Museums and Normanby Hall

Within part (b) of this portfolio reference to 'Rural' communities means the wards of Axholme Central, Axholme North, Axholme South, Barton, Brigg and Wolds, Broughton and Appleby, Burringham and Gunness, Burton upon Stather and Winterton, Ferry and Ridge.

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## **PART D RULE 1 - COUNCIL PROCEDURE RULES**

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### **ADMINISTRATIVE ARRANGEMENTS**

#### **D1.01 GROUP SECRETARIES**

Each Political Group shall appoint one member as Group Secretary and notify the Director: Governance and Communities. The Chief Executive shall report such appointments to the full Council.

The Group Secretaries shall in consultation with the Director: Governance and Communities be responsible for the administrative arrangements relating to council meetings.

#### **D1.02 LEADER AND DEPUTY LEADER**

- (a) The Leader shall be elected by full Council at the annual meeting of the Council in accordance with article B7.03 and the requirements of the Localism Act 2011.
- (b) The Deputy Leader shall be appointed by the Leader of the largest political group on the Council and notified to the Director: Governance and Communities. The Chief Executive shall report such appointment to the full Council.
- (c) The Leader and Deputy Leader of the Opposition shall be appointed by the largest political group in Opposition and notified to the Director: Governance and Communities by the Group Secretary. The Chief Executive shall report such appointments to the full Council.

#### **D1.03 ANNUAL MEETING OF THE COUNCIL**

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

The annual meeting will:-

- (i) Elect a person to preside if the Mayor is not present, save that such person shall not be a member of the executive either;
- (ii) Elect the Mayor;
- (iii) Appoint the Deputy Mayor;
- (iv) Approve the Minutes of the last meeting;

- (v) Receive any announcements from the Mayor;
  - (vi) Elect the Leader for a four year term.
  - (vii) Note the number of members to be appointed to the Cabinet.
  - (viii) Appoint at least one scrutiny committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part C1.01 of this Constitution);
  - (ix) Agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree;
  - (x) Approve a programme of ordinary meetings for the Council for the year;
  - (xi) Consider any business set out in the notice convening the meeting; and
  - (xii) Consider the Chief Executive's Report.
- (b) Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council Meeting will:

- (i) Decide which Committees to establish for the new municipal year;
- (ii) Decide the size and terms of reference of those Committees;
- (iii) Decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iv) Receive nominations of Councillors to serve on each Committee and Outside Body (where not delegated to the Director: Governance and Communities); and
- (v) Appoint to those Committees and Outside Bodies (except where delegated to the Director: Governance and Communities or where such appointments are exercisable only by the Executive).

#### **D1.04 ORDINARY MEETINGS**

- (a) Ordinary meetings of the council will take place in accordance with the programme decided at the council's annual meeting. The order of business at ordinary meetings shall be:-

- (i) To elect a person to preside if the Mayor and Deputy Mayor are not present save that such person shall not be a member of the executive either.
- (ii) To receive any announcements from the Mayor.
- (iii) To receive any declarations of interest from members.
- (iv) To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive.
- (v) To approve as a correct record the minutes of the previous meeting(s) of the Council.
- (vi) To deal with any business from the last council meeting.
- (vii) Policy Development.
- (viii) To receive minutes from the council's committees and panels.
- (ix) To deal with questions on any of those minutes.
  
- (xi) To deal with questions relating to the Fire Authority.
- (xii) To deal with questions from members of the public (including members of town and parish councils). The time allowed for such questions to be unlimited.
- (xiii) To consider one joint Notice of Motion under Rule D1.15 (d) agreed by the Leader of the Majority Group and the Leader of the largest Minority Group.
- (xiv) To consider any other business specified in the summons to the meeting including proposals from the Executive in relation to the Council's budget and policy framework.
  
- (b) The time actually allocated to each item shall be determined by the Mayor or other person presiding at the meeting. In dealing with the business of the council meeting the Mayor or other person presiding may adjourn the meeting for 15 minutes or such other period as he or she thinks appropriate.

## **D1.05 EXTRAORDINARY MEETINGS**

Extraordinary Meetings will be called by the Director: Governance and Communities. Those listed below may request the Director: Governance and Communities to call an Extraordinary Meeting:

- (a) The Council by Resolution;
- (b) The Mayor;
- (c) The Monitoring Officer;
- (d) Any five members of the Council if they have signed a requisition presented to the Mayor and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition;

The Summons to the Extraordinary Meeting shall set out a motion prepared by the person(s) requesting the meeting and relating to the subject matter specified in the request for the meeting, and where the Summons is to consider a motion submitted under Rule D1.15 (f) it shall include any amendments submitted thereto.

An **EXTRAORDINARY** Meeting shall be held within eight weeks of receipt of a motion or requisition for a meeting and there shall be no more than six in any council year. At each such Extraordinary Meeting there shall be no more than two motions.

#### **D1.06 FORMAL MATTERS**

- (a) The entrance and exit of the Mayor shall be announced at the commencement/adjournment/termination of the meeting and all members shall stand.
- (b) The seating positions of members in the Council Chamber shall be the responsibility of the Director: Governance and Communities in consultation with the Group Secretaries.
- (c) Audio Recordings of Council -
  - (i) That all meetings of the Council be audio recorded, subject to the Council moving a resolution with or without notice to suspend this procedure rule in accordance with D1.19 and D1.41 of its Constitution, especially during consideration and debate of any business, where exempt information is likely to be disclosed in accordance with relevant paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). This procedure rule does not apply to the Council's committees, scrutiny panels, sub-committees and cabinet.
  - (ii) Copies of audio recordings should be submitted to the Director: Governance and Communities through Group Secretaries, which will be made available within three working days of the closure of the meeting requested. Recordings will be held on file by Democratic Services for 12 months.

- (iii) Members of the press and public must submit a request for a copy of the audio recording in writing to the Director: Governance and Communities stating their reason for a copy and its use, which may be made available within three working days of the closure of the meeting requested.
- (iv) The above audio recordings do not prevent any member of the council, press and/or public filming, audio recording and reporting through social media public meetings of the council, its committees, scrutiny panels and cabinet, whilst those meetings are open to the public, in accordance with the Openness of Local Government Bodies Regulations 2014 and accompanying Government (DCLG) guidance. (Please see paragraph D2.27 of the Constitution's Access to Information Procedure Rules).

#### **D1.07 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB COMMITTEES**

- (a) Substitutes shall not be permitted at meetings of the Executive, or committees of the Executive.
- (b) Otherwise a councillor who is a full member of a committee or sub-committee, shall if they wish a substitute member to attend a meeting of that committee or sub-committee in their place, give the Director: Governance and Communities, or his/her representative, written notice that they are unable to attend and that a substitute member named in the substitution notice will attend in their place.
- (c) The notice shall be given prior to the Chairman of the meeting opening the meeting. The notice shall be signed by the member giving the notice or the relevant Group Secretary on their behalf.
- (d) The substitute member shall be any councillor who is not a full member of the committee or sub-committee and is a member of the same political group as the member giving the notice.
- (e) The effect of the substitution notice shall be that the member giving the notice shall cease to be a member of that committee or sub-committee for the duration of that meeting and any adjournment of it and that the substitute member shall be a full member of the committee or sub-committee for the same period.
- (f) A substitution notice once given in respect of a meeting of a committee or sub-committee may not be revoked in respect of such meeting or any adjournment of it.



- (g) The member giving the notice shall be responsible for giving notice of the meeting and any agenda and meeting papers to their substitute.

#### **D1.08 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Director: Governance and Communities and notified in the Summons.

#### **D1.09 NOTICE OF AND SUMMONS TO MEETINGS**

The Director: Governance and Communities will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Director: Governance and Communities will send a Summons signed by him or her to every member of the Council or leave it at their usual place of residence. The Summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **D1.10 EXERCISING POWERS**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub Committee meetings, references to the Mayor include the Chairman of Committees and Sub Committees.

#### **D1.11 QUORUM**

The quorum at meetings of the Council will be one quarter of the whole number of members.

#### **D1.12 EXCEPTED ITEMS/RIGHT TO SPEAK**

All motions (other than those specified in Rules D1.15 and D1.19) on business set out in the Council Summons shall be moved by the Majority Group.

Any member of the council wishing to move an amendment in respect of any such business for an Ordinary Meeting shall notify the Director: Governance and Communities of his/her intention in writing signed by the member and seconder not later than 9.30 a.m. two working days preceding the council meeting and any such items shall be referred to as excepted items.

The relevant Group Secretary shall inform the Director: Governance and Communities of all members who wish to speak on any business not later than 9.30am two working days preceding the council meeting.

### **D1.13 MANNER OF DEALING WITH COMMITTEE MINUTES AT COUNCIL MEETINGS**

- (a) Minutes of committees shall be dealt with in the order in which they appear in the Council Summons. Copies of minutes are available for all members on the council's website and those appearing in the Council Summons shall be copied and made available in each political group office (one copy per office) five clear working days prior to each Ordinary Meeting.
- (b) The approval and adoption of minutes shall be moved by (1) the Chairman, or failing him/her; (2) any member of the Committee, or failing them (3) any Member of the Council who shall move "that the minutes of the ..... committee be received and the recommendations made therein be approved and adopted save for excepted items".
- (c) After the minutes of a Committee have been moved in accordance with (b), the procedure shall be as follows:
  - (i) Excepted items shall be considered in the minute number order in which they appear in the minutes of Committees provided that this order may be varied by the consent of the Council given by show of hands without debate. The Mayor may take two or more excepted items together if the Mayor considers it will assist the proceedings.
  - (ii) Members moving excepted items may either exercise their right of reply or call upon another Member to reply on their behalf.
- (d) The only amendments which may be moved on any delegated excepted item are as follows:-
  - (i) that it be received with an instruction to the Committee or Sub-Committee to submit a report giving further information; or
  - (ii) that it be received with regret at a decision arrived at by the Committee or Sub-Committee; or
  - (iii) that it be received with an instruction to the Committee or Sub-Committee as to the future policy to be adopted in relation to such matters; or
  - (iv) (if the decision has not been implemented) that it be referred back to the Committee or Sub-Committee for further consideration.

## **D1.14 QUESTIONS**

- (a) After the minutes of a Committee are disposed of in accordance with these rules, members may ask the mover any question upon matters within the province of the Committee.
- (b) Any such questions shall be in writing signed by the member or the relevant Group Secretary and shall be submitted to the Director: Governance and Communities not later than 9.30 a.m. two working days preceding the day of the meeting.
- (c) Any such questions which, in the opinion of the Mayor, are unsuitable in form, illegal, irregular or improper, vexatious, frivolous or derogatory to the dignity of the Council, its members or officers shall be disallowed.
- (d) If a member has submitted a question, that member must be present at the meeting for the question to be asked.
- (e) An answer may take the form of:
  - (i) a direct oral answer; or
  - (ii) a reference to a publication containing the information, providing the same is readily available; or
  - (iii) a written answer circulated to all members of the Council either at the meeting or within five working days.
- (f) The person questioned may decline to answer or may call upon any other member of the Council to answer on their behalf.
- (g) If a question affects more than one Committee, or in part a Committee and in part the Executive, a combined reply by arrangement may be given by the Chairman of one of the Committees or a member of the Executive.
- (h) There shall be no speech made or discussion allowed on any question or the answer thereto but one supplemental question may be asked at the direction of the Mayor who shall give preference to the original questioner.
- (i) Members shall not, by the unreasonable use of the right to ask a question, make a speech and no member in asking a question shall speak for more than two minutes and no member shall speak for more than five minutes in answer to any question.

- (j) Questions relating to the discharge of the functions of the Fire Authority shall be dealt with in accordance with arrangements agreed from time to time with the Fire Authority.

(Five clear days notice of questions must be given in relation to the functions of the Fire Authority).

- (k) Members of the public including town and parish councils who wish to ask a question shall give notice together with a copy of the question to the Director: Governance and Communities not later than 9.30 a.m. two working days preceding the council meeting. Questions will not be permitted which relate to individual planning applications, licensing and staffing issues which are, or maybe, the subject of consideration by the council's planning, licensing or appeals committees or relate to or mention the names of individual members or officers of the Council. The provisions of this Rule shall apply to such questions except for (a), (b), (d), (h) and (j). The time allowed for such questions to be unlimited.
- (l) The order of questions to be asked under (k) above shall be determined by the Mayor or other person presiding at the meeting who shall give reasonable preference to persons or members who have not previously asked questions and very similar questions may be taken together.

#### **D1.15 NOTICES OF MOTION**

- (a) All notices of motion shall be given in writing to the Director: Governance and Communities and shall be dated and numbered as received, and open to the inspection of every member of the Council.
- (b) The Director: Governance and Communities shall, if requested by a member giving notice of a motion or an amendment thereto, advise as to the legality and form of the motion or amendment and assist in its preparation.
- (c) Every motion and resolution shall relate to the Council's statutory functions, powers and lawful obligations or shall relate to an issue which specifically affects the Council's area or its residents. Motions or resolutions will not be permitted which in the opinion of the Director: Governance and Communities are illegal, irregular or improper, vexatious, frivolous or derogatory to the dignity of the Council or relate to the personal circumstances of any individual including members of staff or elected members.
- (d) Any joint notice of motion agreed by the Leader of the Majority Group and the Leader of the largest Minority Group for consideration at an Ordinary meeting of the Council must be given in writing to the Director:

Governance and Communities at least nine clear days before the relevant Ordinary meeting and must be signed by the mover and seconder. Notices of a joint motion may only be given for the Ordinary meeting of the Council immediately following the date of the notice.

- (d) Not more than one notice of a joint motion shall be listed for any Ordinary meeting of the Council. If the Leader of the Majority Group and the Leader of the largest Minority Group are unable to agree notice of a joint motion for an Ordinary meeting of the Council, there shall not be any notice of a joint motion considered at that Ordinary meeting of the Council.
- (e) Any notice of motion that it is not to be considered as a joint motion under Rule D1. 15 (d), shall be referred for consideration at an Extraordinary meeting of the Council called pursuant to Rule D1. 05(d) and must comply with the requirements of Rule D1.15 (a) to (c). Not more than two motions may be accepted for consideration at an Extraordinary meeting of the Council and such motions must be given in writing to the Director: Governance and Communities at least 12 clear days before the relevant Extraordinary meeting of the Council and must be signed by the mover and seconder. Priority of consideration will be given to each group on an alternating basis. Any amendment to a motion submitted under this Rule must be given in writing to the Director: Governance and Communities at least 9 clear days before the relevant Extraordinary meeting of the Council and must be signed by the mover and seconder of the amendment. Any such motions and amendments submitted under this Rule shall be included in the Council summons for the Extraordinary meeting at which they shall be considered.
- (f) If a motion set out in the Summons is not moved or seconded by the named members who gave notice of it, it may be moved or seconded by some other member on their behalf. Any motion not moved at the meeting at which it appears upon the Summons shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- (g) If the subject matter of any such motion comes within the province of any Committee or Committees, it shall, upon being formally moved and seconded, stand referred without speech or debate, to such Committee or Committees for consideration and report, provided, however, that if in the Mayor's opinion it is a matter of urgency, the Mayor may allow the motion to be dealt with at the meeting unless the motion would, if carried, have the effect of materially increasing the expenditure or reducing the revenue of a committee, or would involve capital expenditure, without compensatory savings.

## **D1.16 AMENDMENT OR ALTERATION OF A MOTION**

- (a) A member (being the mover of a motion) may with the consent of the seconder and of Council signified without discussion: -
  - (i) alter a motion of which the members have given notice; or
  - (ii) alter a motion which the member has moved

if in either case the alteration is one which could be made as an amendment to the motion.
- (c) A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council signified without discussion.
- (d) No member may speak on a motion or amendment after the mover has asked to withdraw it, unless permission has been refused.

#### **D1.17 FREQUENCY OF CONSIDERATION OF BUSINESS**

- (a) Any matter which in a year shall have been decided twice by the Council (whether or not under delegated authority) in the same way shall not in the same year be again submitted for consideration, and this Rule shall not be evaded by the substitution of a motion differently worded but in principle the same.
- (b) In this Rule "year" means a period of time between Annual Meetings of the Council.

#### **D1.18 RULES OF DEBATE**

- (a) No motion or amendment shall be spoken upon except by the mover until it has been seconded.
- (b) At every meeting of the Council all motions and amendments shall be reduced into writing, signed by the mover and seconder and delivered to the Director: Governance and Communities or appropriate representative and to all members present in the chamber immediately upon the mover commencing his/her speech.
- (c) A member may formally second a motion or an amendment in which case they may speak later in the debate.
- (d) A member, when speaking, shall stand and address the Mayor. If two or more members rise, the Mayor shall call on one to speak; the other or others shall then sit. While a member is speaking, the other members shall remain seated, unless rising to a point of order or in personal explanation.

- (e) Members shall direct their speeches strictly to the subject matter under discussion or to a point of order or to a personal explanation.
- (f)
  - (i) No member shall speak for more than five minutes on the question under discussion except as provided in sub paragraph (f) (ii).
  - (ii) In dealing with a motion or an amendment to a motion, notice of which has been given under Rule D1.15, the mover of the original motion in moving the motion shall speak for not more than ten minutes and all other speakers (including the seconder of the motion and the mover and seconder of any amendment to the motion) shall speak for not more than five minutes.
- (g) A member shall not (except in the exercise of a right to reply) speak more than once on the same motion or amendment except to a point of order, or by way of personal explanation.
- (h) Any amendment to a motion for an Ordinary meeting, notice of which has been given under Rule D1.15, may be moved provided that the names of the mover and seconder have been submitted to the Director: Governance and Communities not later than 9.30 am two working days preceding the day of the meeting and that such an amendment (i) has reference to the subject matter of the motion and (ii) is not a direct negative of the motion. Any amendment for an Extraordinary Meeting must be submitted not later than 9.30 am on the day nine working days preceding the day of the meeting.
- (i) Amendments, other than those referred to in paragraph (h), shall relate to the motion and either:
  - (i) refer a matter to a Committee for consideration or reconsideration;
  - (ii) refer a matter to the Executive for consideration;
  - (iii) leave out words;
  - (iv) add or insert words; or
  - (v) leave out words and add or insert words but shall not have the effect of negating the motion.
- (j) If an amendment be carried, it shall displace the original motion and become itself a substantive motion, upon which any further amendment may be moved. However, such further amendment shall not be inconsistent with the alterations of the original motion made by the amendment which has been carried, and the further amendment must comply with the provisions of paragraph (h) above.

- (k) The mover of a motion, or of an amendment which has become the substantive motion, shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment and shall not otherwise speak on the amendment. A member exercising a right of reply under this Rule shall not introduce new matter in the reply.

The mover of an amendment shall have no right of reply to the debate on the amendment

- (l) A member of the Council, other than the mover or seconder of a motion or amendment before the Council, may at any time formally move "that the Council proceed to the other business of the day" on the formal seconding of which the Mayor shall immediately put the same to the Council without speech or debate, and if carried by show of hands the subject in debate shall be considered as disposed of.
- (m) A member of the Council, other than the mover or seconder of a motion or amendment before the Council, may at any time formally move "that the question be now put", and upon being formally seconded, it shall be put forthwith without speech or debate. Where an amendment is under discussion, the motion shall apply only to that amendment. If the motion be carried, then, if the question before the Council is the original motion or a first amendment, the Mayor shall call upon the mover of the original motion to reply before putting the question.
- (n) Upon a motion for an adjournment, all the speakers shall limit their observations to the question of adjournment. After a motion for adjournment of a debate, or adjournment of the Council has been rejected, another motion for the same or like purpose shall not be moved within thirty minutes, except by consent of the Council, to be given by show of hands without debate. On resuming an adjournment debate the member who moved the adjournment shall be entitled to speak first.
- (o) The Mayor may at any time, upon being satisfied that any motion or other matter has been fully debated by the Council, require that "the question be now put" but before the question is put, the mover of the motion shall be entitled to exercise a right of reply.
- (p) A member may rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Rule or statutory provision and the member shall specify the Rule or statutory provision and the way in which in the Member's opinion it has been broken. A personal explanation must relate to a speech already made by the member in the debate on the motion or amendment before the Council which may have been misunderstood. The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be challenged.



- (q) Whenever the Mayor rises during a debate any members then standing shall resume their seats and the Council shall be silent.

#### **D1.19 MOTIONS AND AMENDMENTS WITHOUT NOTICE**

A member may move without notice, any of the following motions and amendments:-

- (a) to appoint a Chairman for that meeting or the remainder of the meeting;
- (b) motions relating to the accuracy of the minutes;
- (c) motions to approve and adopt the recommendations of a committee;
- (d) that a matter be referred or referred back to a Committee;
- (e) that the Council proceed to the other business of the day;
- (f) that the question be now put;
- (g) that the debate be now adjourned;
- (h) that the Council do now adjourn;
- (i) that a member named be not further heard;
- (j) that a member named be required to withdraw;
- (k) that a member named be required to leave the meeting;
- (l) to suspend one or more Procedure Rules;
- (m) that a body be appointed, or a person appointed to a Committee or body occasioned by an item mentioned in the Summons to the meeting;
- (n) giving the consent of the Council where the consent of the Council is required under these Procedure Rules;
- (o) to vary the order of the agenda;
- (p) to give leave to withdraw a motion;
- (q) authorising the sealing of documents;
- (r) to adopt or otherwise proposals in reports to Council.
- (s) to extend the time limit for speeches.

## **D1.20 DISORDERLY CONDUCT**

- (a) The Mayor may call a member to order for irrelevance, repetition, persistent unwarranted interruption of proceedings, imputation of dishonourable conduct or improper remarks, unseemly language, offensive gestures or any breach of order and may direct any members, if speaking, to discontinue their speech; and any member of the Council may rise to call the attention of the Mayor to any of the said matters during the speech of a member.
- (b) If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor or any other member may formally move that the member be not heard further. If seconded, the motion will be voted on without discussion.
- (c) If the member continues to behave improperly after such a motion is carried, the Mayor or any other member may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- (d) If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

## **D1.21 CONDUCT OF THE PUBLIC**

- (a) If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.
- (b) If there is a general disturbance in any part of the meeting room open to the Public, the Mayor may call for that part to be cleared.

## **D1.22 VOTING**

- (a) Voting at meetings of the Council will be by show of hands or using an electronic voting system at the discretion of the Mayor. If there is no dissent the Mayor may take the vote by the affirmation of the meeting. Members must be seated when the vote is taken.
- (b) If an electronic voting system is used members will have a period of 30 seconds in which to register their votes. At the expiry of the period of 30 seconds the votes then registered will be binding, unless a member immediately indicates to the Mayor that his/her vote has not been registered or has been incorrectly registered whereupon the Mayor will

ask for the vote to be retaken by show of hands. Members who have not registered a vote at that time will be taken to have abstained.

- (c) Where any member requests immediately after the vote is taken, their vote will be recorded in the Minutes to show whether they voted for or against the motion or abstained from voting.
- (d) If four members present at the meeting rise and demand it prior to the vote being taken, the voting shall be recorded so as to show whether each member present voted for or against the question or abstained from voting. A recorded vote may be taken using an electronic voting system or by a manual roll call. In the case of a manual roll call a period of 30 seconds shall be permitted to allow members to take their places in the meeting room immediately after which the votes shall be taken. The name or vote of any member taking his or her place after the vote shall have commenced, shall not be recorded.
- (e) If there are an equal number of votes for and against a proposal, the proposal shall not be carried unless the Mayor/Chairman chooses to use his/her second or casting vote to break the deadlock. The decision on whether or not to exercise a second or casting vote is that of the Mayor/Chairman alone. He/she retains the legal right to proceed as he/she sees fit. Exercise of a second or casting vote will not invalidate the decision. (A second vote from Mayor/Chairman means that he/she has voted in the original vote which resulted in tied numbers and votes again to break the deadlock. A casting vote is exercised when the Mayor/Chairman did not take part in the original vote and casts a vote in favour or against in order to break the deadlock).
- (f) Immediately after any vote is taken at a budget decision meeting (as defined in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 the voting shall be recorded in the minutes so as to show whether each member present voted for or against the decision or abstained from voting.

### **D1.23 VOTING ON APPOINTMENTS**

Where there are more than two persons 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.

### **D1.24 MINUTES**

- (a) The Mayor will sign the Minutes of the proceedings at the next suitable meeting.

- (b) Where in relation to any meeting of the Council, the next such meeting is an Extraordinary Meeting, then the minutes may be submitted to that meeting or the next following meeting 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.

## **D1.25 RULING OF THE MAYOR**

The ruling of the Mayor as to the construction or application of any of these Rules, or as to any proceedings of the Council, including any variation in lengths of speeches shall not be challenged at any meeting of the Council.

## **MEMBERS**

### **D1.26 RECORD OF ATTENDANCE**

The Service Manager : Democracy shall keep a written record of all members of the Council attending a meeting of the Council, the Executive or any Committee or Sub-Committee of which they are members.

This record shall be used for all purposes in connection with the Scheme for Members' Allowances or otherwise and shall be conclusive of attendance or otherwise at a particular meeting.

### **D1.27 INSPECTION AND ORDERS BY MEMBERS**

- (a) Unless specifically authorised to do so by the Council or the Executive a member of the Council shall not issue any Order respecting any works which are to be or are being carried out by or on behalf of the Council or claim by virtue of membership of the Council any right to inspect or to enter upon any lands or premises which the Council have the power or duty to inspect or enter.
- (b) A member may, for purposes of duty as a member, but not otherwise, after giving reasonable notice to the Director concerned, inspect or enter upon any council premises when open.

### **D1.28 MEMBER INTERESTS**

- (a) Personal interests

A member with a Personal Interest in an item of business may participate in the discussion and vote on that item of business after making the relevant declaration.

(b) Prejudicial Interests

A member with a prejudicial interest in an item of business must, unless dispensation has been granted, withdraw from the room or chamber whilst the item of business is being discussed or voted on save that where members of the public are allowed to make representations, give evidence or answer questions about the item of business by statutory right or otherwise, a member with a prejudicial interest in the item of business may exercise the same speaking rights, provided having exercised such rights the member leaves the room or chamber immediately.

(c) 'Disclosable Pecuniary Interests'

A member with a Disclosable Pecuniary Interest in an item of business must, unless dispensation has been granted, withdraw from the room or chamber whilst the item of business is being discussed or voted on.

A member, acting in the capacity as an Executive member acting alone, must, unless dispensation has been granted, where that member has a Disclosable Pecuniary Interest in an item of business not take any steps, or any further steps, in relation to that item of business save for the purpose of enabling the item of business to be dealt with otherwise than by the member.

(For the full requirements on declaration and registration of interests see Part E of the Constitution Members' Code of Conduct)

## **EMPLOYEES**

### **D1.29 RECORD OF INTEREST OF OFFICERS IN CONTRACTS**

The Director: Governance and Communities shall record in a book to be kept for the purpose, particulars of any notice given by an officer of the Council under Section 117 of the Local Government Act 1972 of a pecuniary interest in a contract. The book shall be open for inspection by any member of the Council during normal office hours.

### **D1.30 MOTIONS AFFECTING EMPLOYEES**

No meeting of the Council, the Executive, Committee or Sub-Committee shall consider any issue relating to the appointment, promotion, dismissal, salary, superannuation, conditions of service or the conduct of any employee, or former employee until it has considered whether to exercise the power of exclusion of the public under Section 100 (A) of the Local Government Act 1972.

### **D1.31 COMMITTEES**

- (a) The Standing Committees of the Council shall be determined by the Council at the Annual Meeting each year.
- (b) The Council shall not appoint any member of a Committee so as to hold office later than the next Annual Meeting of the Council.
- (c) The Council may at any time dissolve a Committee or alter its membership.
- (d) Any member of a Committee may resign membership of a Committee, Sub-Committee or other body by notice in writing signed by them and delivered to the Director: Governance and Communities which notice shall become immediately effective.
- (e) Every vacancy on any Committee of the Council shall be notified to the Council by the Director: Governance and Communities at the next meeting to be held after the vacancy occurs, with a view to the Council making such appointment as they think fit at that or any subsequent meeting.
- (f) Unless otherwise decided by the Council, the Chairman and Vice-Chairman of each Committee shall be appointed by the Council.

### **D1.32 INFORMATION REQUIRED FOR MEETINGS**

- (a) All Directors shall ensure that any reports for submission to Cabinet, a Committee or Sub-Committee shall be in the hands of the Director: Governance and Communities at least seven clear working days before the day of the meeting.
- (b) All Directors shall supply such information as the Director: Governance and Communities may require and request in relation to any matter being, or to be, considered by a Cabinet, Committee or Sub-Committee.
- (c) The Director: Governance and Communities shall, at the request of the Chairman, or Cabinet Member call a meeting, at which Directors concerned, or their representatives, shall be present for the purposes of discussing the agenda.

### **D1.33 MEETINGS**

- (a) The Director: Governance and Communities shall summon any Committee or Sub-Committee or group of members appointed by a

Committee or Sub-Committee to consider or deal with a specific matter, as follows:-

either

- (i) at the time and date previously resolved: or
  - (ii) by request of the Chairman (or, in the Chairman's absence, the Vice-Chair) or any three of its members; or
  - (iii) at the discretion of the Director: Governance and Communities, in consultation with the Chairman, to deal with urgent business.
- (b) The Chairman (or in the Chairman's absence the Vice-Chairman) of Council or of any Committee or Sub-Committee may cancel any such meeting and may vary the date and time of any meeting after consultation with the Group Secretaries.
- (c) All members attending a meeting shall sign their names on the attendance sheet provided for the purpose.
- (d) No meeting of the Executive, a Committee or Sub-Committee or group of members appointed to consider or deal with a specific matter, shall be held unless the Director: Governance and Communities, or his representative, is present, except in the case of a Sub-Committee or group of members where the Director: Governance and Communities may arrange to be represented by another officer.

#### **D1.34 QUORUM AT COMMITTEE MEETINGS**

- (a) Except where authorised by Statute or ordered by the Council business shall not be transacted at a meeting of any Committee unless at least one third of the whole number of the Committee is present, provided that in no case shall the quorum of a Committee be less than three members.
- (b) Except as aforesaid, or otherwise ordered by the Committee which has appointed it, business shall not be transacted at a Sub-Committee unless at least one third of the whole number of the Sub-Committee is present, provided that in no case shall the quorum of a Sub-Committee be less than two Members.

#### **D1.35 PETITIONS**

The council welcomes petitions and recognises that they are one way in which people can indicate their views and request that action be taken. The council will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

**(a) What are the guidelines for submitting a petition?**

- (i) Petitions (paper or an e-petition) 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 real names and addresses/valid post codes and signatures of [10] ten or more persons supporting the petition who are on the Register of Electors for the area of North Lincolnshire Council
- (ii) Petitions should be accompanied by contact details, including a real name, address and postcode (and email address/phone number), for the petition organiser. This is the person the council will contact to explain how the council will respond to the petition and who the council will regard as having the representative authority of the other petitioners. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will try to contact signatories to the petition to agree who should act as the petition organiser
- (iii) Petitions, which are considered illegal, irregular, improper, vexatious, abusive, outside of the council's powers or otherwise inappropriate, will not be accepted. In the period immediately before an election or referendum, the council may need to deal with your petition differently – if this is the case an explanation, with reasons will be given, and a revised timescale may be applied. If a petition does not follow the guidelines set out above, the Director: Governance and Communities may decide not to do anything further with it and you will be informed in writing of the reasons.
- (iv) The closing date for a paper petition (signatures should not be collected over more than a three month period), which is running concurrently with a corresponding e-petition should coincide with the closing date specified by the petition organiser for the e-petition. (Both petitions should then be submitted to the council, please see paragraph g (iii) and/or delivered to the Service Manager: Democracy). The number of signatures will be aggregated to give the total number. Both the e-petition and the paper petition will be cross checked to ensure that there is no duplication of signatures and that the petitioners are on the Register of Electors for the area of North Lincolnshire.



**(b) What will the council do when it receives my petition?**

- (i) An acknowledgement will be sent to the petition organiser within 7 working days of receiving the petition. It will let the petition organiser know what the council plans to do with the petition and when they can expect to hear from us again.
- (ii) If the council can do what your petition asks for, the acknowledgement may confirm the action requested and the petition will be closed. The acknowledgement will confirm how the petition will be heard and where and when this will take place. This will be based upon the validation of the signatories against the Register of Electors<sup>1</sup>. If the petition needs more investigation, the response will tell you the steps the council plans to take.
- (iii) If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.
- (iv) The council will not take action on any petition which we consider illegal, irregular, improper, vexatious, abusive, outside of the council's powers or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition. A petition will not be considered when it is repetitious. Where a petition on the same or similar issue and seeking the same or similar outcome has been received within the last six months, whether or not from the same petition organiser it will not be considered.

**(c) How will the council respond to petitions?**

- (i) All valid petitions will be considered by the council, how the council responds to a petition will depend on what a petition asks for and how many people have signed it based upon a proportion of the registered electorate of North Lincolnshire (see paragraphs (d), (e) and (f) below), but may include one or more of the following:
  - taking the action requested in the petition
  - considering the petition at a council meeting
  - holding an inquiry into the matter
  - undertaking research into the matter
  - holding a public meeting

- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by an overview and scrutiny panel\*
- writing to the petition organiser setting out our views about the request in the petition

\*Overview and scrutiny panels are committees of councillors who are responsible for scrutinising the work of the council.

- (ii) In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.
- (iii) If your petition is about something over which the council has no direct control or outside its powers (for example local railway services or social housing services) we will consider making representations on behalf of the community to the relevant body or if your petition is about something that a different council is responsible for we will forward the petition to the other council, and notify you of the action we have taken.

#### **(d) Petition Panel**

- (i) Where the validated petition contains 10 signatures or more (see (a) above and (e) and (f) below) it will be referred to a petition panel for consideration. If the petition organiser so requests a deputation comprising not more than three signatories to the petition may present it to a panel comprising the appropriate cabinet member, lead member and a member of the opposition group. Ward members where appropriate will also be invited. The panel will receive a report from a relevant Director on the issues raised by the petition. The petition organiser (or their representative) will also be in attendance. One member of the deputation shall be permitted to address the panel for not more than 5 minutes.
- (ii) At the discretion of the Panel, and subject to the agreement of the petitioners, the public/press may be allowed into the panel meeting to observe the proceedings.

Note: Petition panel hearings are not formal meetings of the Council and the requirements of the Access to Information Regulations do not therefore apply.

- (iii) The cabinet member shall be responsible for responding to the issues raised by the petition. If the cabinet member so wishes they may refer the petition to the full Cabinet.

(e) **Panel with Senior Officer evidence**

- (i) Where the validated petition contains 3300 up to 6600 (2.5% of the electorate<sup>ii</sup>) validated signatures, a relevant senior officer will give evidence at a public meeting of the relevant scrutiny panel. You should be aware that the panel may decide that it would be more appropriate for another senior officer to give evidence instead of any officer named in the petition - for instance if the named officer has changed jobs. The panel may also decide to call the relevant cabinet member or other councillor to attend the meeting. Panel members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the panel by providing details up to three working days before the meeting. (Use of these at the meeting are at the Chairman's discretion).

(f) **Full Council debates**

- (i) If a validated petition contains more than 6600 signatures (5% of the electorate<sup>iii</sup>) it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting, which all councillors can attend. The council will ordinarily 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. Prior to the petition being formally included on the council agenda, the Service Manager: Democracy will liaise with the nominated petition organiser to clarify or confirm whether they that wish to proceed with the petition, notwithstanding that there may have been a material change in circumstances from when the petition was first received by the council. If the petition proceeds the petition organiser will be given five minutes to present the petition at the meeting and it will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of the decision. This confirmation will also be published on our website.

**(g) E-petitions**

- (i) The council welcomes e-petitions, which are created and submitted to the council. E-petitions must follow the same guidelines as paper petitions (please see paragraphs (a), (b), (c), (d), (e) and (f) above). The petition organiser will need to provide us with their real name, postal address/post code and e-mail address when submitted, so we are able to contact them.
- (ii) Anyone who is on the Register of Electors for the area of North Lincolnshire Council can start an e-petition on line at [www.change.org](http://www.change.org) (<http://www.change.org>). Real names and addresses/valid post codes/email addresses should be used. It would be helpful to inform the council of the title of the petition as soon as possible when you start an e-petition using the email address [petitions@northlincs.gov.uk](mailto:petitions@northlincs.gov.uk). The council will then be able to advise upon accepting the petition in accordance with paragraph (a) (iii) of this procedure rule.
- (iii) Once you have collected your signatures over your specified period of time (three months maximum), you will need to submit your e-petition to the council using the email address [petitions@northlincs.gov.uk](mailto:petitions@northlincs.gov.uk) (or in hard copy format).

**(h) How do I 'sign' an e-petition?**

- (i) You can sign an e-petition online at [www.change.org](http://www.change.org)

**(i) What can I do if I feel my petition has not been dealt with properly?**

- (i) If you feel that the council has not dealt with your petition properly, the petition organiser has the right to request that a scrutiny panel should review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser explains the reasons why the council's response is not considered adequate.
- (ii) The panel will endeavour to consider your request at its next meeting, although on some occasions, this may not be possible and consideration will take place at the following meeting. Should the panel determine the council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council Executive and arranging for the matter to be considered at a meeting of the full council. Once the 'appeal' has been considered the petition organiser will

be informed of the results within seven working days. The results of the review will also be published on our website.

<sup>i</sup> For each Municipal Year, the Electoral Register that closed on the preceding 1 December will be used to calculate the thresholds and validate petitions.

<sup>ii</sup> As at 1 December 2020, there are 130,196 residents on the electoral register: 2.5% rounded up to nearest 100 is 3,300 signatures

<sup>iii</sup> As at 1 December 2020, there are 130,638 residents on the electoral register: 5% rounded up to nearest 100 is 6,600 signatures

**D1.35b The following arrangements shall apply to meetings of the Planning Committee (public speaking and site visits) and the Licensing Committee**

- (i) Any member of the public (other than persons wishing to represent town or parish or other public bodies) may address the committee on any agenda item in respect of which the Planning Committee has delegated functions.
- (ii) Any member of the public who wishes to speak must notify the Director: Governance and Communities at least 48 hours prior to the start of the committee at which the matter is to be determined, even if they have previously notified the Group Manager : Development Management that they wish to speak when consulted on the application.
- (iii) Members of the public wishing to speak shall identify themselves prior to the beginning of the meeting.
- (iv) No more than one member of the public shall be allowed to speak in support of, or objecting to, any item on the agenda unless the application constitutes major development, as defined in the General Development Procedure Order 1995. If more than one supporter or objector wishes to speak on the same item, the chair will request that a spokesperson be appointed to represent the views of the supporters or objectors, as the case may be. In the event that the proposed speakers do not agree on the appointment of a spokesperson the first person to have contacted the Director: Governance and Communities will be offered the opportunity to speak.
- (v) If a member of the public speaks in support of or objecting to an agenda item the chair shall, in the interests of fairness, allow one member taking the contrary view a right of reply even if that member of the public has not given prior notice of their wish to speak.

- (vi) If the application constitutes major development, up to five members of the public may speak in support of the application and up to five members of the public may speak objecting to the application.
- (vii) No member of the public shall speak for longer than 5 minutes unless the application constitutes major development. In such a case, if there are more members of the public wishing to object to the application than to support it, or vice versa, the chair may at his discretion adjust the period allowed for the exercise of the right of reply to ensure parity of debate.
- (viii) No member of the public shall distribute any photograph or other document at or prior to the commencement of any meeting of the committee or leave any documents in the room where the meeting is to be held.
- (ix) If consideration of the agenda item is deferred for any reason members of the public wishing to speak may do so at any meeting when the item is considered.
- (x) Nothing in this rule shall affect the right of any member of the council attending the meeting of the committee under the provisions of any other rule to speak, if so invited, save and subject to where such member has an interest falling within either Procedure Rule D1.28 (b) Prejudicial Interest or Procedure Rule D1.28 (c) Disclosable Pecuniary Interest

## **Site Visits**

- (a) With the exception of applications constituting major development, any member of the planning committee proposing a site visit must in so doing identify the benefit which will accrue from such a visit. The motion shall be seconded and voted upon in accordance with the council's procedure rules.
- (b) The committee should not resolve to hold a site visit unless the benefit is substantial. The reasons for holding a site visit will be recorded in the minutes of the meeting.
- (c) In the case of applications constituting major development, a site visit will take place in advance of the meeting of the Planning Committee at which the application is to be heard.
- (d) The following principles will govern the conduct of site visits:

- (i) The purpose of the site visit is for members of the committee to visit and inspect the site and its surroundings. Councillors representing wards in which site visits are to take place will be informed of the site visit and, subject to (iii) below, will be permitted to attend those visits.
- (ii) Applicants and/or their agents will be informed of arrangements for site visits but, except where there is a need to arrange access to the site or for members to be escorted around it, they will not be invited to join members on the visit.
- (iii) Members will be informed of the proposed schedule for site visits. The letter advising of arrangements for site visits does not however constitute a formal Notice of Meeting and whilst the first visit on any one day will not commence until the stated time, subsequent timings can only be approximate. Members wishing to ensure that they are present at any one visit are therefore advised to join the committee at the start of the day's visits.
- (iv) There is to be no discussion on the merits of the application. The council is particularly concerned:
  - that the inspection is conducted in an orderly manner;
  - that there are not distractions preventing a proper inspection;
  - that the inspection is conducted at arm's length from applicants and objectors, thus ensuring fairness and impartiality
- (v) No member of the public (including any applicants) shall be allowed to address members at the site visit. Consideration of the planning merits of the case will take place at the subsequent meeting of the committee which will be held at a different venue from the site to be inspected. The right of the public to speak at meetings of the committee is set out in Procedure Rule D1.35b (i) to (x).
- (j) **The following arrangements shall apply to meetings of the Licensing and any other committee(s) which may be established by the council.**

Any petition shall be brought to the attention of the committee or sub-committee responsible for the function of the council to which the subject matter of the petition relates, in the following manner.

- (i) A petition sent to the Council will be reported to the next ordinary meeting of the committee or sub-committee immediately after the business necessary for the meeting to begin.
- (ii) Provided that 5 clear days notice in writing is given to the Director: Governance and Communities a deputation comprising not more than 3 persons may present a petition to the chair of the committee or sub-committee immediately after the business necessary for the meeting to begin or, if appropriate, immediately after the report of the receipt of any petitions, and one member of the deputation shall be permitted to address the meeting for not more than 5 minutes on the subject matter of and the background to the petition.
- (iii) Any member of the Council may present a petition sent to them and the arrangements set out in (ii) above shall apply.
- (iv) A committee or sub-committee to which a petition is presented, or to which receipt of is reported, shall note the receipt or presentation and may call for a report on the subject matter if considered necessary. Members may ask questions or discuss the subject of the petition at its presentation or the report of its receipt for a period not exceeding 10 minutes subject to this not prejudicing a full debate on the subject as an agenda item at that meeting.

#### **D1.36 VOTING IN COMMITTEES AND SUB-COMMITTEES**

- (a) Voting at meetings of committees or sub-committees will be by show of hands or using an electronic voting system (if one is available in the meeting room) at the discretion of the Chairman. If there is no dissent the Chairman may take the vote by the affirmation of the meeting. Members must be seated when the vote is taken.
- (b) If an electronic voting system is used members will have a period of 30 seconds in which to register their votes. At the expiry of the period of 30 seconds the votes then registered will be binding, unless a member immediately indicates to the Chairman that his/her vote has not been registered or has been incorrectly registered whereupon the Chairman will ask for the vote to be retaken by show of hands. Members who have not registered a vote at that time will be taken to have abstained.



- (c) Where any member requests immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the question or abstained from voting.
- (d) If four members present at the meeting rise and demand it prior to the vote being taken, the voting shall be recorded so as to show whether each member present voted for or against the question or abstained from voting. A recorded vote may be taken using an electronic voting system or by a manual roll call. In the case of a manual roll call a period of 30 seconds shall be permitted to allow members to take their places in the meeting room immediately after which the votes shall be taken. The name or vote of any member taking his or her place after the vote shall have commenced, shall not be recorded.
- (d) If there are an equal number of votes for and against a proposal, the proposal shall not be carried unless the Mayor/Chairman chooses to use his/her second or casting vote to break the deadlock. The decision on whether or not to exercise a second or casting vote is that of the Mayor/Chairman alone. He/she retains the legal right to proceed as he/she sees fit. Exercise of a second or casting vote will not invalidate the decision. (A second vote from the Mayor/Chairman means that he/she has voted in the original vote which resulted in tied numbers and votes again to break the deadlock. A casting vote is exercised when the Mayor/Chairman did not take part in the original vote and casts a vote in favour or against in order to break the deadlock).

#### **D1.37 PROPOSER OF MOTION MAY ATTEND COMMITTEES**

- (a) A member of the Council who has moved a motion which has been referred to any Committee or Sub-Committee shall be given notice of the meeting of the Committee or Sub-Committee at which it is proposed to consider the motion. The member shall have the right to attend the meeting and have an opportunity of explaining the motion.
- (b) A member of the Council may be present at any meeting of a Committee or Sub-Committee of which they are not a member, but shall not take part in the business of such Committee or Sub-Committee unless invited to speak.

#### **D1.38 MINUTES OF SUB-COMMITTEES**

Each Sub-Committee shall submit its minutes to the Committee from which it is formed.

#### **D1.39 PROCEDURE AT MEETINGS**

Subject to any express provision in these rules, the conduct of any meeting of a Committee or Sub-Committee and the rules of debate applicable thereto are at the discretion of the Chairman who may apply the provisions of these Rules in relation to meetings of the Council to such extent as the Chairman deems appropriate in the circumstances.

## **GENERAL**

### **D1.40 VARIATION OR REVOCATION OF PROCEDURE RULES**

These Rules form part of the Council's Constitution and may only be amended or altered in accordance with Article B.15.

### **D1.41 SUSPENSION OF RULES**

- (a) A motion to suspend these Rules may be moved without notice in accordance with Rule D1.19 (I).
- (b) All of these council rules of procedure except rules 1.11, 1.22(c), 1.24(b) and 1.36(c) may be suspended for the duration of the meeting provided at least one half of the whole number of members of the Council are present.

## **PART D RULE 2 - ACCESS TO INFORMATION PROCEDURE RULES**

NOTE - these rules are based on the latest regulations which may be subject to further amendment.

### **D2.01 SCOPE AND DEFINITION**

- 1.1 These rules apply to all meetings of the Council, Scrutiny Panels, Area Committees (if any), the Standards Committee and Regulatory Committees and Public Meetings of the Executive (together called "meetings").
- 1.2 In this part 'key decision' has the same meaning as in Article B13.03 (a) to (c).

### **D2.02 ADDITIONAL RIGHTS TO INFORMATION**

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

### **D2.03 RIGHTS TO ATTEND MEETINGS**

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

### **D2.04 NOTICES OF MEETING**

The Council will give at least 5 clear days notice of any meeting by posting details of the meeting at Church Square House, High Street, Scunthorpe (the designated office), except where in accordance with the Rules the meeting is convened at shorter notice.

The Council is committed to and will endeavour to give similar notice at its network of Local Link offices and on its web site.

### **D2.05 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Director: Governance and Communities shall make each such report available to members of the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

In addition the Council is committed to and will endeavour to make such items available at its Local Link offices and on its web site.

## **D2.06 SUPPLY OF COPIES**

The Council will supply copies of

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

to any person free electronically, or hard copy on payment of a charge for copying, postage and any other costs.

## **D2.07 ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Council will make available copies of the following for 6 years after a meeting:

- (a) The minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) A summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) The agenda for the meeting; and
- (d) Reports relating to items when the meeting was open to the public.

## **D2.08 BACKGROUND PAPERS**

### **8.1 List of Background Papers**

The author of every report will set out in that report a list of those documents (called Background Papers) relating to the subject matter of the report which in his/her opinion:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule D2.11) and, in respect of Executive reports, the advice of a political adviser.

## **8.2 Public Inspection of Background Papers**

The Council will make available for public inspection for 4 years after the date of the meeting one copy of each of the documents on the list of Background Papers. These documents will also be published on the Council's website unless they contain exempt or confidential information.

## **D2.09 SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Church Square House.

These rules constitute the written summary.

## **D2.10 PROCEDURE PRIOR TO PRIVATE MEETINGS**

10.1 If an executive decision making body decides to hold a meeting in private, at least 28 days before a meeting it must -

- (a) Make available at the offices of the relevant authority a notice of its intention to hold a meeting or part of a meeting in private.
- (b) Publish that notice on the Council's website

That notice must include a statement of the reasons for the meeting to be held in private.

10.2 At least five clear days before a private or part private meeting the decision making body must -

- (a) Make available at the offices of the council a further notice of its intention to hold a meeting or part meeting in private.
- (b) Publish that notice on the Council's website.

That notice must include a statement of the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement of its response to such representations.

10.3 Where the date by which a meeting must be held makes compliance with the above arrangements impracticable, the meeting may only be held in private where the decision making body has obtained agreement from -

- (a) The Chairman of the relevant Overview and Scrutiny Committee, or
- (b) If there is no such person, or if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, the Mayor, or
- (c) Where there is no Chairman of either the relevant Overview and Scrutiny Committee or the Council, the Deputy Mayor

that the meeting is urgent and cannot reasonably be deferred.

10.4 As soon as reasonably practicable after the decision making body has obtained agreement to hold a private meeting, it must -

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

## **D2.11 EXCLUSION OF ACCESS BY THE PUBLIC AND MEDIA TO MEETINGS**

### **11.1 Confidential Information - Requirement to Exclude Public**

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

### **11.2 Exempt Information - Discretion to Exclude Public**

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 11.3 Meaning of Confidential Information

Confidential information means information given to the Council by a Government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

### 11.4 Meaning of Exempt Information

Exempt information is defined in Schedule 12A of the Local Government Act 1972 (as amended) and means information falling within the following 7 categories (subject to the qualifications listed in Part II of that schedule):-

- (a) Information relating to any individual.
  - (b) Information which is likely to reveal the identity of an individual.
  - (c) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  - (d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
  - (e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
  - (f) Information which reveals that the authority proposes -
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person;
    - or
    - (ii) to make an order or direction under any enactment.
  - (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- ### 11.5 Qualifications: England
- (a) Information falling within paragraph (c) above is not exempt information by virtue of that paragraph if it is required to be registered under -
    - (i) the Companies Acts (as defined in section 2 of the Companies Act 2006);
    - (ii) the Friendly Societies Act 1974;

- (iii) the Friendly Societies Act 1992;
  - (iv) the Co-operative and Community Benefit Societies Act 2014;
  - (v) the Building Societies Act 1986; or
  - (vi) the Charities Act 2011.
- (b) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (c) Information which -
- (i) falls within any of paragraphs 11.4 (a) to (g) above; and
  - (ii) is not prevented from being exempt by virtue of paragraph 11.5 (a) or (b) above,

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

## **D2.12 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Director: Governance and Communities thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of the information likely to be disclosed.

## **D2.13 APPLICATION OF RULES TO THE EXECUTIVE**

Rules D2.14 - 26 apply to the Executive and its committees and individuals taking decisions. If the Executive or its committees meet to take a key decision then it/they must also comply with Rules D2.01 - 11 unless Rule D2.16 (General Exception) or Rule D2.17 (Special Urgency) apply. A key decision is defined in Article B13.03 of this Constitution.

If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the appropriate notice then it must also comply with Rules D2.01 - 11 unless Rule D2.16 (General Exception) or Rule D2.17 (Special Urgency) apply. A key decision is defined in Article B13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.



## **D2.14 PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule D2.16 (General Exception) and Rule D2.17 (Special Urgency) a key decision may not be taken unless:

- (a) Notice has been published in connection with the matter in question at least 28 days before a key decision is made;
- (b) Where the decision is to be taken at a meeting of the Executive or a Committee of the Executive notice of the meeting has been given in accordance with Rule D2.04 (Notice of Meetings).

## **D2.15 PUBLICITY IN CONNECTION WITH KEY DECISIONS**

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.

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) at the offices of the council, and
- (b) on the council's website.

Where, in relation to any matter

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

the document referred to above 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.

## **D2.16 GENERAL EXCEPTION**

Where the publication of the intention to make a key decision is impracticable, the decision may only be made -

- (a) where the proper officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and 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 the above (a); and
- (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to above.

Where the above applies to any matter, paragraphs D2.14 and D2.15 need not be complied with in relation to that matter

As soon as reasonably practicable after the proper officer has complied with the above he or she must -

- (a) make available at the offices of the council a notice setting out the reasons why compliance with paragraphs D2.14 and D2.15 is impracticable; and
- (b) publish that notice on the council's website.

## **D2.17 SPECIAL URGENCY**

Where the date by which a key decision must be made, makes compliance with paragraphs D2.14 and D2.15 impracticable, the decision may only be made where the decision maker has obtained agreement from -

- (a) the chairman of the relevant overview and scrutiny committee, or
- (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the mayor, or

- (c) where there is no chairman of either the relevant overview and scrutiny committee or of the council, the deputy mayor,

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

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

## **D2.18 REPORT TO COUNCIL**

### **18.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) treated as being a key decision, or
- (b) are of the opinion that the decision should have been treated as a key decision

The Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Director: Governance and Communities who shall require such a report on behalf of the Committee when so requested by the Chairman or Committee or any 5 members. Alternatively the requirement may be raised by Resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### **18.2 Executive's Report to Council**

The Executive Leader must submit to the council at least annually a report containing details of each executive key decision taken during the period since the last report was submitted to the authority where the making of the decision was agreed as urgent

A report submitted for the purposes of the above must include -

- (a) particulars of each decision made, and
- (b) a summary of the matters in respect of which each decision was made.

## **D2.19 RECORD OF DECISIONS**

After any meeting of the Executive or any of its Committees, whether held in public or private, the Director: Governance and Communities will produce a record of every decision taken at that meeting as soon as practicable. The record will 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 council's Head of Paid Service.

## **D2. 20 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

## **D2.21 NOTICE OF PRIVATE MEETING OF THE EXECUTIVE**

Members of the Executive or its Committees will be entitled to receive 5 clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **D2.22 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

- (a) All members of the Executive will be served notice of all private meetings of committees of the Executive, whether or not they are members of that committee.
- (b) All members of the Executive are entitled to attend a private meeting of any committee of the Executive although they may not speak unless the [members chairman] of the committee/sub committee agree[s].
- (c) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Director: Governance and Communities has been given reasonable notice that a meeting is to take place.

- (d) A private Executive meeting may only take place in the presence of the Director: Governance and Communities or his/her nominee with responsibility for recording and publicising the decisions.
- (e) The provisions of Rule D2.19 (Recording Decisions) will apply.

## **D2.23 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **23.1 Reports intended to be taken into account**

Where an individual member of the Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear working days after receipt of that report.

### **23.2 Provision of copies of reports to Overview and Scrutiny Committees.**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### **23.3 Record of Individual Decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or by an officer under Regulation 13(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, he/she will instruct the Director: Governance and Communities to prepare a record of the decision. The record will include -

- (a) the decision including the date it was made
- (b) the reasons for the decision
- (c) details of any alternative options considered and rejected by the member/officer when making the decision
- (d) details of any conflict of interest declared by any executive member who is consulted by the member or officer which relates to the decision and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the council's Head of Paid Service

The provisions of Rules D2.07 and D2.08 (Inspection of documents after meetings) will also apply to the making of decisions by individual

members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political adviser.

An individual member of the Executive will only make an Executive Decision in the presence of the relevant director, or his/her nominee, and the Director: Governance and Communities or his/her nominee, with responsibility for recording and publicising the decision.

## **D2.24 INSPECTION OF DOCUMENTS FOLLOWING EXECUTIVE DECISIONS**

24.1 After a meeting of a decision making body at which an executive decision has been made, or after an individual member or officer has made an executive decision in accordance with paragraphs 2.19 or 23.3 the Director: Governance and Communities must ensure that a copy of –

- (a) any records prepared in accordance with the above and
- (b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with paragraphs 2.19 and 23.3, where only part of the report is relevant to such a decision, that part,

must be available for inspection for members of the public as soon as reasonably practicable at the offices of the council and on the council's website.

## **D2.25 OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **25.1 Rights to Copies**

Subject to Rule 25.2 below an Overview and Scrutiny Committee (including its Sub Committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive or its committees; or
- (b) any decision taken by an individual Member of the Executive.

### **25.2 Limit on Rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or

decision they are reviewing or scrutinising or intend to scrutinise;  
or

- (c) the advice of a political adviser.

## **D2.26 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **26.1 Materials relating to previous business**

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

- (a) It contains exempt information falling within paragraphs (a) to (k) of the Categories of Exempt Information; or
- (b) It contains the advice of a political adviser.

### **26.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision unless paragraph 26.1(a) or (b) above applies.

### **26.3 Any document which is required to be available for inspection by a 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.**

### **26.4 Where a member of an overview and scrutiny committee requests a document the executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the executive receives the request.**

### **26.5 Nature of Rights**

These rights of members are additional to any other rights they may have.

## **D2.27 PROTOCOL FOR FILMING, AUDIO RECORDING AND REPORTING PUBLIC COUNCIL MEETINGS**

### **27.1 The council supports the principle of transparency and encourages the filming, audio recording and reporting by social media of its meetings that are open to the public. This includes the meetings of full council, committees, scrutiny panels, sub committees and cabinet.**

To facilitate these arrangements and to ensure that everyone has an equal opportunity the following arrangements will apply -

- (a) The filming and audio recording and reporting by internet and social media, of all public meetings whilst those meetings are open to the public is permitted in line with the Openness of Local Government Bodies Regulations 2014 and accompanying DCLG guidance.
- (b) Those wishing to film or audio record proceedings should, out of courtesy, inform the chair (or member of democratic services) of the meeting of their intentions to record prior to the start of the meeting.
- (c) Film or audio recordings by members of the public (including press) may only be taken overtly from the area(s) designated for the public and:
  - (i) Recording devices must be in silent mode;
  - (ii) No flash or additional lighting is permitted; and
  - (iii) Recordings must be taken from a position so as not to obstruct others from observing proceedings and focus on those participating in the meeting.
- (d) Members participating in the meeting are entitled to record proceedings from their seats, subject to the same requirements at (c) above.
- (e) All those attending a meeting open to the public are entitled to report on the meeting whilst it is taking place using any communication method, including the internet and social media by blogging and tweeting, save oral reporting or commentary during the meeting.
- (f) The chair of a meeting has the authority to instruct that recording and reporting be stopped (recording or reporting equipment must be switched off) where:
  - (i) The press and public have been excluded from the meeting because exempt or confidential business is being discussed;
  - (ii) There is public disturbance or a suspension/adjournment of a meeting;
  - (iii) The recording or reporting has become disruptive or distracting to the good order and conduct of the meeting or contrary to paragraph (c) above; and

Continued film recording is against the expressed wishes of a member of the public or deemed inappropriate to ensure the protection of children or vulnerable adults (however continued audio recording will



be permitted where the contributions are material to the decisions to be made).

Whilst the council is keen to work within the spirit of the Regulations and encourages transparency, it does however ask that those recording proceedings act reasonably and responsibly in so doing by not editing any film or audio record in such a way that could lead to misinterpretation of the proceedings. This includes refraining from editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being filmed and recorded.

At the beginning of each meeting, the chair will make an announcement that the meeting may be recorded and reported. Meeting agendas will also carry this message as will notices displayed in prominent positions at the meeting venue. All those attending meetings will be deemed through their attendance to consent to being recorded and reported.

## PART D RULE 3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### D3.01 THE FRAMEWORK FOR EXECUTIVE DECISIONS

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or policy framework is in place, it will be the responsibility of the Executive to implement it.

### D3.02 PROCESS FOR DEVELOPING THE FRAMEWORK

#### 2.1 In this Rule -

“executive” and “executive Leader” have the same meaning as in the Local Government Act 2000 (as amended); and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

#### 2.2 Where the executive of the council has submitted a draft plan or strategy to the council for its consideration and, following consideration of that draft plan or strategy, the council has any objections to it, the council must take the action set out in paragraph D3.03.

#### 2.3 Before the council -

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

it must inform the executive Leader of any objections which it has to the draft plan or strategy and must give to him or her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

#### 2.4 Where the council gives instructions in accordance with paragraph 2.3, it must specify a period of at least five working days beginning on the day after the date on which the executive Leader receives the instructions on behalf of the executive within which the executive Leader may -

- (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the

executive's reasons for any amendments made to the draft plan or strategy, to the council for the council's consideration; or

- (b) inform the council of any disagreement that the executive has with any of the council's objections and the executive's reasons for any such disagreement.

2.5 When the period specified by the council, referred to in paragraph 2.4 has expired, the council must, when -

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the council's objections and the executive's reasons for that disagreement, which the executive Leader submitted to the council, or informed the council of, within the period specified.

2.6 Subject to paragraph 2.10 where, before 8 February in any financial year, the council's executive submits to the council for its consideration in relation to the following financial year -

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way or substitute) in accordance with any of sections 31A, 31B , 34 to 36A , 42A, 42B , 45 to 49 , 52ZF , 52ZJ of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation;
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the council has any objections to them, it must take the action set out in paragraph 2.7.

- 2.7 Before the council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 2.6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive Leader of any objections which it has to the executive's estimates or amounts and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the council's requirements.
- 2.8 Where the council gives instructions in accordance with paragraph 2.7, it must specify a period of at least five working days beginning on the day after the date on which the executive Leader receives the instructions on behalf of the executive within which the executive Leader may -
- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the council's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the council for the council's consideration; or
  - (b) inform the council of any disagreement that the executive has with any of the council's objections and the executive's reasons for any such disagreement.
- 2.9 When the period specified by the council, referred to in paragraph 2.8. has expired, the council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 2.6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -
- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the executive's reasons for those amendments;
  - (c) any disagreement that the executive has with any of the council's objections; and
  - (d) the executive's reasons for that disagreement,
- which the executive Leader submitted to the council, or informed the council of, within the period specified.
- 2.10 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

- 2.11 In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and agree in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs D3.05 and D3.06 of these rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **D3.03 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Subject to the provisions of paragraph D3.05 (Virement) the Executive, Committees of the Executive, individual members of the Executive and any officers or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to, or not wholly in accordance with, the budget approved by Full Council, then that decision may only be taken by the Council subject to D3.04 below.
- (b) If the Executive, Committees of the Executive, individual members of the Executive and any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Chief Financial Officer and the Monitoring Officer as to whether the decision they want to make would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for a decision, unless the decision is a matter of urgency, in which case the provisions in paragraph D3.04 (Urgent Decisions Outside the Budget and Policy Framework) shall apply.

### **D3.04 URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Executive, a Committee of the Executive, an individual member of the Executive or officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to, or not wholly in accordance with the budget approved by Full Council 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 Full Council; and
- (ii) if the chairman or vice chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Full Council and the chairman or vice chair of the relevant overview and 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 or vice chair of a relevant overview and scrutiny committee, the consent of the Mayor or Deputy Mayor will be sufficient.

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

### **D3.05 VIREMENT**

The Executive, a Committee of the Executive, an individual member of the Executive or officer or joint arrangement may vire finance across different budget heads only in accordance with the council's financial regulations set out in this Constitution.

### **D3.06 IN YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Executive, a Committee of the Executive, an individual member of the Executive or officers or joint arrangement 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) necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (b) 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.

### **D3.07 CALL IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made, would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Chief Financial Officer and the Monitoring Officer.
- (b) In respect of functions which are the responsibility of the Executive, the Chief Financial Officer's report or the Monitoring Officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report and to prepare a further report to Council in the event that the Chief Financial Officer or Monitoring Officer conclude that the decision was a departure, and to the overview and scrutiny committee if the Chief Financial Officer or the Monitoring 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 Chief Financial Officer or the Monitoring Officer is that the decision is or would be contrary to the Policy Framework or contrary to, or not wholly in accordance with the budget, the overview and 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. The Council shall meet within seven working days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Financial Officer and/or the Monitoring Officer. The Council may either:
- (i) endorse a decision or proposal of the Executive decision taken 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 be circulated to all councillors in the normal way; or
  - (ii) Change financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Chief Financial Officer or the Monitoring Officer.

## PART D RULE 4 - EXECUTIVE PROCEDURE RULES

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### D4.01 HOW DOES THE EXECUTIVE OPERATE

#### 1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the council. These provide for executive functions to be discharged by:

- (a) The executive as a whole;
- (b) a committee of the executive;
- (c) an individual member of the executive;
- (d) an officer;
- (e) joint arrangements; or
- (f) another local authority.

#### 1.2 Delegation by the executive

At the annual meeting of the council, the Leader of the council will present to the council a written record of delegations for inclusion in the council's scheme of delegation set out in Part C to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the following council year:

- (a) The names, addresses and the wards of the people appointed to the executive;
- (b) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- (c) the Terms of Reference and Constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- (d) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- (e) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### 1.3 Sub-delegation of executive functions

- (a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to a joint arrangement or an officer.



- (b) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The Council's scheme of delegation and executive functions**

The council's scheme of delegation will be subject to adoption by the council each year. It will contain the details required in Article 7 and set out in Part C of this Constitution.

#### **1.5 Conflicts of interest**

- (a) In considering whether a conflict of interest arises members will have regard to the Code of Conduct in Part E and to the Access to Information Procedure Rules in Part D of this Constitution.
- (b) If such a conflict does arise then the member will not take part in consideration of the item unless a dispensation has been granted.
- (c) If the interest arises in respect of an item which has been delegated to the member, the decision may be taken by the whole Executive, by the Leader or by the Deputy Leader.

#### **1.6 Executive meetings – when and where?**

The executive will meet at least as often as full council on dates and at times to be agreed between the Leader and executive members which shall be reported to the Annual Meeting of Council. The Leader may in his/her discretion call further meetings if necessary. The executive shall meet at Church Square House, Scunthorpe or another location to be agreed by the Leader.

#### **1.7 Public or private meetings of the executive?**

The Access to Information rules in Part D of this constitution set out the requirements covering public and private meetings of the executive. Where any key decisions are to be taken by the executive or its committees they must meet in public subject to the requirements of the access to information arrangements.

Meetings of the executive will be held in public whenever the executive is to take decisions in accordance with the access to information rules in Part D.

## **1.8 Quorum**

The quorum for a meeting of the executive, or a committee of it, shall be 50% of the total number of members of the executive or a committee of the executive.

## **1.9 How are decisions to be taken by the executive?**

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part D of this Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

# **D4.02 HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

## **2.1 Who presides?**

The Leader will preside at any meeting of the executive or its committees at which he/she is present. If the Leader is not present, the Deputy Leader will preside. If either the Leader or the deputy Leader are not present the executive will appoint a person from among those present to preside at that meeting.

## **2.2 Who may attend?**

Attendance at meetings of the executive is governed by the Access to Information Rules in Part D of this Constitution. The executive itself will decide whether meetings relating to matters which do not involve the taking of key decisions are to be held in public or private.

## **2.3 What business?**

The Executive shall prepare a protocol on the conduct of its business and working arrangements. The protocol shall include provision for consideration of reports from scrutiny panels and reconsideration of any items referred to the Executive by a scrutiny panel or the Full Council in accordance with the overview and scrutiny procedure rules or the budget and policy framework procedure rules set out in Part D of this Constitution.

## **2.4 Who can put items on the executive agenda?**

- (a) The Leader will decide upon the agenda for the meetings of the executive. He/she may put on the agenda of any executive

meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The Director: Governance and Communities will comply with the Leader's requests in this respect.

- (b) The Head of Paid Service, the Chief Financial Officer or the Monitoring Officer may, after consultation with the Leader, also require an item to be included on the agenda and the Director: Governance and Communities will comply with such a request.
- (c) Any member of the council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered. This councillor will be invited to attend the meeting, whether or not it is a public meeting. However, there may only be up to one such item per executive meeting.

## **PART D RULE 5 - OVERVIEW AND SCRUTINY PROCEDURE RULES**

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### **D5.01 WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR SCRUTINY PANELS?**

The council will at its annual meeting appoint three scrutiny panels with the functions specified in Article 6 and with the membership and terms of reference set out in paragraph D5.08 of these procedure rules. Scrutiny panels shall demonstrate an apolitical approach and perspective, working together on behalf of local people.

### **D5.02 WHICH ELECTED COUNCILLORS MAY SIT ON SCRUTINY PANELS?**

All councillors, except members of the Executive, may be members of a scrutiny panel. However, no member may be involved in scrutinising a decision of another of the council's other committees/sub-committees of which they may also be a member. (This does not include scrutiny panel members who may also be 'lead members', unless they have a clear personal and prejudicial interest which should be declared in any case).

Members and co-opted members of scrutiny panels shall comply with the council's Code of Conduct for Members, (paragraph E9.01 of the Code refers to members involved in overview and scrutiny business).

Also see paragraph D5.03 below and paragraph D5.12(e)(iv) for statutory co-opted and other co-opted members of scrutiny panels.

### **D5.03 EDUCATION REPRESENTATIVES**

Any relevant scrutiny panel dealing with education matters shall include in its membership the following voting representatives:

- (a) One Church of England Diocese representative.
- (b) One Roman Catholic Diocese representative.
- (c) Two Parent Governor representatives.

Any relevant scrutiny panel in this paragraph is a scrutiny panel of the council where the panel's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If a scrutiny panel deals with any other matter, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

## **D5.04 MEETINGS OF SCRUTINY PANELS**

- (a) A schedule of meetings for every scrutiny panel will be determined at the Council's Annual Meeting. The chairman may vary the date and time of a specific meeting and omit or call further meetings to ensure an efficient and expedient process, particularly where there is a need for panels to react positively and decisively to developments within their service area. The chairman of a scrutiny panel shall ensure that the business to be carried out by the panel at each meeting is dealt with in a careful and responsible way to ensure the effective use of members' and officers' time and use of resources.
- (b) A scrutiny panel meeting will normally focus on one or a combination of the following overview and scrutiny functions:
- Policy Review and Development;
  - Overview of policy, procedure and performance
  - Added Items;
  - Cabinet member service area priorities
  - Performance Monitoring and Assessment;
  - Improvement and action plan monitoring;
  - Health scrutiny functions defined in the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002, and associated legislation and guidance including the Health and Social Care Act 2012.
  - Call-Ins;
  - Joint scrutiny work with other councils/partners.
  - Councillor Call for Action.
  - Relevant functions as the council's Crime and Disorder Committee under Paragraph 1. Section 19 of Part 3 of the Police and Justice Act 2006.
  - Meet responsibilities relating to flood management and safeguarding

This is likely to involve:

- project planning;
- evidence gathering;
- analysis and evaluation;
- conclusion reaching; or
- holding the council's Executive and/or external partners to account.
- making recommendations

On occasions it may be necessary or desirable to include a mix of these overview and scrutiny functions on the agenda for a single meeting, especially if two or more topics are being scrutinised concurrently.

- (c) Substitutions as member continuity is essential in the conduct of scrutiny reviews/work substitutes will only be used in circumstances which make it necessary/appropriate. However in such circumstances the Director : Governance and Communities shall be notified in writing of substitutes before the meeting the substitute is due to attend.

Any nominated substitutes should try to attend a briefing with a relevant scrutiny officer on current work in progress (at least half an hour) before the start of the meeting which that substitute is due to attend. Nominated substitutes shall contact a relevant scrutiny officer to arrange a convenient time and date for the briefing.

- (d) Meetings are usually held in public, but at the discretion of the chairman and/or panel, can be held in private for 'planning and evaluation' purposes or where exclusion of access by the public and media to meetings is applied in accordance with the Constitution's Access to Information Procedure Rules.

## **D5.05 QUORUM**

The quorum for a scrutiny panel shall be as set out for 'committees' in the Council Procedure Rules detailed in part D of this Constitution (ie. at least one third but no less than three members).

## **D5.06 WHO CHAIRS SCRUTINY PANEL MEETINGS?**

Unless the council decides otherwise, the chairmen and vice-chairmen of scrutiny panels shall be appointed by the council at the annual meeting.

The chairman of a scrutiny panel shall normally preside at meetings of a panel. In the absence of the chairman, the vice-chairman will preside. If neither the chairman nor the vice-chairman are present, a panel will appoint a person from among those present to preside at that meeting.

## **D5.07 SCRUTINY OFFICERS**

- (a) Scrutiny Officers will be appointed in respect of each of the scrutiny panels.
- (b) Scrutiny Officers will be responsible to the Director: Governance and Communities for the provision of high level support, guidance and detailed advice to scrutiny panels and their sub-groups including:

- drafting work programmes and scrutiny topic project plans for scrutiny panel approval;
  - researching, analysing and comparing information, policy and good practice for scrutiny topics;
  - compiling briefing reports and background papers on each scrutiny topic for scrutiny panel consideration;
  - suggesting lists of potential witnesses;  
briefing witnesses invited to attend scrutiny panel meetings;
  - briefing scrutiny panel members regarding witnesses and suggesting possible lines of questioning;
  - drafting overview and scrutiny reports for scrutiny panel approval reflecting evidence obtained and views expressed/decisions taken and recommendations agreed by members;
  - arranging publication of approved scrutiny reports following consultation with interested parties where appropriate;
  - referring on for further consideration elsewhere issues identified which scrutiny panels have been unable to fully explore during reviews;
  - developing and maintaining good relationships with relevant external partners (especially local health, police and voluntary sector partners);
  - applying and advising members and officers of new and good practice relating to all overview and scrutiny functions, and
  - identifying member and officer training needs.
- (c) Whilst it is recognised that Scrutiny Officers will normally perform a dual role by also acting as the committee administrator, in the case of complex reviews it may be necessary to provide additional assistance with:
- the co-ordination of meeting arrangements;
  - the drafting of agendas;
  - the collation of reports;
  - the provision of advice on the interpretation/application of terms of reference/procedure rules, and
  - the production of notes and minutes of meetings.

## **D5.08 MEMBERSHIP AND TERMS OF REFERENCE OF SCRUTINY PANELS**

### **(a) CHILDREN AND EDUCATION SCRUTINY PANEL**

Membership:

7 Councillors (6 Conservative, 1 Labour and 4 statutory co-opted members (voting) when dealing with education matters, paragraph D5.03 refers)

Terms of Reference:

To carry out relevant scrutiny functions relating to services commissioned or delivered by the council and its relevant partner authorities for -

(i) all children and young people, ensuring the effectiveness of associated safeguarding procedures, and

(ii) on all education matters (children, young people and adults)

*To be mindful at all times of the need to take account of the Council's Corporate Parenting Pledge, and the commitment to children in care and care leavers as contained within the Pledge in carrying out the panel's work.*

**(b) GOVERNANCE SCRUTINY PANEL**

Membership:

3 Councillors (2 Conservative and 1 Labour)

Terms of Reference:

To carry out the relevant overview and scrutiny functions relating to services delivered or commissioned by the council and its relevant partners and partner authorities including the shared services arrangements with North East Lincolnshire Council (Northern Lincolnshire Business Connect) and including all governance issues, corporate and strategic services, the council's budget performance and/or cross cutting and engagement issues,.

*To be mindful at all times of the need to take account of the Council's Corporate Parenting Pledge, and the commitment to children in care and care leavers as contained within the Pledge in carrying out the panel's work.*

**(c) HEALTH SCRUTINY PANEL**

Membership:

3 Councillors (2 Conservative and 1 Labour)

(i) To carry out relevant health scrutiny functions relating to services commissioned, planned or delivered by the council, clinical commissioning group and/or by local health services and clinicians, primary and acute care, mental health and ambulance services,

(ii) To carry out relevant scrutiny functions relating to services commissioned or delivered by the council and its relevant partner authorities for adult social care, adult safeguarding and vulnerable adults.

*To be mindful at all times of the need to take account of the Council's Corporate Parenting Pledge, and the commitment to children in care and care leavers as contained within the Pledge in carrying out the panel's work.*



(d) **PLACES SCRUTINY PANEL**

Membership:

3 Councillors (2 Conservative and 1 Labour)

Terms of Reference:

To carry out the relevant overview and scrutiny functions relating to services delivered or commissioned by the council and its relevant partners and partner authorities relating to -

(i) prosperous, safer, and cleaner places, environmental and community wellbeing and connectivity, and

(ii) to carry out all appropriate functions as the council's Crime and Disorder Committee under paragraph 1 Section 19 Part 3 of the Police and Justices Act 2006.

(iii) to meet responsibilities expected by the Pitt Review relating to flood risk management.

*To be mindful at all times of the need to take account of the Council's Corporate Parenting Pledge, and the commitment to children in care and care leavers as contained within the Pledge in carrying out the panel's work.*

(e) **SUB-GROUPS OF SCRUTINY PANELS**

- (i) Scrutiny panels may appoint sub-groups (working groups) when required to carry out overview and scrutiny business within their terms of reference or whilst carrying out cross cutting issues. Sub-groups shall consist of members of the appointing scrutiny panel, and if required, have cross-membership from two or more scrutiny panels whilst dealing with cross cutting issues.

A sub-group may consist of a minimum of two members, or any number up to the full size of an appointing panel, if so agreed by its members. Membership of a sub-group therefore need not reflect political proportionality of the council, but shall include statutory co-opted members where applicable (see paragraph D5.03 of these procedure rules). Non-statutory (non-voting) co-opted members may also be co-opted onto sub-groups following consultation with the appointing scrutiny panel(s) chairman. A nominated member of the appointing scrutiny panel and of the ruling group shall chair meetings of sub-groups. If this is not possible based upon the political composition of the sub-group then the chairman shall be

appointed from within its membership. Substitution rules as described in paragraph 4(c) of these procedure rules shall apply.

- (ii) Sub-groups may meet as and when required to carry out business in between timetabled scrutiny panel meetings. Members of a sub-group, in consultation with the relevant scrutiny officer, shall agree dates, times, location and format of meetings as business determines.
- (iii) Sub-groups of scrutiny panels may meet in public or in private as business requires. As 'working groups' Access to Information procedure rules need not apply to sub-groups, although notice shall be given to the press and public if the sub-group is to meet in public or their attendance and participation is invited.
- (iv) Sub-groups, following consultation with scrutiny officers, shall determine business carried out and the agenda and working papers required for meetings. Scrutiny officers shall record notes of outcomes and action points from meetings.
- (v) Overview and Scrutiny business, especially conclusions and recommendations of sub-groups shall be referred back to the appointing scrutiny panel(s) upon completion for consideration and approval. Appointing scrutiny panel(s) shall approve any final overview or scrutiny review documents, containing work carried out by sub-groups, prior to submission to the council, executive or responsible external organisation.

#### **D5.09 CHAIRMAN AND VICE-CHAIRMAN BRIEFING MEETINGS**

Chairmen and vice-chairmen of each scrutiny panel shall be encouraged to meet informally, together with the appropriate Scrutiny Officer, at a suggested minimum of two working days before meetings of their panel (and at other times as appropriate) to be briefed, discuss and co-ordinate current and future business, or any matter referred to them for consideration by another scrutiny panel.

At the request of the chairman and vice-chairman of each scrutiny panel, following consultation with the Director: Governance and Communities other members and/or officers of the council or representatives of other organisations shall be invited to attend such meetings.

#### **D5.10 GENERAL PROCEDURE AND STANDARD ITEMS AT SCRUTINY PANEL MEETINGS**

Scrutiny panels shall consider the following business where appropriate:

- (a) Minutes of the last meeting (public meetings);
- (b) Declarations of interest (including whipping declarations);
- (c) Consideration of any matter referred to them for a decision in relation to a call-in of a decision;
- (d) Added items;
- (e) Consideration of business of Cabinet Member Service Area Priorities.
- (f) Performance Monitoring and Assessment;
- (g) Responses of the Executive to reports of the scrutiny panels;
- (h) The business otherwise set out on the agenda for the meeting, and

Any other business deemed appropriate.

- (j) Requests from the public to speak at scrutiny panel meetings
  - (i) Any member of the public may request to address any scrutiny panel (including special meetings) on any appropriate matter that falls within its terms of reference. This will appear as a standard agenda item for scrutiny panel meetings held in public.
 

Any member of the public who wishes to speak must notify the Director: Governance and Communities in writing/by email/by phone or in person prior to the start of a meeting. The Director: Governance and Communities in consultation with the chairman of the relevant panel, will confirm receipt and arrangements with the individual requesting to speak. They may also (in exceptional circumstances) decide and inform an individual that their request is not appropriate (giving reasons) and refuse the opportunity to speak. Any request to speak at a panel meeting by a member of the public shall remain at the discretion of the chairman of that panel.
  - (ii) A member of the public shall address a scrutiny panel for a reasonable period of time, which shall be at the discretion of the chairman. Speakers should confine the content of their remarks to the issue they have raised. They should not be repetitive, irrelevant, or make personal remarks. The chairman of the meeting will intervene should they attempt to do so, and at their discretion, stop the individual from speaking.

- (iii) After the individual has stopped speaking or been requested to stop speaking by the chairman, the chairman at their discretion, shall invite other members of the scrutiny panel to comment or ask questions of the member of the public who has spoken.

The panel may then wish to recommend to note the content of the speech, or recommend/vote upon a course of action.

- (iv) Only two separate public speakers will be allowed to address a scrutiny panel at any one meeting. This maybe about the same issue, if one is for or against for example, or be two different matters. Where a group of people request to speak they must nominate a spokesperson to represent their views and only that individual will be invited to speak.
- (v) If any matter raised by a member of the public is then deferred for any reason by a scrutiny panel, then the panel shall decide whether or not to invite the individual back to speak at a further meeting. (See paragraph (ii) above).
- (vi) Nothing in this rule shall prevent any member of the council attending a meeting of a scrutiny panel under the provisions of any other rule to speak if so invited or requested.

#### **D5.11 URGENT DECISIONS, CONSULTATION ON AND THE DEVELOPMENT OF THE COUNCIL'S BUDGET AND POLICY FRAMEWORK**

- (a) The role of overview and scrutiny panels relating to urgent decisions, consultation on and development of the council's budget and policy framework is set out in the Constitution's Budget and Policy Framework procedure rules.
- (b) A relevant overview and scrutiny panel(s) shall be consulted on draft proposals for the council's annual budget before it is approved and adopted for each council year. Similarly, relevant overview and scrutiny panel(s) shall also be consulted on new and/or significant changes to the council's policy framework before they are approved and adopted.

## D5.12 OVERVIEW AND SCRUTINY - WORKING PROCEDURES

In accordance with its Terms of Reference and General Procedures at scrutiny panel meetings (see paragraphs D5.08 and D5.10) a Scrutiny Panel (and their sub-groups where applicable) shall conduct its business using the following working procedures where applicable:

- (a) **'Added items'** shall be a standard agenda item for each meeting and the following procedure used for discussion -
  - (i) Any member of any scrutiny panel, including statutory co-opted members shall be entitled to request in writing to the Director: Governance and Communities that he/she/they wish an item relevant to the functions of the council, (post policy making decisions) and/or in the interests of the local community, to be included on the agenda for a future scheduled meeting of the panel. A member(s) shall at the time of the request give clear reasons why the item has been requested and also identify the subject matter and nature of any questions likely to be asked at a future meeting when the item is discussed
  - (ii) A relevant report or briefing paper (with any background papers) shall be submitted by the Chief Executive, and/or Director(s) for inclusion as part of that meeting's agenda.
  - (iii) Consideration of these added items shall be held in public, unless exclusion of access by the public and media is applicable, in accordance with the Constitution's Access to Information Procedure Rules, this being at the discretion of the panel.
  - (iv) To assist with the efficient management of business a limit of one individual 'added item' shall be included on the panel's agenda for each meeting.
  - (v) The chairman of the panel will agree the item to be considered at individual panel meetings in consultation with the Director: Governance and Communities on the basis of the order in which requests to include items are received.
  - (vi) The chairman of the panel will report to each meeting on those requests received which will not be considered at that particular panel meeting because of the limit on the number of items. The chairman will inform the panel at which scheduled meeting a particular item is likely to be considered by the panel.
  - (vii) For all 'added items' the Chief Executive and/or Director(s) (or his/her representative) shall be invited to attend the meeting. It is at the discretion of the panel whether they are required to speak to their report, provide information and respond to the

panel's questions. (Officers are in attendance to deal with the factual content of their report, not to comment upon decisions taken by members). It is also at the discretion of the panel, whether any other individual including cabinet members are invited to attend the meeting to speak to an added item, if required. (Holding the cabinet/cabinet member to account for a decision made, but not yet implemented, is a matter for the 'call-in' procedure, paragraph D5.22 refers).

(viii) Where requests to include 'added items' have been agreed they should be dealt with at a meeting of the scrutiny panel as follows, also applying the requirements of paragraph D5.19 of these procedure rules:-

- The chairman to introduce the item and the scrutiny panel to decide whether the Chief Executive and/or Director(s) are required to summarise his/her corresponding report or briefing paper.
- The chairman shall require the scrutiny panel member(s) that requested the item to initiate discussions on it and ask questions of the Chief Executive and/or Director(s) (or any other relevant chairman/cabinet member/or member) present at the meeting.
- The chairman shall invite any other scrutiny panel member or other members present at the meeting to ask questions of the Chief Executive and/or Director(s) (or any other relevant chairman/cabinet member/or member) present at the meeting.
- The panel to determine how to deal with the item. The panel shall either note the item, recommend a specific course of action, and/or recommend that further work, or an overview or full scrutiny review be carried out by an appropriate scrutiny panel, under its terms of reference, as part of its annual work programme.
- The chairman to conclude business and move on to the next item on the agenda for that meeting.

**(b) Cabinet Member Service Area Priorities Meetings**

Scrutiny Panels shall meet at least every two months with relevant Cabinet Member(s) to consult, discuss and consider business within his/her service area portfolio and/or a scrutiny panel's terms of reference. However, cabinet members may be invited to attend meetings on a more ad-hoc basis should scrutiny panels seek further insight, clarification or explanation to policy changes or service

development or other specific issues identified by the panel. This business may include -

- (i) discussion of items prior to decision; (post decision, refer to 'Added Items' in paragraph D5.12(a).
- (ii) opportunities for Cabinet Members to discuss and possibly refer appropriate business to a relevant scrutiny panel for consultation, and/or consideration for inclusion in its work programme;

Business to be consulted on, discussed and considered by a scrutiny panel shall be at the discretion of the chairman, the relevant cabinet member(s) and in consultation with the Director of Governance and Communities.

- (c) (i) **'Performance Monitoring and Assessment'** – Scrutiny Panels shall monitor and evaluate the progress of implementation, effectiveness and performance of action taken or to be taken by the council's cabinet and cabinet members, known as the 'Executive'. The panel shall 'hold the Executive' and/or external partners/partnerships to account' on the performance of selected corporate, service, strategic and budgetary issues. The following performance information and plans (along with others as and when identified) may be used –
  - Performance Indicators and targets
  - Budget Monitoring Reports
  - Benchmarking data
  - Executive Action Plans for previous overview and scrutiny reports
  - Appropriate internal and external audit action plans.
  - Value for money reports.
- (ii) Performance monitoring issues shall be held in public, unless exclusion of access to the public and media is applicable in accordance with the Constitution's Access to Information Procedure Rules, this being at the discretion of the panel.
- (iii) The panel shall report its findings in public giving an 'overview' of the key issues and responses of cabinet members and officers involved. The panel shall also comment upon, form conclusions, and make recommendations suggesting any necessary improvement action which should be carried out by the Executive using an action plan.
- (iv) The panel's report and recommendations shall be submitted to the next available Cabinet meeting for debate, consideration and action. (see paragraph D5.21)

- (v) When conducting the above performance monitoring 'overview' reviews the panel shall, where possible, use the following suggested procedure -

First Stage - Receive a report from the Chief Executive and/or Director(s) containing the relevant performance document/action plan, comments and evidence supporting achievements, implementation, improvements and targets met or otherwise, with appropriate explanations.

- The Chief Executive and/or Director(s) and cabinet member(s) shall attend the meeting to inform and respond to question from the panel.

Second Stage - Findings and evidence from the first stage shall be collated and presented to the panel for discussion and evaluation. The panel, if no further 'overview' information is required, shall agree any comments and recommendations for inclusion in a succinct draft report.

- If the panel has significant major concerns it may recommend that a full scrutiny review (Policy Review and Development Procedure) be carried out by an appropriate scrutiny panel as part of its work programme.

Third Stage - A succinct draft report containing the panel's key findings, comments and recommendations shall be received, considered and approved for submission to the Cabinet/cabinet member for action.

- (vi) The length and depth of the above procedure can be varied if required, with the agreement of the panel and as advised by the Director: Governance and Communities.

- (d) (i) 'Executive Action Plans for previous scrutiny reports' - Approximately 12 months following the adoption of an Executive Action Plan for a previous scrutiny report, the Chief Executive and/or Director(s) at the request of a relevant scrutiny panel shall prepare and submit a brief report to it outlining progress in implementing the plan, its effectiveness and identifying any particular problems encountered.



If the relevant scrutiny panel has any concerns about progress or effectiveness of implementation of above plans, it can undertake an 'overview review' as part of its work programme as soon as possible. (A relevant scrutiny panel may wish to include members who carried out the original scrutiny review).

When a relevant panel decides to carry out an overview review the procedure set out in paragraph D5.12c(v) above of these procedure rules shall be adopted.

**(e) Policy Review and Development**

- (i) Policy review and development shall be carefully project managed and, at the discretion of a panel, focus upon selected cross cutting services, or be service specific (within its Terms of Reference). External issues and joint scrutiny may also be considered in the interests of the local and wider community.

Policy Review is likely to focus on examining whether intended or current policy outcomes have been achieved and/or have been effective. Take up of services, awareness, procedures involved and other factors may be explored.

Policy Development is likely to involve shaping the formulation of new or existing policy by examining options, alternatives and preferences balanced against resources, needs, best practice, potential outcomes and other factors.

(It is impossible to separate completely policy development from policy review. Undertaking policy review usually leads to making recommendations for developing policy)

- (ii) Having agreed topics for inclusion in its work programme, a scrutiny panel shall conduct both policy review and policy development scrutiny reviews using the following suggested procedure also applying the requirements of paragraph D5.19 of these procedure rules. This shall be applied and varied, with the agreement of the panel, as advised by the Director: Governance and Communities and to suit the nature, complexity and length of a scrutiny review:-

**Scrutiny Review Procedure**

Objectives and recommendations of scrutiny reviews approved by relevant scrutiny panels shall be SMART (Specific, Measurable, Achievable, Realistic and Timely). Also they shall address value for money and potential financial savings..

The stages of the scrutiny review procedure shall aim to be flexible and include half-day scrutiny panel meetings for evidence gathering, interviewing and analysis for example, as agreed by the scrutiny panel, to ensure that reviews are completed in a reasonable period of time – approximately two months. (subject to agreed variation by the scrutiny panel in consultation with the Director: Governance and Communities.

- |              |   |
|--------------|---|
| First Stage  | <ul style="list-style-type: none"> <li>- Background information/presentation on subject area and key issues.</li> <li>- Scoping sessions identifying review aims, realistic objectives, approaches and possible impact and outcomes in order to proceed.</li> </ul>   |
| Second Stage | <ul style="list-style-type: none"> <li>- Information/evidence gathering and fact finding using research, analysis, evaluation and assessment techniques - usually identifying the national and council's position, policies, resources and performance; applying relevant legislation, guidance and good practice; using statistics, benchmarking and comparisons with other local councils, and organisations and consulting key stakeholders, service providers, users, partner organisations, politicians, employees and members of the public, for example.</li> </ul> <p style="margin-left: 40px;">Workshop sessions with and site visits to the above.</p> |
| Third Stage  | <ul style="list-style-type: none"> <li>- Interviewing (and evaluation of feedback) from witnesses including key stakeholders, experts, advisers, assessors, representatives of government, local councils partner organisations, service providers and users, politicians, employees and members of the public, for example.</li> </ul>   |
| Fourth Stage | <ul style="list-style-type: none"> <li>- Drafting and consideration of findings, conclusions and recommendations.</li> </ul> <p style="margin-left: 40px;">Consideration and approval of draft scrutiny review report for submission to cabinet.</p>  |
- (iii) The panel shall report its agreed findings, conclusions and recommendations formally for each scrutiny review to the cabinet for consideration and action.

(An illustrated version of the above procedure is set out for ease of reference in Table one at the end of these procedure rules)

- (iv) The panel following consultation with the Director: Governance and Communities may appoint or co-opt (with non-voting rights) experts, advisers or assessors to assist them. It may commission research, conduct public surveys, and do all other things that are reasonably considered necessary to inform its deliberations. The panel may ask key stakeholders and expert witnesses to provide written evidence and/or attend meetings to address members on any matter under consideration (see paragraph D5.16).

External experts, advisers, assessors or witnesses may be paid a reasonable fee and/or expenses for their attendance.

- (v) On occasions and where necessary a scrutiny panel may request a short informal pre-meeting/briefing prior to a scheduled meeting of a panel, where individuals, groups and representatives have been invited to interview or consultation for example.

### **D5.13 HEALTH SCRUTINY**

- (a) (i) The Health Scrutiny Panel shall scrutinise any matter relating to the planning, provision and operation of health services provided or commissioned by local National Health Services (NHS) bodies within the council's area, or services provided outside the council's area for inhabitants within it. These include services which promote health or prevent ill-health and provide treatment for individual patients which are managed, arranged and provided by appropriate health agencies.

The panel shall also scrutinise any issue which may have a wider effect on people's health, to address health inequalities and seek improvements to people's physical and mental wellbeing. This may involve a number of public and private organisations and agencies including the council, NHS bodies and the voluntary and community sectors.

- (ii) Having agreed topics for inclusion in its work programme, following consultation with members and officers of the council, local NHS bodies, Healthwatch and relevant voluntary sector organisations, the panel shall conduct health scrutiny reviews using a similar suggested procedure as outlined in paragraph D5.12 (e) (ii) and applying the requirements of paragraph D5.19 of these procedure rules.

- (iii) The panel may co-opt non-voting individuals onto the panel with an interest in, or knowledge of an issue being scrutinised. They shall remain a co-opted member of the panel for the duration of the issue being scrutinised, unless the panel decides otherwise. On occasions it may be preferable for the individual to act as an adviser to the panel, rather than be co-opted formally.

**(b) Making Reports and Recommendations to the relevant NHS Body**

The Health Scrutiny Panel has no power to make decisions or to require that others act upon their suggestions (although an NHS Body is required, on request, to respond in writing to recommendations made). The panel shall make reports and recommendations to the council's cabinet, relevant NHS bodies or other local agencies on any appropriate matter it reviews or scrutinises in accordance with the Health and Social Care Act, 2001 the Health and Social Care Act, 2012 and associated legislation. The following procedure shall also be used:-

**(i) Reports shall include -**

- an explanation of the issue addressed;
- a summary of the evidence considered;
- a list of the participants involved in the review or scrutiny;
- the panel's findings and conclusions, and
- any recommendations on the matters considered.

- (ii) A draft report shall be sent to any NHS body that has been involved in the review to check for factual accuracy. All participants shall be informed of the report's date of publication.

- (iii) Where the panel has sent an approved, published report to any NHS body that has been involved in a review, it shall also request a response from that organisation. A response should be received within 28 days (however a shorter or longer period can be negotiated) and should include -

- the views of the NHS body on the recommendations;
- the proposed action in response to the recommendations, and
- any reason for inaction to the recommendations made.

- (iv) Where a health scrutiny review has implications for, comments upon or makes recommendations to any service provided by the council, the panel shall submit the report to the council's cabinet for debate, consideration and any action. A similar suggested procedure set out in paragraph D5.22 of these procedure rules shall then be applied where appropriate.

**(c) Consultation by NHS Bodies**

- (i) Each local NHS body has a duty to consult the Health Scrutiny Panel on any proposal it has under consideration for a substantial development of the health service(s), or a substantial variation in the provision of a service(s) in the council's area.
- (ii) The relevant NHS body is likely to discuss any proposals for the above changes with the panel at an early stage, in order to agree whether or not the proposal is considered substantial. The discussions should also include agreement of how long the consultation shall last and how it is to be carried out, taking into account local community needs, relevant documentation, communication with and response from interested parties, and their analysis and evaluation.
- (iii) An NHS body undertaking a consultation shall, if necessary, be invited to attend a meeting(s) of the Health Scrutiny Panel upon request to explain and answer questions on the rationale behind the proposals and the options for change being considered.
- (iv) Having considered the above proposals and local evidence gathered, the panel shall prepare and submit its comments (if any) to the relevant NHS body(ies). If the panel has any comments it shall respond within the time-scale specified by the NHS body.

In accordance with the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations, 2002 the committee can either:-

- (i) support the proposals of the NHS body;
  - (ii) not support the proposals, and provide reasons and evidence for this;
  - (iii) make suggestions or comments as agreed and deemed appropriate, and
- (v) in exceptional cases where the panel is not satisfied -
- with the content of the consultation or that sufficient time has been allowed or
  - that the reasons given for not carrying out consultation with the scrutiny panel are inadequate.

it may report the issue to the Secretary of State in writing making its reasons and conclusions clear. The panel shall not consider any referral to the Secretary of State until the relevant NHS body(ies) has had an opportunity to respond to the panel's comments, and if it so wishes, an effort has been made to resolve the matter locally.

- (vi) Where referral has been made to the Secretary of State he/she may ask an Independent Reconfiguration Panel (IRP) to advise him/her on the matter before direction is given to the NHS body and/or Health Scrutiny Panel on the above matters.
- (vii) Responses to consultations by NHS bodies shall be made available in public, unless the matter is exempt for reasons defined in the council's Constitution, Access to Information Procedure Rules or by Patient Confidentiality legislation.

**(d) Joint Committees/Panels**

- (i) Joint scrutiny committees/panels may be required to be established by two or more appropriate local authorities where -
  - a specific scrutiny review is planned, reviewed and undertaken of a NHS health service provided and spanning more than one local council area, and
  - a response is required or directed by the Secretary of State to a NHS body(ies) consultation on any proposal to substantially develop or vary services where those services are provided to populations that span more than one council area.
- (ii) Joint committees/panels shall have political proportionality for members from each participating local authority unless members of all authorities agree to waive that requirement.
- (iii) Joint committees/panels shall only undertake the functions which appointing authorities allocate to them, making their roles, responsibilities and terms of reference clear.
- (iv) Local authorities participating should share the costs and resource implications of working together. It may be appropriate to agree a 'lead' council for a review.
- (v) When a joint committee/panel has completed its scrutiny review it should produce one report - reflecting the views of all local authority scrutiny committees/panels involved in the joint committee/panel. The report should aim to be consensual. The NHS body receiving the report must respond in writing to any requests for responses to the report or recommendations, within 28 days of receipt of a request.

A joint committee/panel commenting on proposals for a substantial variation or development of a service shall comment back to the relevant NHS body using the options in paragraph c (iv) above.

(e) **Humber and North Yorkshire Joint Health Overview and Scrutiny Committee.**

(i) Terms of Reference

The Humber and North Yorkshire Joint Health Overview and Scrutiny Committee (the JHOSC) is a joint committee appointed under Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218.

The participating authorities are:

- City of York Council
- East Riding of Yorkshire Council
- Hull City Council
- North East Lincolnshire Council
- North Lincolnshire Council
- North Yorkshire Council

The participating authorities authorise the JHOSC to discharge the overview and scrutiny functions related to engagement and statutory consultations on substantial developments or variations to local health, or integrated health and care services.

In rare circumstances, the JHOSC can also undertake other relevant scrutiny work as deemed appropriate.

(ii) The JHOSC will comprise three members of each of the above local authorities, nominated by each council on a politically proportionate basis.

(iii) The JHOSC will have two standing sub-committees:

- The North Yorkshire and York Scrutiny Sub-Committee (6 members)
- The Humber Scrutiny Sub-Committee (12 members)

Each Sub-Committee will comprise the members of the relevant Humber and North Yorkshire JHOSC. The sub-committees do not have decision-making powers and will report up to the JHOSC, who retain the responsibility to respond to statutory consultations by the ICS.

(iv) The JHOSC may appoint working groups on a particular footprint if thought appropriate. They will also report up to the JHOSC.

(v) The JHOSC may co-opt members from other local authorities on a non-voting basis, if thought appropriate. This is limited to one member per authority. The JHOSC may also co-opt other non-voting individuals, or

appoint advisors, arrange discussions with interested parties etc. as deemed necessary.

- (vi) The JHOSC will be hosted on a rotational basis to be agreed by members. The host authority will provide the Chair, venue, administrative support etc. All meetings will comply with the relevant constitutional arrangements and practices of the host. Sub-Committees will also act in accordance with these arrangements.
- (vii) Members will be expected to comply with usual standards of behaviours, as set out in their authority's Code of Conduct and the Nolan Principles.
- (viii) The JHOSC will operate in accordance with usual scrutiny practices, requesting information and arranging interviews with key figures from the ICS (including the Integrated Care Board and the Integrated care Partnership), Place Based Partnerships, providers, and other interested parties. The JHOSC is likely to consider the following issues when substantial developments and variations are proposed:
  - Access for patients and their families/carers,
  - The views of the public, patients, and their families/carers,
  - The impact of the proposals for patients and their families/carers,
  - The impact of the proposals on the local health economy,
  - The effect on each area's economy, health, and wellbeing,
  - Alignment with each area's Joint Health and Wellbeing Strategy, the Joint Forward Plan, the Integrated Care Strategy and any other document as deemed appropriate.

#### **D5.14 DEVELOPING AND IMPLEMENTING THE OVERVIEW AND SCRUTINY WORK PROGRAMME**

- (a) Each scrutiny panel will be responsible for setting their own programme of work for a council year or for an agreed longer period of time. This work will form the council's Overview and Scrutiny Work Programme. In setting their own work programmes overview and scrutiny panels shall operate within their terms of reference, or jointly with other panels for cross-cutting issues, and take account of the following:-
  - (i) Consideration of other scrutiny panels' work and recommendations for potential overview and scrutiny reviews and avoid possible duplication.
  - (ii) ensuring that overview and scrutiny topics do not fall disproportionately on individual council services, partners or National Health Service Bodies at any one time;
  - (iii) scrutiny reviews of whole council service units should normally be avoided;



- (iv) National Health Service bodies statutory duty to consult local overview and scrutiny panels on any proposal it has under consideration for a substantial development of the health service(s) or a substantial variation in the provision of such a service(s) in the council's area;
- (v) a statutory requirement to establish a joint overview and scrutiny committee/panel of two or more local authorities to respond to a National Health Service body's consultation on any proposal to substantially develop or vary services where those services are provided to areas that span more than one council area.
- (vi) overview and scrutiny reviews shall only be carried out and continued if, having taken into consideration relevant advice given by the Director: Governance and Communities (a panel is of the opinion that) a review is likely to -
  - contribute real improvements for local people or the council or;
  - delivers council priorities or;
  - improves performance or;
  - contributes to local partnerships;
  - or, contributes to or improves the health of the local population and/or the quality of health services in the area, and
  - the aims, objectives and recommendations of a review are SMART (Specific, Measurable, Achievable, Realistic and Timely), and they address value for money and potential savings.
- (vii) scrutiny panels shall invite all council members, the Chief Executive and Directors and members of the public to suggest possible topics for inclusion in their work programmes. Informal consultation between scrutiny chairmen and the council's Executive shall encourage cabinet members to refer appropriate business to a relevant scrutiny panel for its consideration for inclusion in its work programme.

Appropriate National Health Service bodies, health organisations and voluntary and community sector organisations and other partners shall also be consulted on proposals for reviews of and/or associated with services they deliver in the council area;
- (viii) Scrutiny panels shall also consult with Cabinet Members who shall have opportunities to discuss and refer appropriate business to a relevant scrutiny panel for its consideration for inclusion in its work programme (see paragraph D5.12(b)).

- (ix) proposed co-options and experts required to provide specific advice for a review;
- (x) where a scrutiny panel conducts a review or scrutinises a matter which also falls (whether in whole or part) within the remit of another scrutiny panel, then the panel conducting the review shall invite the chairman and all panel members of the other panel (or his/her nominee) to attend its meetings when the matter is being considered.
- (xi) An annual report or summary of the work carried out by the council's overview and scrutiny panels each council year may be presented by the Director: Governance and Communities to either the council, cabinet and/or members of the public.

#### **D5.15 RIGHTS OF SCRUTINY PANEL MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as councillors, members of scrutiny panels (and statutory co-opted members) have the additional right to council documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part D of this Constitution.
- (b) Nothing in paragraph (a) prevents more detailed liaison between the Executive and scrutiny panels as appropriate, depending on the particular matter under consideration on which the Director of Governance and Communities shall advise.
- (c) In accordance with the Health and Social Care Act 2001 and the Health and Social Care Act, 2012 and subsequent statutory regulations, local National Health Service (NHS) bodies must provide a scrutiny panel with such information about the planning, provision and operation of health services in the area of the panel's local authority as the panel may reasonably require to undertake effective overview and scrutiny. (A number of exceptions to this requirement are detailed in Part 1 of Schedule 1 of the Health and Social Care Act, 2001).

Where a local NHS body relates to more than one overview and scrutiny panel and a joint committee/panel has been established, it will have fulfilled its duty in providing information to all those committees/panels by providing it to the joint committee/panel.

- (d) Also, if a request for information is made by an overview and scrutiny panel, and an NHS body refuses to provide the information, the overview and scrutiny panel may refer the issue to the body responsible for "performance managing" the NHS organisation. The performance managing body should consider the request seriously and negotiate for a speedy resolution to the request.
- (e) Freedom of Information requests may also be received relating to the work of and documents produced by overview and scrutiny panels.

These requests will be dealt with in accordance with the requirements of the Freedom of Information Act 2000 and associated procedures adopted by the council.

#### **D5.16 MEMBERS AND OFFICERS OF THE COUNCIL REQUESTED TO ATTEND MEETINGS**

- (a) Any scrutiny panel may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member and/or any officer to attend before it to explain in relation to matters within their remit;
  - (i) any particular decision or series of decisions (information pre-decision shall normally be provided by an officer);
  - (ii) the extent to which the actions taken implement council policy;
  - (iii) their performance and/or
  - (vi) their views and options

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend a scrutiny panel under this provision, the chairman of that panel will inform the Director : Governance and Communities giving as much notice as possible. The Director: Governance and Communities shall inform the member or officer in writing of the meeting at which he/she is required to attend. The notice will state 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 panel.

Where the account to be given to the panel requires 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 panel shall in consultation with the member or officer arrange an alternative date for attendance to take place again giving as much notice as possible.

#### **D5.17 ATTENDANCE AT MEETINGS BY A REPRESENTATIVE(S) OF A LOCAL NATIONAL HEALTH SERVICE (NHS) BODY**

- (a) Overview and scrutiny panels can request the attendance of an appropriate officer from a local NHS body to answer questions during a scrutiny review. NHS bodies are under a duty to comply with these requests. A scrutiny panel shall give reasonable notice of its request for an officer to attend, and provide an indication of the issues being

considered, and where possible an outline of the potential lines of enquiry.

- (b) The Health and Social Care Act, 2001 and subsequent statutory regulations does not require the chairman or non-Executive directors to attend before an overview and scrutiny panel. However, there may be times when they may wish to accept invitations to enable the panel to discuss issues of governance and policy relating to the NHS body.

#### **D5.18 ATTENDANCE BY OTHERS**

A scrutiny panel may invite people other than those people referred to in paragraph D5.16 and D5.17 above to address, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives of other parts of the public sector, partners, voluntary sector and local businesses, and shall invite such people to attend.

#### **D5.19 MEMBER, OFFICERS AND OTHERS GIVING ACCOUNT, EVIDENCE, INFORMATION AND/OR ANSWERING QUESTIONS AT MEETINGS**

Where scrutiny panels request those identified in paragraphs D5.16, 17 and 18 above to attend meetings to give account, evidence, information and/or to answer questions to assist their investigations business shall be conducted in accordance with the following principles:-

- (i) That the investigation be conducted fairly and all members of the panel be given the opportunity to ask relevant and appropriate questions of attendees, and to contribute and speak;
- (ii) That those assisting the panel by attending to give account, evidence, information and/or answer questions be treated with respect and courtesy;
- (iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis, and
- (iv) The content of the debate and questioning is at the discretion of the chairman, who shall take into consideration whether sensitive information and/or exempt information is likely to be disclosed, and if necessary with the agreement of the panel, take appropriate action in accordance with the Constitution's Access to Information Procedure Rules and/or appropriate exemptions relating to information provided by a NHS body.

#### **D5.20 THE PARTY WHIP**

- (a) When considering any matter in respect of which a member of a scrutiny panel is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements shall be recorded in the minutes of the meeting;

or

- (b) when considering any matter in the following categories:

for example

any matter referred to the overview and scrutiny panel by the Executive;

or the review of any decision;

or the performance of any member of the Executive.

In respect of which a member of a scrutiny panel is subject to a party whip, the member must declare the existence of the whip and the nature of it, before the commencement of the panel's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

#### **D5.21 MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE COUNCIL'S EXECUTIVE (AND RELEVANT NATIONAL HEALTH SERVICE BODIES)**

- (a) Following completion of an overview and scrutiny review (see paragraph D5.13 for 'health reviews') a scrutiny panel shall make its approved report public prior to its submission to the Council's cabinet. Electronic and/or hard copies of the report shall be made available to all key stakeholders.
- (b) Completed and public reports will be submitted to the next available cabinet meeting for its consideration.

Where the report relates to an Executive function the report will be referred to the next available meeting of the cabinet, where:-

- (i) The cabinet will consider the content of the report, and its recommendations.
- (ii) The chairman (and scrutiny officer) of the relevant scrutiny panel may be required to attend that meeting of the cabinet to speak on the scrutiny report, and respond to any questions asked by cabinet members.

- (iii) The Cabinet will then produce a draft action plan responding to the scrutiny report's recommendations within 30 days and submit it for consideration/approval to its next meeting.
- (iv) The draft action plan will also be submitted to the relevant scrutiny panel for comment before consideration by the Cabinet. Any comments will then be included in a corresponding report containing the draft action plan, to be submitted and considered by the Cabinet or relevant cabinet member(s) for approval.

This report will explain clearly why any recommendation contained in the scrutiny panel's report cannot be implemented. The action plan will give target dates when all other recommendations are likely to be implemented. A relevant Cabinet Member(s) and/or the Chief Executive or Director may be required to attend a meeting of a relevant scrutiny panel to discuss and respond to questions on their action plan.

- (v) Review of progress and effectiveness of implementation of the Executive Action Plan shall be carried out in accordance with paragraph D5.12 (c) (v) of these procedure rules.
- (c) Consideration by relevant National Health Bodies and the council (or any other key stakeholder), and their response to an overview and scrutiny report relating to the planning, provision, and operation of local health services, shall be carried out in accordance with paragraph D5.13 (b) of these procedure rules.

## **D5.22 CALL-IN PROCEDURE**

Call-in should only be used in exceptional circumstances. These are where members of the appropriate scrutiny panels have evidence which suggest that the cabinet or decision maker did not take the decision in accordance with the principles set out in Article 13 of the Constitution. (Call-in is of a decision made, but not yet implemented).

- (a) When decisions are made by the cabinet, an individual member of the cabinet or a committee of the cabinet, or a key decision is made by an officer under delegated authority (or under joint arrangements), those decisions shall be published, including wherever possible by electronic means, and shall be available at the main offices of the council normally within two working days of being made.
- (b) Chairmen and vice-chairmen of all scrutiny panels will also be sent copies of the records of all such decisions within the same timescale by the person responsible for publishing the decision, i.e. the proper officer of the council or his representative.

- (c) On publication of decisions in accordance with the council's executive arrangements, those decisions which can be subject to call-in as detailed in paragraph D5.22 (a) will come into force and may then be implemented on the expiry of two working days after publication, unless a scrutiny panel objects to a particular decision and calls it in.
- (d) During the period referred to in (c) above, the Director: Governance and Communities shall call in a decision for scrutiny by the relevant scrutiny panel if so requested by the chairman or any two members of any scrutiny panel, and shall then notify the decision taker of the calling in of a particular decision. The request shall also give clear reasons why the decision has been called in. (A proforma is available electronically from the Service Manager: Democracy).
- (e) Where a decision has been called in, any action to implement that decision will be suspended until it may be made in accordance with the following provisions of this procedure rule.
- (f) In consultation with the chairman of the relevant scrutiny panel, the Director: Governance and Communities shall call a meeting of that panel on such a date and at such time to be determined within five working days of the decision to call-in. The relevant cabinet member (together with the Chief Executive and/or Director(s)) shall be requested to be available to attend the meeting in order to respond to any questions from the panel on or relevant to the decision.
  - An agenda for the meeting to consider the called in decision will be sent to members of the scrutiny panel with a copy of the request for call-in, a copy of the decision and a copy of the report on which the decision was based.
  - At the meeting of the panel the chairman or a nominee of the members who have requested the call-in, shall be required to present the reasons why the decision has been called in and initiate any questioning of the relevant cabinet member(s), together with the Chief Executive and/or Director(s), on or relevant to the decision.
  - The chairman shall then invite other members of the panel to ask the relevant cabinet member (together with the Chief Executive and/or Director(s)) any further questions on or relevant to the decision.
  - The panel will then consider whether it has sufficient material before it on which to decide the next course of action i.e. to take no further action on the decision, refer it back to the decision maker for reconsideration or (in limited circumstances) to refer it to the council (see paragraphs (g) - (m) below).

- If the panel decides that it needs further information and/or the attendance of particular persons in order to reach a decision it shall arrange a further meeting to enable the information and/or persons to be available.
  - The decision will remain suspended until the scrutiny process has been completed and one of the outcomes set out in paragraph (g) has been achieved.
- (g) If, having considered the decision, the relevant scrutiny panel is still concerned about it, then it may -
- (i) recommend (with any representations), that the decision be reconsidered by the body or person that made it, or
  - (ii) arrange for the full council to consider the decision and, where necessary, ask the executive or decision maker to reconsider it.
- If the decision is referred back to the decision maker or decision making body, that decision should be reconsidered within a further five working days.
- (h) Where the decision maker or decision making body reconsiders the decision it could -
- (i) confirm the original decision, or
  - (ii) agree to change that decision having considered the representations made by the scrutiny panel.
- (i) If, following an objection to a particular decision, the panel does not meet, or does meet but does not refer the matter back to the decision making person or body, that decision shall take effect on the date of the scrutiny meeting, or the expiry of that further five working day period referred to in paragraph (f) above, whichever is the earlier.
- (j) The relevant scrutiny panel may exercise its power in section 21(3)(b) of the Local Government Act 2000 to refer a matter to the council only if the panel considers that the decision is contrary to the policy framework or contrary to, or not wholly in accordance with the budget.
- (k) If a matter is referred to the full council in accordance with paragraph (j) above, the Director: Governance and Communities in consultation with the Mayor shall call an extraordinary meeting of the council within seven working days.
- (l) If the council does not object to a decision which has been made, then no further action is necessary and the decision will become effective on the date of that council meeting. However, if the council does object it has no power to make decisions in respect of an executive decision



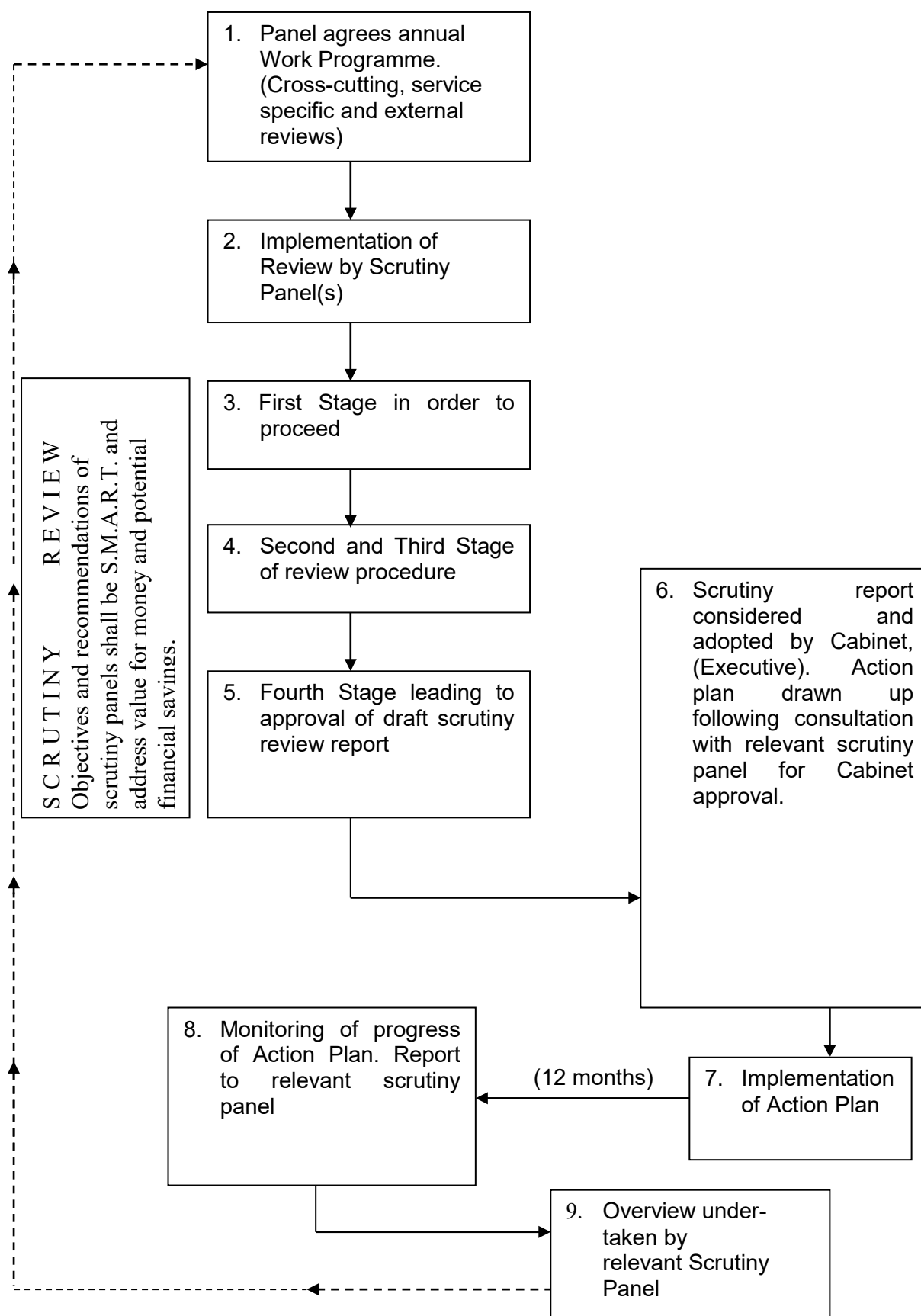
unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the council will refer any decision to which it objects back to the decision making person or body, together with its views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the cabinet as a whole or a panel of it, a meeting will be convened to reconsider that decision within five working days of the council request. Where the decision was taken by an individual cabinet member, that individual should reconsider the decision within five working days of the council request.

- (m) If the council does not meet, or if it does but does not refer the decision back to the decision making person or body, that decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been called, whichever is the earlier.
- (n) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. In the case of a key decision the provisions of Part D Rule 2.17 must be observed before the decision is taken. Such key decisions taken as a matter of urgency must be reported in accordance with Part D Rule 2.18 (2).
- (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.
- (p) In order to ensure that call-in is not abused, nor causes unreasonable delay, but at the same time to ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the Executive within the policy framework and budget agreed by the council, the following limitations have been placed on its use -
  - (i) Call-in of any Executive decision must be within two working days of the publication of a decision.
  - (ii) The chairman or any two members of any overview and scrutiny panel are needed for a decision to be called in.
  - (iii) Overview and scrutiny panels may call-in fifteen Executive decisions in total in the twelve month period, annual meeting to annual meeting.

(An illustrated version of the 'Call-in' procedure is set out for ease of reference in Table two at the end of these procedure rules).

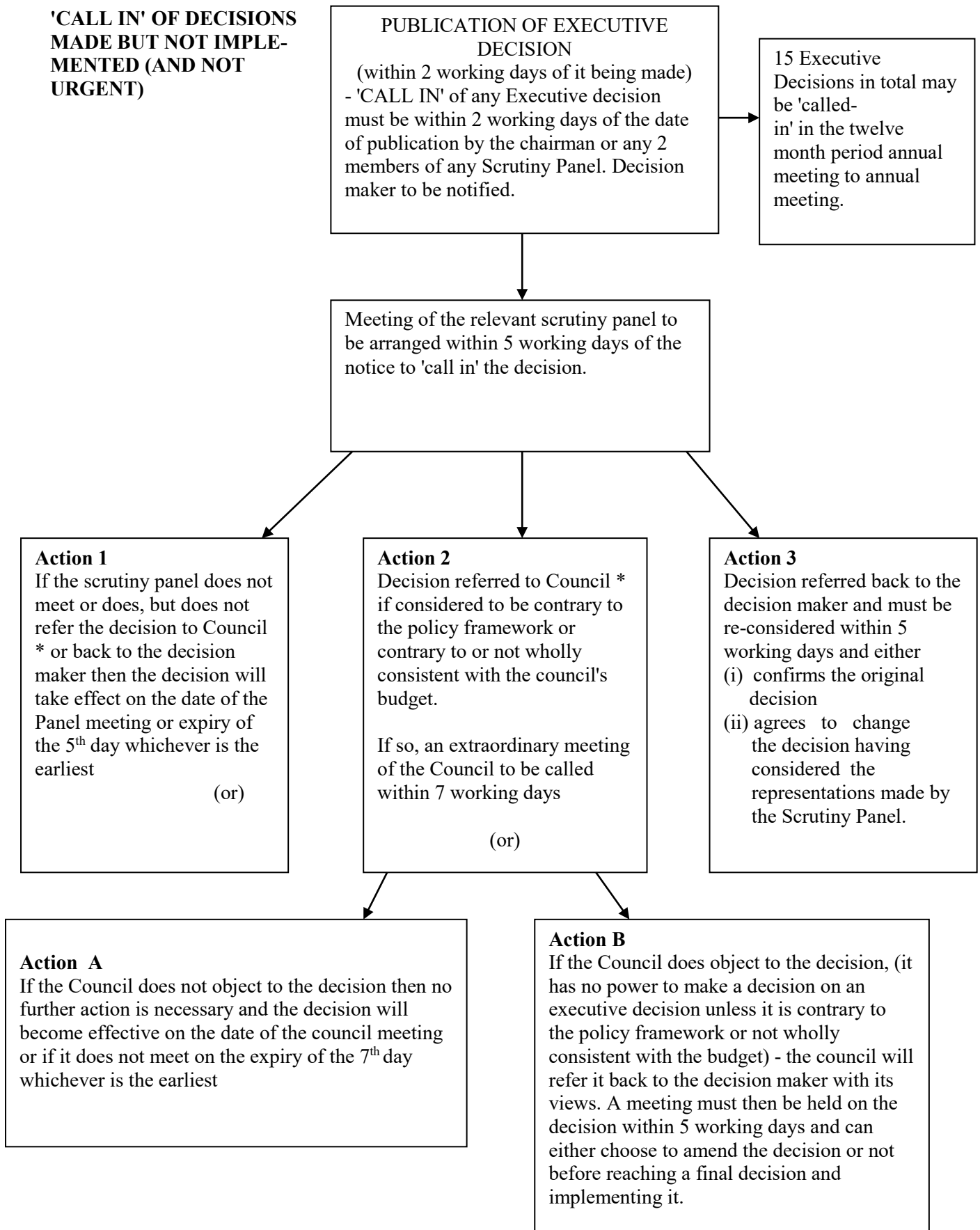
**Table One**

**POLICY REVIEW AND DEVELOPMENT  
SCRUTINY PROCEDURE**



**Table Two**

**'CALL IN' OF DECISIONS  
MADE BUT NOT IMPLEMENTED (AND NOT  
URGENT)**



## **D5.23 COUNCILLOR CALL FOR ACTION PROTOCOL**

### **(a) Introduction**

- (i) The "Councillor Call for Action"(CCfA) was introduced under section 119 of the Local Government and Public Involvement in Health Act 2007, and came into force on 1 April 2009.
- (ii) The Act enables any member of the Council to refer to an appropriate scrutiny committee/panel any local government matter or any crime and disorder matter which affects their ward.<sup>1</sup> In North Lincolnshire, CCfAs regarding local government matters shall be referred to and dealt with by the relevant scrutiny panel as defined by its terms of reference. Crime and disorder matters shall be referred to and dealt with by the council's Crime and Disorder Committee as stated in the Police and Justice Act 2006, Crime and Disorder (Overview and Scrutiny) Regulations. This will be deemed to be the Places Scrutiny Panel. However, all referrals to either panel shall apply this protocol.
- (iii) The power to refer a matter as a CCfA is available only where the matter is of direct concern to the ward which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree - any of them can refer a matter.

### **(b) Limitations**

- (i) It is important to recognise that CCfA is a 'last resort' and is also not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and through discussion, trying to overcome them.

### **(c) Issues excluded from referral as a CCfA**

- (i) The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
  - Individual complaints concerning personal grievances or commercial issues.
  - Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example;

Planning and licensing applications and appeals, Council Tax/Housing Benefits complaints and queries, and issues currently under dispute in a court of law.

- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the appropriate scrutiny panel. (or its sub-groups)<sup>2</sup>.

1. For definitions of a local government matter and a local crime and disorder matter please see explanatory notes pages at appendix 2.

2. For definitions of vexatious, discriminatory and not reasonable please see explanatory notes pages at Appendix 2.

(ii) In addition to the above, a matter which is the same or substantially similar to one which has been the subject of a CCfA within the period of twelve months shall be regarded as an excluded matter.

(iii) A referral, provided it is not an excluded matter (see above), will ensure that the matter can be considered by the scrutiny panel. It is then up to the panel to decide whether or not to take the matter further as a CCfA.

(iv) Advice and determination of exclusions will be given by the Service Manager: Democracy and ultimately the Monitoring Officer.

**(d) Steps to be taken prior to making a Councillor Call for Action referral**

(i) Prior to a councillor referring a matter as a CCfA to the scrutiny panel, a councillor must have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:

- If a local crime and disorder matter, have raised the issue through the North Lincolnshire Safer Neighbourhoods Partnership and Neighbourhood Action Teams to find a way to resolve it.
- Ensure that all relevant partner organisations have been informed of the issue and have been given enough time to attempt to resolve it, for example, through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs, parish and town councils and especially Neighbourhood Action Teams.

- Ensure that all relevant and potential routes to solution within the council have been followed, for example informal/formal discussions with officers and/or cabinet members, questions at committees and petitions.
- Ensure that it is not an issue that is currently being or should be pursued via the Council's complaints procedure or any other appropriate complaints procedure.
- Ascertain whether or not any other form of local scrutiny is investigating the issue, (for example, Standards and Audit Committees).

**(e) How to make a Councillor Call for Action referral**

- (i) After carrying out the above, and if the issue/problem is still not resolved, the councillor can refer it to the scrutiny panel as a "Councillor Call for Action ". To do this the councillor should complete and submit to the Service Manager: Democracy a 'CCfA Request Form' outlining what the issue is and what steps have been taken towards a resolution. The request form is available from the Service Manager: Democracy (electronically or hard copy). See Appendix 1. The request form for a CCfA should include:
  - The name of the councillor and ward they represent
  - Title of the CCfA and date of submission
  - Why the councillor thinks the issue should be looked at by the appropriate scrutiny panel
  - A brief synopsis of what the main areas of concern are
  - What evidence the councillor has in support of their CCfA
  - Which areas or community groups are affected by the CCfA
  - What the councillor has done to try and resolve the issue prior to requesting a CCfA (Any letters, emails etc should be attached to the form as evidence of what has been tried to resolve the issue).
  - Whether the CCfA is currently the subject of legal action by any party (to the councillor's knowledge) or is being examined by a formal complaints process
  - Whether there are any deadlines associated with CCfA of which the appropriate scrutiny panel needs to be aware.
- (ii) The Service Manager: Democracy shall receive the referral form, log it to track its progress, and following the advice of the monitoring officer, shall assess the issue to ensure that it is not a matter excluded from referral to the scrutiny panel.

- (iii) Following confirmation by the Monitoring Officer, or Service Manager: Democracy shall inform the chairman of the appropriate scrutiny panel that the request has been received and whether it shall be an agenda item for consideration by the panel. The referring councillor(s) shall also be informed whether or not their referral has been successful.
- (iv) A successful referral will ensure that the CCfA shall be placed on the next agenda of the scrutiny panel (public meeting). It is then up to the panel to decide whether or not to take the matter further. (see timescales, page 5)

**(f) Decision of the Scrutiny Panel whether to take the matter further**

- (i) In deciding whether or not to take the matter further the panel shall consider:
  - Any work that the councillor has done in relation to this matter; and
  - Representations made by the councillor as to why the panel should take the matter up; Councillors are expected to present their CCfA and to submit a brief covering statement setting out their views, for consideration by the scrutiny panel. Any statements prepared by councillors shall be circulated with the agenda alongside the CCfA referral form (This information will need to take account of the disclosures of exempt information as described in Part 1 of Schedule 12A of The Local Government Act 1972 (as amended))
- (ii) In considering the CCfA the chairman of the scrutiny panel may invite the relevant cabinet member (or other member) the Chief Executive, or Director(s) or external organisation or any other witnesses to discuss the issue with the panel and answer any questions. Appropriate notice should be given. All those invited should make every effort to attend (or send an appropriate representative).
- (iii) The criteria the scrutiny panel shall use to decide whether or not to take the matter further shall include:
  - Is the scrutiny panel satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?
  - Has the scrutiny panel considered a similar issue recently - if yes have the circumstances or evidence changed?



- Is there a similar or related issue which is the subject of a overview/review on the current scrutiny work programme? (It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account)
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure or any other complaints process?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the ward's local community)?
- Is this an issue currently being looked at by another form of local scrutiny, (for example, a Standards or Audit Committee)?
- And as with all overview and scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which can realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?

**(g) Considering the CCfA**

- (i) If the panel decides not to accept the CCfA referral it must inform the referring councillor(s) and provide reasons in writing.
- (ii) If the panel decides to accept the CCfA referral, it must agree how and when it intends to take the matter forward and include the CCfA in its annual work programme.
- (iii) The panel should agree how the CCfA is dealt with (possibly using a sub-group if necessary) and which members, witnesses, partners, officers, co-optees be invited, following advice received from the Service Manager : Democracy.
- (iv) The councillor(s) shall be informed in writing that the referral has been successful and the course of action to be taken.

**(h) Potential outcomes**

- (i) Following consideration after CCfA investigations, there are the following possible outcomes from the appropriate scrutiny panel:

- The scrutiny panel write a report and make recommendations on the CCfA to the cabinet and/or relevant partners organisations.
  - The scrutiny panel could determine that it is a complex issue that requires further investigation and commissions a full policy review and development scrutiny review of the issue:
- (ii) Once the scrutiny panel has completed its work on the CCfA referral the councillor who made the CCfA referral, shall receive a copy of any report and recommendations made. The report shall also be made available on the council's website, unless the matter was an exempt item, in which case the report may not be made public.
  - (iii) Once published the report should be referred to the cabinet where its recommendation should be considered and an action plan agreed (see 9.4 below).

**(i) Timescales**

- (i) Once a CCfA has been assessed as not being a matter which is excluded from referral to the scrutiny panel, the item will be included on the next scrutiny panel's (public meeting) agenda. If a meeting of the scrutiny panel is not scheduled within 28 days of receipt, a special meeting may be arranged following consultation with the chairman.
- (ii) If the scrutiny panel decides to accept the referral as a CCfA, it will agree how to take the matter forward (following advice received from the Service Manager: Democracy) and include it within its annual work programme.
- (iii) Should a CCfA hearing result in a report and recommendations to the cabinet being made, the cabinet shall consider these together with an action plan at its next appropriate meeting.
- (iv) Should a CCfA hearing result in recommendations to partner organisations, such organisations shall be requested to make a response (with action to be taken) to the report and recommendations within one month.
- (v) The action/outcomes of the CCfA will be revisited by the appropriate scrutiny panel within 6-8 months of above response/agreed action plan.

## Appendix 1 - Councillor Call for Action Request Form

This form should be used by any Councillor who would like the appropriate Scrutiny Panel to consider a Councillor Call for Action in their ward.

Councillor			
The ward you represent			
Title of your councillor Call for Action			
Date of Submission			
<b>Have you approached the appropriate scrutiny panel on the same issue in the past twelve months?</b>			
<b>Yes</b>		<b>No</b>	
<b>Would you like your response by:</b>			
<b>Email</b>		<b>Letter</b>	
Why you think the issue should be looked at by the scrutiny panel ?			
<b>Please give a brief synopsis of the main areas of concern</b>			

What evidence do you have in support of your CCfA (please attach)

Which areas or community groups are affected by the CCfA

How have you tried to resolve the issue? (please attach any evidence)

Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?

Are there any deadlines associated with the CCfA of which the scrutiny panel needs to be aware?

**(please expand upon an attached sheet of paper if required).**

Please complete and return the form to:

**Service Manager: Democracy  
Church Square House  
30-40 High Street  
SCUNTHORPE  
North Lincolnshire  
DN15 6NL**

## **Appendix 2 - Explanatory Notes**

### **1. Definition of a local government matter and a local crime and disorder matter**

#### **Local government matter**

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- Relates to the discharge of any function of the council,
- Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- Is not an excluded matter.

However, the guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA, the interpretation of "local government matter" needs to be broader. This includes issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority's duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

#### **Local crime and disorder matter**

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

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

### **2. Definitions of "vexatious", "persistent", "discriminatory" and "not reasonable"**

Statutory regulations deal with matters that can be excluded from CCfA, stating that "any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the scrutiny committee is to be excluded".

## **Vexatious/Persistent**

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

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid - it may relate to a systematic problem that has not been effectively resolved.

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

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

## **Discriminatory**

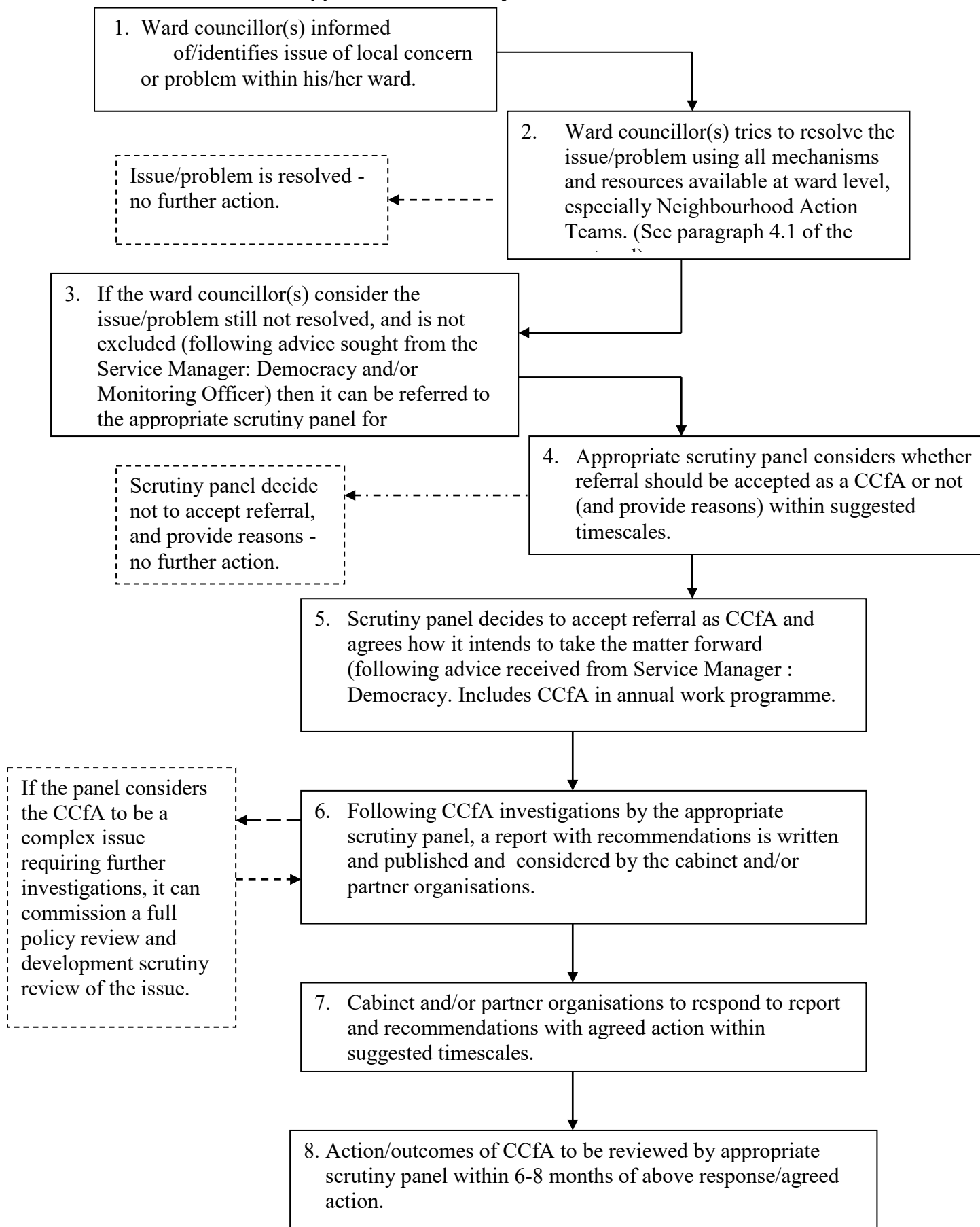
A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:-

*A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others.* This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

## **Not reasonable**

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

### Appendix 3 - Summary of CCfA Process



## **D5.24 SCRUTINY OF THE CRIME AND DISORDER REDUCTION PARTNERSHIP**

### **(a) Introduction**

- (i) In accordance with Part 3 of the Police and Justice Act 2006, local authorities have the power to scrutinise the Crime and Disorder Reduction Partnership in their area (in North Lincolnshire this is the Safer Neighbourhoods Partnership) and make reports and recommendations to the Local Authority and the partnership. In North Lincolnshire, this is undertaken by the Governance Scrutiny Panel, which has been designated the “Crime and Disorder Committee” under Paragraph 1, Section 19 of Part 3 of the Act.
- (ii) This Protocol has been produced between North Lincolnshire Council, The Governance Scrutiny Panel and the respective partners comprising the North Lincolnshire Safer Neighbourhoods Partnership. The publication of Regulations and good working practice has shaped this Protocol which may be revised by agreement between all the interested parties in order to continually improve the scrutiny process.

### **(b) Principles of Scrutiny Operation**

- (i) Scrutiny in North Lincolnshire is positive, objective and constructive. It acknowledges good practice and recommends improvements where it feels that these would be of benefit. Scrutiny concentrates on service outcomes and seeks to add value to each service that it considers.
- (ii) Community safety and freedom from crime and disorder for the people of North Lincolnshire is dependant upon many factors including the services provided in partnership by partners in the Safer Neighbourhoods Partnership. This shared responsibility will be acknowledged by scrutiny and will feature in scrutiny reviews.
- (iii) Scrutiny of the reduction of crime and disorder will only be truly successful if key organisations work and co-operate together in an atmosphere of mutual respect and trust with an understanding and commitment to its aims.
- (iv) The key organisations involved in scrutiny of crime and disorder must be willing to share information, knowledge and reports which relate to the delivery and success of services in North Lincolnshire and carry out duties that would be reasonably expected of them to enable crime and disorder scrutiny to be successfully undertaken.
- (v) At all times both officers and members of the organisations involved in crime and disorder scrutiny, representatives and members of the public will be treated with respect and courtesy. Matters of confidentiality will be treated with respect.



- (vi) Crime and disorder scrutiny will be open and transparent. Any person involved in crime and disorder scrutiny will always declare any personal or other pecuniary interest that they have either in a scrutiny exercise or during a meeting of the scrutiny panel in accordance with the Code of Conduct relating to standards of conduct and ethics.
- (vii) The North Lincolnshire Governance Scrutiny Panel, whilst working in partnership, is independent of the respective partners comprising the North Lincolnshire Safer Neighbourhoods Partnership.
- (viii) Scrutiny of Crime and Disorder will try to maximise the involvement of the community and will work with other agencies representing the public.
- (ix) Scrutiny of Crime and Disorder will be focused on improving services and service provision for the people of North Lincolnshire and will concentrate on outputs that are intended to help improve community safety and reduce the fear of crime in North Lincolnshire.

**(c) The North Lincolnshire Governance Scrutiny Panel**

- (i) All dates and times of meetings of the Scrutiny Panel, agendas, minutes and reports will be circulated to members and the North Lincolnshire Safer Neighbourhoods Partnership in accordance with the Local Government Act 2000 or subsequent legislation.
- (ii) The North Lincolnshire Safer Neighbourhoods Partnership will be consulted on Annual Work Programmes and informed in advance of scrutiny exercises that the Scrutiny Panel is intending to undertake. They will also be informed of the scope of all scrutiny exercises and will be given adequate notice of invitations to attend meetings of Scrutiny Panels and any required information.
- (iii) The North Lincolnshire Safer Neighbourhoods Partnership will be consulted on any draft reports before they are published. Final reports will be presented to North Lincolnshire Council, the North Lincolnshire Safer Neighbourhoods Strategy Board, be published on the Council's website and circulated in accordance with the regulations on scrutiny of crime and disorder.
- (iv) Crime and disorder scrutiny is not to be used as a complaints procedure. Case studies may however be used as part of supporting information for scrutiny exercises.
- (v) The North Lincolnshire Safer Neighbourhoods Partnership will be informed of any press releases relating to crime and disorder scrutiny although the council's Public Relations Service may speak to the press

in advance of meeting to brief them about forthcoming Scrutiny Panel meetings.

- (vi) The Governance Scrutiny Panel will at all times comply with the Constitution of North Lincolnshire Council.

**(d) North Lincolnshire Safer Neighbourhoods Partnership**

- (i) The North Lincolnshire Safer Neighbourhoods Partnership will work in partnership with the Governance Scrutiny Panel to provide objective and effective scrutiny of crime and disorder in North Lincolnshire.
- (ii) The Safer Neighbourhoods Partnership will provide information relating to the planning and operation of crime and disorder reduction activities and strategies that is required by the Scrutiny Panel so that it can undertake its required scrutiny reviews. This excludes information reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating persons or bodies.
- (iii) Information provided to the Scrutiny Panel shall be depersonalised unless the identification of an individual is necessary or appropriate in order to enable the Scrutiny Panel to properly exercise its powers (not withstanding the paragraph above).
- (iv) The Safer Neighbourhoods Partners will provide the Scrutiny Panel with such information within 20 working days of the receipt of the request, in line with Freedom of Information legislation. The partners will endeavour to provide such information as soon as it is practicable.
- (v) The North Lincolnshire Safer Neighbourhoods Partnership will respond to crime and disorder scrutiny reviews by written, considered response as soon as practicable and otherwise within a maximum of twelve weeks. The Safer Neighbourhoods Partnership will provide acknowledgement of the report and an initial response within four weeks of the presentation of the report, if a considered response is not ready at that time.
- (vi) A separate protocol and procedure will be agreed to cover references to the Scrutiny Panel from the elected members via the Councillor Call for Action.
- (vii) The Safer Neighbourhoods Partnership will nominate a main contact person for each crime and disorder scrutiny exercise and maintain regular contact with the Scrutiny Panel, attending in person when invited.

- (viii) The Safer Neighbourhoods Partnership will ensure that staff members attending Scrutiny Panel meetings are able to answer questions openly and are given appropriate support by their line managers.
- (ix) The Safer Neighbourhoods Partnership will be proactive and suggest potential topics and items of interest for inclusion on the Governance Scrutiny Panel's work programme.
- (x) The Safer Neighbourhoods Partnership will contribute where appropriate to other cross-cutting reviews that have incidental impact on Crime and Disorder matters.
- (xi) The Humberside Police and Crime Panel will be fully engaged in the Governance Scrutiny Panel where crime and disorder matters are being considered.

## **PART D RULE 6 – FINANCIAL REGULATIONS**

### **D6.01 RESPONSIBILITY AND COMPLIANCE**

- 1.1 The council has appointed the Director: Governance and Communities the officer responsible for the proper administration of the council's financial affairs under Section 151 of the Local Government Act 1972.
- 1.2 The following Financial Regulations are based on the requirements of the Accounts and Audit Regulations 2015 and subsequent amendments and all employees of the council are required to comply with the regulations and any detailed manuals of instruction, accounting instructions, or points of procedure, issued by the Director: Governance and Communities.
- 1.3 To enable the Director: Governance and Communities to meet these responsibilities all members and Directors are required to consult the Director: Governance and Communities with respect to any matter which is liable to materially affect the resources of the council, before any commitment is incurred, or a report made to any formal decision-making process.
- 1.4 Directors are required to take all necessary steps to ensure that all employees are aware of their obligations under Financial Regulations and to apply disciplinary procedures as necessary to enforce compliance.
- 1.5 Prudential Code - When considering capital investment decisions which affect council borrowing the Director: Governance and Communities will report to council the indicators required by the Local Government Act 2003 and the CIPFA Prudential Code. This will normally be to the special council meeting which sets the annual budget and council tax. He/she will ensure that these are monitored regularly and revised where necessary. Reports will be made to council or cabinet periodically during the year, and in all cases when changes have been made.

### **D6.02 APPLICABILITY OF FINANCIAL REGULATIONS**

- 2.1 The financial regulations shall apply to all council service outlets and support units, including all trading accounts.
- 2.2 The Director: Governance and Communities shall review the regulations and all accounting procedure notes at appropriate intervals and shall report to cabinet on the need for any changes.

### **D6.03 FINANCIAL ADVICE**

- 3.1 The Director: Governance and Communities shall be the principal financial advisor to the council, cabinet and all formal decision-making processes of the council. He/she shall be represented at all meetings of the council and cabinet, and at such other meetings as he/she considers necessary if it is likely that matters of financial importance are to be discussed.
- 3.2 All officers of the council shall advise the Director: Governance and Communities of any reports or statements which they propose to submit, or take to a meeting of cabinet, cabinet member, a committee, or of council, which could have financial implications. This should be in sufficient time for the Director: Governance and Communities to be able to make any observations on the financial implications.

### **D6.04 ESTIMATES AND BUDGETARY CONTROL**

- 4.1 Estimates of income and expenditure for periods of one year or longer shall be prepared by Directors in consultation with the Director: Governance and Communities for approval by the appropriate service cabinet member, the cabinet and the council.
- 4.2 The Director: Governance and Communities shall determine, subject to direction by the council, the form and timing of the estimates.
- 4.3 All budgets will normally be cash limited and spending must remain within the specified limits.
- 4.4 Each Director shall nominate budget holders to be responsible for managing specified budgets.
- 4.5 Where changes to service delivery or new capital schemes are proposed which have financial consequences to the approved estimates in excess of £350,000, they shall be the subject of written reports by the appropriate Director and the Director: Governance and Communities to the appropriate service cabinet member. Financial consequences shall include both capital and revenue, and changes to either expenditure or income, or both. This regulation shall be subject both to the cash limits in regulation 4.3 and to the budget transfer requirements in regulation 4.7.
- 4.6 Expenditure may be incurred within the budget approved by the council without further reference to any formal decision-making process unless specifically required by cabinet or the appropriate service cabinet member.
- 4.7 The necessary approval for a revenue or capital budget transfer depends on the value of the transfer.

Where cabinet or a cabinet member approves a report, such as a new policy or a staffing review, which requires a budget transfer the budget transfer will be made on the basis of the decision report.

Authorisation levels for other budget transfers are set out below:

<b>Budget transfer Value</b>	<b>Budget transfer Type</b>	<b>Permissions required</b>
Under £50k	Revenue	Head of Service
£50k to £100k	Revenue/Capital	Director in consultation with Accountancy Strategic Lead or Chief Accountant
£100k to £350k	Revenue/Capital	S151 Officer, Deputy S151 Officer or Chief Accountant
Over £350k	Revenue/Capital	Relevant Cabinet Member unless a technical adjustment, which can be S151 , Deputy S151 Officer or Chief Accountant
A summary of budget movements will be reported as part of the quarterly budget report to Cabinet		

4.8 Directors shall ensure, so far as practicable, that expenditure in excess of the approved budget is not incurred without prior approval. A report concerning any anticipated or actual overspend shall be made, as part of established budget monitoring and reporting arrangements, by the appropriate Director to the Director: Governance and Communities on:

- (i) Overspending of a Head of Service's revenue budget by more than 5% unless the amount is less than £5,000 or by more than £50,000 if it is less than 5%.
- (ii) Overspending of a capital scheme by more than 5% unless the amount is less than £5,000 or by more than £50,000 if that is less than 5%.

Such reports should give explanations of the overspending and should make appropriate proposals to address the issue in line with regulation 4.7, if budget transfers are required.

4.9 For the purposes of financial regulations 4.7 and 4.8 anticipated or actual reductions of income shall be treated as if they were increases in expenditure.

4.10 Directors are also required to report as part of established budget monitoring and reporting arrangements anticipated budget underspends

or details of additional income to the Director: Governance and Communities on:

- (i) Underspends or additional income of a Head of Service's revenue budget by more than 5% unless the amount is less than £5,000 or by more than £50,000 if it is less than 5%.
- (ii) Underspends of a capital scheme by more than 5% unless the amount is less than £5,000 or by more than £50,000 if that is less than 5%.
- (iii) Additional funding of a capital scheme.

Such reports should give an explanation of the budget underspend or reasons for additional income being achieved. Appropriate proposals for the potential use of these additional funds should be outlined in the report.

## **D6.05 PROCUREMENT AND CONTRACTS**

- 5.1 All procurement carried out by the council, whether undertaken by officers, members or on behalf of third parties, must be conducted in accordance with Contract Procedure Rules as set out in Part D of this Constitution and Part C of the Finance Manual.

## **D6.06 ACCOUNTING**

- 6.1 Accounting systems and financial records in all services shall be in the form agreed by the Director: Governance and Communities.

## **D6.07 AUDIT**

- 7.1 The Director: Governance and Communities shall maintain an adequate and effective audit of the council's accounts, financial procedures, corporate governance arrangements and other processes and policies.
- 7.2 For this purpose he/she or his/her authorised representative shall have right of access at all reasonable times to all property, accounts and records and shall be given such explanations as he/she deems necessary.
- 7.3 Directors shall immediately notify the Director: Governance and Communities of any circumstances suggesting irregularity affecting the finances or property of the council who shall take such action as is deemed necessary.

## **D6.08 TREASURY MANAGEMENT**

- 8.1 The Director: Governance and Communities shall be responsible for all decisions on borrowing, investment or financing and be required to act in accordance with CIPFA's "Code of Practice for Treasury Management".
- 8.2 The Director: Governance and Communities shall be responsible for setting out the council's strategy, policies, objectives and risk management arrangements in a "Treasury Policy Statement" (TPS), and for the arrangements for the purchase, security and sale of investments in accordance with the council's policy.
- 8.3 The Director: Governance and Communities shall also be responsible for setting out Treasury Management Practices (TMP) the council will adopt. These practices will set out how the council will manage and control its Treasury Management activities.
- 8.4 The contents of the Treasury Policy Statement and Treasury Management Practices will follow the recommendations set out in sections 6 and 7 of the CIPFA Treasury Code.
- 8.5 The Director: Governance and Communities shall report to the council each financial year on the treasury management policies, practices and activities. The reports will comprise an annual strategy and plan in advance of the financial year, a mid-year review and an annual report after its close and any further interim reports he/she deems necessary.
- 8.6 The Director: Governance and Communities shall be responsible for the implementation and regular monitoring of treasury management policies and practices as set out in the council's TPS and TMPs and reporting on such to Cabinet.
- 8.7 The Director: Governance and Communities shall also report to the Audit Committee quarterly sufficient information to enable it to undertake effective scrutiny of the treasury management strategy and policies.
- 8.8 All money in the hands of the council shall be aggregated for the purposes of treasury management under the control of the Director: Governance and Communities who will carry out day to day investment and borrowing activity in accordance with approved policies.

## **D6.09 BANKING ARRANGEMENTS**

- 9.1 The Director: Governance and Communities shall make all arrangements regarding the opening and operation of all the bank accounts and use of banking services relating to the council. All bank accounts shall be in the name of North Lincolnshire Council. The



Director: Governance and Communities shall be responsible for all negotiations of banking terms.

- 9.2 The Director: Governance and Communities shall control the issuing of cheques. They may bear the printed facsimile signature of the Director: Governance and Communities. Where they consider it necessary cheques shall be signed or initialled by the following officers authorised by them: the Head of Finance and Commissioning, the Chief Accountant and Finance Strategic Leads.

## **D6.10 INSURANCE AND RISK MANAGEMENT**

- 10.1 The Director: Governance and Communities will make appropriate corporate arrangements for risk management, in accordance with best practice. This will include preparation of a Risk Management Strategy, leading its implementation, the identification of strategic risks and reporting progress to members at appropriate intervals.

Directors will identify and record operational risks in a format determined by the Director: Governance and Communities and take necessary actions to manage identified risks in their services.

- 10.2 The Director: Governance and Communities shall approve the council's insurance policies and maintain effective insurance cover in consultation, where necessary, with the Cabinet Member Finance and Governance, and take all necessary action regarding insurance, claims and uninsured losses, including accident claims.

- 10.3 Directors shall promptly notify the Director: Governance and Communities of:

- (i) Any happenings which may result in a claim against the council and/or its insurers;
- (ii) The terms of any indemnity which the council is required to give;
- (iii) Any new risks which might require to be insured, together with changed circumstances affecting existing risks.

- 10.4 Directors shall be responsible in relation to their service areas for ensuring compliance with time limits imposed by civil justice rules and national pre-action protocols.

- 10.5 The Director: Governance and Communities shall settle all claims against the council's insurers, in consultation with other Directors as appropriate.

## **D6.11 INCOME**

- 11.1 Arrangements for the collection of all money due to the council shall be subject to the approval of the Director: Governance and Communities.
- 11.2 All money received on behalf of the council, shall, as soon as practicable, be either banked for the credit of the council's account or deposited with the Director: Governance and Communities.
- 11.3 Scales of fees and charges for council services shall be set by the relevant Director of the service, subject to consultation with the Director: Governance and Communities (see 2.8 Delegations to Officers).
- 11.4 All accounts for income due to the council shall be prepared in a manner approved by the Director: Governance and Communities if possible in advance of the date payment would become due, and certainly no later than this date. Directors shall ensure that adequate and accurate information is available to substantiate the income due. Instructions for the cancellation or reduction of accounts for income must be authorised by the appropriate Director or such member of his/her staff specifically designated by him/her for that purpose as agreed with the Director: Governance and Communities.
- 11.5 All council employees who receive payments on behalf of the council shall:
  - (i) Immediately record receipt of payments by the issue of an official receipt or ticket approved by the Director: Governance and Communities or
  - (ii) By the entry of a payment via a receipting system on to a record retained by the payer and approved by the Director: Governance and Communities.
- 11.6 All forms of receipts, tickets or payments records shall be in a form approved by the Director: Governance and Communities.
- 11.7 The Director: Governance and Communities shall be responsible for collecting all council tax in accordance with the charge fixed by the council and all national non-domestic rating income and shall be responsible for any court action required to secure payment.
- 11.8 The Director: Governance and Communities shall be responsible for the sundry debtors system using information provided or input by service divisions and the collection of these debts. Small amounts (under £30) shall be collected by prepayment or payment at time of service whenever possible rather than by the raising of a sundry debtor account.
- 11.9 Proposals to write off debts shall be determined by the Director: Governance and Communities. Where the sum for any one debtor

exceeds £10,000 the Director: Governance and Communities shall determine write off, in consultation with Cabinet Member Finance and Governance.

#### **D6.12 PAYMENT OF INVOICES**

- 12.1 Each Director shall ensure that official orders in a form approved by the Director: Governance and Communities are issued for supplies of goods and services in accordance with contract procedure rules and certified in accordance with arrangements approved by the Director: Governance and Communities.
- 12.2 Each Director shall ensure that invoices are certified in accordance with arrangements approved by the Director: Governance and Communities, who will make payment of all invoices which he/she considers properly payable by the council.
- 12.3 Telephone or internet orders or purchases in person may be placed where this confers some benefit to the council (administrative or financial). Such orders or purchases must be recorded and authorised in a form approved by the Director: Governance and Communities. Where payment for such orders is made via electronic methods (e.g. debit or payment cards) authorisation and records must again be maintained in a form approved by the Director: Governance and Communities.

#### **D6.13 IMPRESTS**

- 13.1 The Director: Governance and Communities may make imprest advances to officers to allow them to meet minor expenses, subject to such conditions, as he/she may deem necessary.

#### **D6.14 ASSETS INVENTORIES AND STORES**

- 14.1 The Director: Economy and Environment shall maintain a full record of all capital assets owned by the council in a form agreed by the Director: Governance and Communities.
- 14.2 Each Director shall maintain a written inventory of items of movable property in his/her service that belong to the council and whose individual cost or value exceeds £500.
- 14.3 Each Director shall be responsible for the care, custody and recording (including stocktaking) of stores, cash and documents in their service in accordance with procedures agreed by the Director: Governance and Communities.
- 14.4 Directors may, with the approval of the Director: Governance and Communities arrange for the disposal of unrequired stock or inventory items, up to a limit of estimated value of £50,000 in each case. Above

that figure, disposal shall require approval of the appropriate service cabinet member.

- 14.5 The appropriate Director and Director: Governance and Communities shall be authorised to write off jointly stock and inventory deficiencies to a limit of £50,000 in each case. Above that figure, approval of the appropriate service cabinet member shall be required.

#### **D6.15 PAY**

- 15.1 The Director: Economy and Environment shall make arrangements for payments to all council employees and members as agreed with the Director: Governance and Communities.
- 15.2 Directors shall be responsible for the maintenance of records and certification of all amounts properly payable in accordance with these arrangements.
- 15.3 The Director: Economy and Environment shall be authorised to implement national and provincial awards, in consultation with the Director: Governance and Communities, subject to the cost of such awards being reported to cabinet or council for approval.
- 15.4 Payments to members of the council, who are entitled to claim expenses or other allowances will be made in accordance with the system prescribed by the Director: Governance and Communities.

#### **D6.16 LENDING**

- 16.1 The relevant Director in consultation with the Director: Governance and Communities shall report to the appropriate service cabinet member, any applications for industrial or other loans and shall make appropriate recommendations.

#### **D6.17 SECURITY**

- 17.1 Each Director shall maintain adequate arrangements at all times for the security of buildings, stocks, stores, furniture, equipment, vehicles, cash or records under their control. He/she shall consult the Director: Governance and Communities in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 17.2 Maximum limits for cash holdings shall be agreed with the Director: Governance and Communities and shall not be exceeded without his/her express permission.
- 17.3 Each Director shall be responsible for maintaining proper security and privacy of information held in any information technology installation or

information asset within their service. They shall consult the Head of Council Strategy, Information and Outcomes, and the Data Protection Officer regarding these arrangements. The Head of Council Strategy, Information and Outcomes on behalf of the council shall be the proper officer and the Information Governance Advisor will be the Data Protection Officer for purposes of carrying out the duties imposed on the council under the UK General Data Protection Regulation which is tailored by the Data Protection Act 2018.

#### **D6.18 SUSPENSION OF FINANCIAL REGULATIONS**

- 18.1 These regulations shall only be suspended on the resolution of the cabinet (where applicable) or the council.

## PART D RULE 7 - CONTRACT PROCEDURE RULES

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## Procurement Frequently Asked Questions

- Do CPRs apply – page 3,4
- Is it a Key Decision – page 7 and process tables on page 9 - 12
- Do I need an exception – page 40
- Where can I find an exception request form – TopDesk
- Where can I get further guidance? – Procurement “Ask Us” TopDesk
- What is the process for Supplies and Services
  - Up to £100k – table on page 29, Self-service Checklist on TopDesk
  - £100k-£213,47k – table on page 30
  - Over £213,477k – table on page 33 - 38

## 1.1. Introduction

- 1.1.1. The Local Government Act 1972 section 135 requires the Council to have standing orders setting out for how it will enter into contracts. These Contract Procedure Rules (CPRs) are the framework of mandatory procurement procedures that must be followed by officers and members when entering into contracts on behalf of the Council. They form an integral part of the Council's Constitution.
- 1.1.2. These CPR's govern **ALL** purchases of works, goods, services, and supplies across the whole Council, which must be adhered to by Council officers, duly authorised third persons and members.
- 1.1.3. All Council procurements **MUST** demonstrate: true and fair competition, public accountability, an open, fair, and transparent process, seek to prevent bribery and corruption, whilst ensuring probity. All procurements **MUST** demonstrate a full audit trail.
- 1.1.4. If the Council fails in this duty to adhere to these CPR's and legislative requirements, a potential supplier may have justifiable cause for complaint. The Council may be required to pay compensation if such a complaint were upheld. In addition, a contract or framework agreement may be rendered ineffective, either in whole or in part, and civil financial penalties may be imposed on the Council. Officers and members also have a personal responsibility to comply with these CPRs. Procurement practices are scrutinised by bidders and government (The Public Procurement Review Service).
- 1.1.5. These CPRs:
  - help the Council obtain value for money so that, in turn, value for money services may be provided to the public;
  - ensure the Council complies with the law governing spending of public money and the policy on transparency regarding Council expenditure;
  - provide a legal and auditable framework for the Council's procurement activities;
  - protect Council officers and members from undue criticism or allegation of wrongdoing; and
  - support the delivery of commissioning strategies.

## 1.2. Compliance and Application

- 1.2.1. These CPR's DO apply to:
  - all contracts for the supply of works, goods, or services (including consultancy) to the Council, regardless of value, including where the spend has been provided by way of a grant to the Council;



- partnership and collaborative arrangements with other public bodies;
- concession contracts;
- development agreements to which the Public Contract Regulations 2015 (“the **Procurement Regulations**”) apply;
- in-house providers;
- any acceptance of a “community right to challenge” under the Localism Act 2011;
- and any substantial modification of an existing contract except where the modification has clearly been provided for in the original contract terms or has been approved in writing by the Council’s Monitoring Officer.

1.2.2. They do NOT apply to:

- where requirements are sourced and delivered internally;
- academies (unless the Council is leading a procurement which an academy is participating);
- where a Council acts for another non-regulated body;
- a contract with a Council-owned company which the Council’s Monitoring Officer advises falls outside the scope of procurement in accordance with the Procurement Regulations;
- contracts for the acquisition or disposal of land and buildings;
- contracts of employment;
- where the Council awards a grant to an external organisation;
- contracts for local bus services, where the de-minimis provisions of the Transport Act 1985 and regulations made under it apply provided that they are awarded in accordance with those regulations and criteria approved by the Council’; and
- contracts, which the Council’s Monitoring Officer, in conjunction with the service area lead advises in writing falls within the provisions of section 91 of the Transport Act 1985.

1.2.3. Maintained Schools shall procure or purchase goods, works, suppliers or services in accordance with the Scheme for Financing Schools and the Procurement Regulations (when appropriate).

1.2.4. All procurement of services and contracts shall comply with:

- these CPR’s;
- the Council’s Finance Manual;

- the Council Plan;
  - the Council's Social Value Charter;
  - the Social Value Portal National Themes, Outcomes and Measures Framework (where appropriate and upon advice from the Procurement Team);
  - where applicable the Procurement Regulations and UK Legislation;
  - the Best Value Statutory guidance;
  - any Public Procurement Policy Notes (where appropriate and upon advice from Procurement Team and Legal Services); and
  - where applicable the UK Steel Charter.
- 1.2.5. An audit trail for all procurements should be maintained and where they are over the threshold level (identified within paragraph 1.5.1) specific decisions and verifications must be recorded and be available throughout the procurement and after the contract has been awarded in line with the Procurement Regulations and UK Legislation requirements.
- 1.2.6. No member or officer of the Council acting without proper authority shall enter, either orally or in writing, into any contract in the Council's name.
- 1.2.7. Where a partner organisation acts on behalf of the Council and needs to purchase or assign goods or services, any such assignment must be undertaken in line with these CPR's unless otherwise exempted in writing by the Assistant Director Governance and Partnerships.
- 1.2.8. Where the Council is procuring jointly with North East Lincolnshire Borough Council, this must be done in accordance with the terms of the Joint Procurement Agreement. A Joint Project Initiation Document must be completed and signed by both authorities at the beginning of the procurement exercise.
- 1.2.9. Where the Council is procuring with any other body (such as any other Council or a Clinical Commissioning Group or other health body), then a legally binding agreement must be entered into with that body to secure the actions or contributions of all parties, such terms of the agreement must be approved by the Monitoring Officer.
- 1.2.10. Where there is a conflict between these CPR's and the Procurement Regulations, the Procurement Regulations shall prevail.
- 1.2.11. These CPR's may be reviewed and/or amended:
- by the Monitoring Officer in accordance with the Council Scheme of Delegation; or

- by the Monitoring Officer where such amendments are required due to an emergency or as appropriate in accordance with Council Constitution; or
- at any time, where considered appropriate, in accordance with the Council's Constitution.

### **1.3. Confidentiality and Conflicts of Interest**

- 1.3.1. Subject to the Council's obligations under the Freedom of Information Act 2000, codes of practice and local policy requirements, any information provided by economic operators that is designed as confidential which has been forwarded to the Council by economic operators shall not be disclosed to any other third party or person.
- 1.3.2. The Council shall, when undertaking a procurement, take appropriate measures to effectively prevent, identify and remedy arising in accordance with the Council's Officer's Code of Conduct.
- 1.3.3. A procurement includes:
  - preliminary market consultations;
  - developing procurement documentation.
  - deciding on the scope or structure of the procurement;
  - choice of award procedure;
  - selection of tenderers;
  - mini competitions or direct awards through Framework Agreements or Dynamic Purchasing Systems;
  - award of the contract; and
  - contract management.
- 1.3.4. A conflict of interest includes, but is not limited to, where any Council officer or member has:
  - a direct or indirect financial, economic, or other personal interest which might be perceived to compromise their impartiality and independence; and
  - accepts or has accepted gifts or hospitality from organisations or suppliers that the Council has dealings with.
- 1.3.5. All members and Council officers are to complete the Council's Conflict of Interest Form prior to starting any procurement exercise.
- 1.3.6. Conflicts of interest must be proactively monitored throughout the procurement process, documented, risk assessed and where a conflict is identified, notified to the Monitoring Officer. Records must be available on

request and will form part of the Regulation 84 report for all contracts procured in accordance with the Procurement Regulations.

#### **1.4. Governance Requirements**

- 1.4.1. The Council's Constitution requires all officers, to obtain the necessary approvals before commencing a procurement exercise and upon award of a contract.
- 1.4.2. The type of approval will vary depending on the value of the procurement exercise/contract. The table below identifies the governance requirements for all procurement exercise excluding those which are a call off from an existing Council-Wide Contract, Framework Agreement or DPS (these are set out at paragraph 1.5.5.6). The values stated in the table below are accumulated spend over the lifetime of the contract, including any extensions.
- 1.4.3. A Key Decision is an executive decision that is likely to:
  - result in the council incurring expenditure or the making of savings (including the receipt or loss of income) over £350,000.
  - have significant effects on communities living or working in an area comprising of two or more electoral wards or electoral divisions in the area of the local authority.
- 1.4.4. The government has not defined the term 'significant'. Each council is free to make its own arrangements for decisions within the definition of a 'key decision'.
- 1.4.5. Where a procurement exercise or contract is below the value of £350,000 but may have effect on community living as identified in paragraph 1.4.3. above, the Service Area Lead must seek written confirmation from the relevant Director (in conjunction with Democratic Services) as to whether a Key Decision is required.
- 1.4.6. For any procurement exercise or contract, where a Key Decision is required, the Key Decision Notice and Decision should be published and concluded at the earliest opportunity within the process, and in all cases prior to any Contract Notice being published or Invitation to Tender being made available to the market.
- 1.4.7. In accordance with paragraph 1.3 of the Council's Scheme of Delegation to Officers a Director may delegate their powers under these CPRs to another officer, either fully or in part and subject to such limitations as considered reasonable by the Director, providing such delegation is in writing and signed and dated by the Director and a copy of such delegation is supplied to the Service Manager Democracy. It is recommended that before any such delegation takes place, the written advice of the Service Manager: Democracy is obtained.

- 1.4.8. Service Areas are encouraged to contact Democratic Services for any advice and support in relation to the governance requirements set out in these CPRs.

<b><u>Value</u></b> (Whole Life including extensions)	<b><u>Type/level of approval</u></b>	<b><u>Action Required Pre- Procurement</u></b>	<b><u>Action required Post Award</u></b>
<p>Below £350,000*</p> <p>*Please also consider paragraphs above regarding Key Decision if applicable</p>	<p>Director approval to commence procurement exercise and award contract within delegations.</p>	<ul style="list-style-type: none"> <li>• Officer Decision Record to commence procurement to be signed by the relevant Director and/or authorised officer and recorded accordingly on a timely basis.</li> <li>• Approval to award may be delegated to another officer at this stage, but such delegation must be included within the Officer Decision Record and a copy provided to the Service Manager: Democracy.</li> </ul>	<ul style="list-style-type: none"> <li>• Officer Decision Record signed by the relevant Director for the award of the contract after a successful procurement exercise.</li> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> <li>• Any Officer Decision Record that relates to a decision to award a contract that is over £100,000, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities, must be recorded and published via Democratic Services in accordance with the arrangements specified in the Council's Constitution.</li> </ul>
<p>£350,000 - £999,999</p>	<p>Key Decision Notice and Director approval to commence procurement exercise and award</p>	<ul style="list-style-type: none"> <li>• Key Decision Notice to be signed by the Director: Governance and Communities and published on the council's website via Democratic Services</li> </ul>	<ul style="list-style-type: none"> <li>• An Officer Decision Record to award must be signed by the Director and recorded and published via Democratic Services in accordance with the</li> </ul>

	contract within delegations.	<p>for a minimum of 28 days prior to the officer decision to commence the procurement. (General exception and special urgency provisions are available in exceptional circumstances)</p> <ul style="list-style-type: none"> <li>• The Decision to commence procurement is then taken and published any reasonable time after the 28 days.</li> <li>• Officer Decision Record to commence procurement to be signed by relevant Director and/or authorised officer <b>and</b> published on the council's website via Democratic Services on a timely basis (with any accompanying report, unless the report contains exempt commercially sensitive and related financial information – both should still be sent to Democratic Services).</li> <li>• Once the Officer Decision Record has been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.</li> </ul>	<p>arrangements specified in the Council's Constitution, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities.</p> <ul style="list-style-type: none"> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> </ul>
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£1,000,000 plus	<p>Key Decision Notice and Cabinet Member decision to commence procurement exercise.</p> <p>Director decision to award contract with award report to reference cabinet member notification of procurement outcome.</p>	<ul style="list-style-type: none"> <li>Key Decision Notice to be signed by the Director; Governance and Communities and published on the council's website via Democratic Services for a minimum of 28 days prior to the Cabinet Member Decision to commence the procurement. (General exception and special urgency provisions are available in exceptional circumstances)</li> <li>The Decision (by way of Cabinet Member minute) is then taken and published any reasonable time after the 28 days.</li> <li>Cabinet Member report to be published on the Council's website via Democratic Services on a timely basis.</li> <li>5 clear days after the Cabinet Member report has been published the minutes of the meeting with the Cabinet Member are published and elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>An Officer Decision Record to award must be signed by the Director and recorded and published via Democratic Services in accordance with the arrangements specified in the Council's Constitution, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities.</li> <li>The Director should inform the relevant Cabinet Member of the outcome of the procurement exercise and the decision to award.</li> </ul>



		panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.	
£0 - £1,000,000 plus where the Capital budget has already been approved by Council	Director approval to commence procurement exercise and award contract within delegations.	<ul style="list-style-type: none"> <li>• Officer Decision Record to commence procurement to be signed by the relevant Director and/or authorised officer and recorded accordingly on a timely basis.</li> <li>• Approval to award may be delegated to another officer at this stage, but such delegation must be included within the Officer Decision Record and a copy provided to the Service Manager: Democracy.</li> </ul>	<ul style="list-style-type: none"> <li>• Officer Decision Record signed by the relevant Director for the award of the contract after a successful procurement exercise.</li> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> <li>• Any Officer Decision Record that relates to a decision to award a contract that is over £100,000, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities, must be recorded and published via Democratic Services in accordance with the arrangements specified in the Council's Constitution.</li> </ul>

## 1.5. Pre-Procurement Requirements

### 1.5.1. Calculating the Contract Value and Procedural Thresholds

- It is important to ensure that the correct procedure is adopted and where there is a risk of a requirement falling above a threshold, the process for the higher threshold should be applied. Any procurement exercise or contract valued within 10% of the relevant threshold, the Service Area Lead should consider following a tendering process in accordance with the Procurement Regulations.
- The thresholds that apply will be those advised by the Cabinet Office, as detailed below and as may be amended from time to time. The current thresholds set out below are valid from 1 January 2022:

Public Sector Contracting Authorities (excluding Schedule 1 authorities)						
Supplies	Services	Light Touch Regime	Concessions	Works	Utilities (Works)	Utilities (Services)
£213,477	£213,477	£663,540	£5,336,937	£5,336,937	£5,336,937	£426,965

- In determining which threshold applies, the whole-life costing including the cost of maintenance, spares, upgrades, decommissioning, and disposal inclusive of VAT of the proposed contract or framework agreement must be considered. Any option to extend and potential future modifications to a contract must also be considered as to whether the thresholds would be exceeded with the extension value included, even if the option to extend or the foreseen modifications is not eventually exercised.
- Where the duration of the contract is unknown or uncertain, its total cost over a four-year period should be estimated and the relevant procedure then followed to award the contract. Where requirements include a mix of supplies, services and/ or works elements, advice should be sought from The Procurement Team as to which threshold is applicable and to determine the process to be followed.
- The Council must not Disaggregate or sub-divide like or similar works by procuring multiple smaller or charter contracts to avoid the requirements of these CPRs, the Procurement Regulations or UK Legislation.
- All monetary thresholds referred to in this document include VAT and

all applicable taxes and charges.

### **1.5.2. Planning and Approvals**

- Service Area Leads must allow sufficient time to carry out a procurement exercise in order to be compliant with these CPR's and the Procurement Regulations.
- For any procurement exercise or contract that is over the value of the procedural thresholds set out at paragraph 1.5.1 above, Service Area leads are advised to establish a project team based on the complexity and risk. As a minimum it is advised that the following is to be included within the project team:
  - the Services Area Lead responsible for the managing and delivering the procurement exercise and contract;
  - a representative from the Procurement Team;
  - a representative from Legal Services;
  - a representative from Finance;
  - a representative from Business Services where the contract or procurement relates to construction and highways works; and
  - a representative from Human Resources.
- Prior to commencing any procurement exercise the relevant approval should be obtained in accordance with the governance requirements set out at paragraph 1.4 above or paragraph 1.5.5.6 below for a call off under a Council-Wide Contract, Framework Agreement or DPS.
- A timetable, for all procurement exercises, should be established and must consider all mandatory timeframes, set out in paragraph 1 and 2 of these CPR's. It should also cover all pre-procurement planning, which includes everything from governance approval up to award of the contract.
- The Service Area are responsible for the delivery of the procurement exercise, including ensuring contract management once the contract has been awarded.

### **1.5.3. Pre-Market Consultation**

- The Council encourages all Services Areas to consider undertaking Pre-Market Consultation, prior to defining the specification requirements of any procurement exercise where there is a need for:
  - market research; and/or
  - benchmarking; and/or

- a new approach to service delivery; and/or
- developing or evolving service delivery need.
- Undertaking Pre-Market consultation can help inform the specification, the evaluation criteria, and conditions of contract to ensure the Council's objectives can be best met by the market.
- In all pre-market consultations, full regard should be had to the principles of equal treatment, transparency, proportionality, and non-discrimination to ensure an effective competition can take place once the procurement has commenced.

#### **1.5.4. Identifying the right procedure and form of contract**

It is important to ensure that any procurement exercise is undertaken under the most appropriate procedure for the Council to achieve the best possible outcome to meet its needs. The paragraphs below set out the procedures and contracts that can be used or followed, as appropriate, with advice from the Procurement Team and Legal Services.

#### **1.5.5. Council-wide Contracts and established Frameworks or DPS**

Where a Council-Wide Contract exists for supplies, services, or works, it must be used except in the following circumstances where the requirement;

- cannot be obtained through a council-wide contract; or
- cannot be obtained in the required timescale through a council-wide contract;
- or cannot be obtained with the required specification through a council-wide contract.
- The following categories of supplies, services or works are managed on a council-wide basis:
  - Building Works, Accommodation & Facilities Management
  - Civil Engineering & Non-Building Construction Works
  - Cleaning Services
  - Energy, Fuel & Water
  - Financial & Leasing Services
  - ICT Supplies & Services
  - Legal Services
  - Leisure
  - Printing Services
  - Public Health
  - Social or Personal Care services & Placement Activity
  - Training & Development Services
  - Transport Services
  - Vehicles & Fleet

- Waste Disposal & Recycling
- Where a Service Area are to undertake a procurement exercise using the Council-Wide Highways and Construction Framework or the Professional Services Framework, they must do so in accordance with the Highways and Construction and Professional Services Framework Requirements table which can be found on the Commissioning and Procurement Topdesk page.
- Advice and approval should be obtained from the Procurement Team should a departure from the use of council contracts be considered.
- For higher value purchases through a council-wide contract (£5k+) the value for money benefit of wider competition should be considered.
- Where possible Framework Agreements or Dynamic Purchasing Systems (“DPS”) either established by Central Purchasing Bodies or other contracting authorities (as defined by the Procurement Regulations) must be used.
- Prior to calling off under any established Framework Agreement or DPS:
  - , advice from the Procurement Team must be sought; and
  - the terms and conditions must also be approved by Legal Services.
- The governance approvals for calling off any established Framework Agreement or DPS are as follows:

Value (whole life including extensions) down	Type of procedure	Governance approvals required
Below £350,000	by way of mini competition with MEAT criteria applied with either a price/quality split or 100% price	the requirements set out in paragraph 1.4.7 of these CPR's
£350,000 to £999,999	by way of mini competition with MEAT criteria applied with either a price/quality split or 100% price	The requirements set out in paragraph 1.4.7 of these CPR's
£1,000,000 plus	by way of mini competition with MEAT criteria applied with either a price/quality split or 100% price	The requirements set out in paragraph 1.4.7 of these CPR's
Below £350,000	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Officer Decision Record signed by the relevant Director for the award of the contract.</li> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> <li>• Any Officer Decision Record that relates to a decision to award a contract that is over £100,000, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities, must be recorded and published via Democratic Services in accordance with the arrangements</li> </ul>

Value (whole life including extensions) down	Type of procedure	Governance approvals required
		specified in the Council's Constitution
£350,000 to £999,999	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Key Decision Notice to be signed by the Director: Governance and Communities and published on the council's website via Democratic Services for a minimum of 28 days prior to the officer decision to award. (General exception and special urgency provisions are available in exceptional circumstances)</li> <li>• The Decision to award the contract is then taken and published any reasonable time after the 28 days.</li> <li>• Officer Decision Record to award the contract to be signed by relevant Director and/or authorised officer <b>and</b> published on the council's website via Democratic Services on a timely basis (with any accompanying report, unless the report contains exempt commercially sensitive and related financial information – both should still be sent to Democratic Services).</li> <li>• Once the Officer Decision Record has been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is</li> </ul>

Value (whole life including extensions) down	Type of procedure	Governance approvals required
		implemented after the 2 workings days if not called in.
£1,000,000 plus	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Key Decision Notice to be signed by the Director; Governance and Communities and published on the council's website via Democratic Services for a minimum of 28 days prior to the Cabinet Member Decision to commence the procurement. (General exception and special urgency provisions are available in exceptional circumstances)</li> <li>• The Decision (by way of Cabinet Member minute) is then taken and published any reasonable time after the 28 days.</li> <li>• Cabinet Member report and minute to be made and published on the Council's website via Democratic Services on a timely basis.</li> <li>• Once the minutes of the meeting with the Cabinet Member have been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.</li> </ul>
£0-£1,000,000 plus where the Capital budget has	by way of mini competition with MEAT criteria applied with either	<ul style="list-style-type: none"> <li>• The requirements set out in paragraph 1.4.7 of these CPR's</li> </ul>



Value (whole life including extensions) down	Type of procedure	Governance approvals required
already been approved by Council and the call off procedure is	a price/quality split or 100% price	
£0-£1,000,000 plus where the Capital budget has already been approved by Council	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Officer Decision Record to award the contract to be signed by relevant Director and/or authorised officer <b>and</b> published on the council's website via Democratic Services on a timely basis (with any accompanying report, unless the report contains exempt commercially sensitive and related financial information – both should still be sent to Democratic Services).</li> <li>• Once the Officer Decision Record has been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.</li> </ul>

#### 1.5.6. Reserved Contracts

- Certain contracts can be reserved so that the competition is not available to the wider market and is limited to certain types of providers, such as SMEs and Voluntary, Community and Social Enterprises, and/or based on supplier location, in order to allow the Council to further meets its objectives.
- The threshold values for a reserved contract are £122,976 for supplies

and services and £4,733,252 for works, inclusive of VAT. The list of 'qualifying organisations' which can be subject to reserved contracts is prescribed and is predominately made up of health, social care, or education services. Advice must be sought from the Procurement Team where there is an intent to reserve a contract and an exception should be obtained in accordance with paragraph 3 of these CPR's.

#### **1.5.7. Dynamic Purchasing Systems**

- A DPS is a completely electronic system which may be established to purchase commonly used supplies, services or works and must operate for a defined duration. It does not guarantee any services to the providers who may be admitted to it.
- Advice from the Procurement Team must be sought should a DPS be established.

#### **1.5.8. Framework Agreements**

- A Framework Agreement is a closed list of providers who have been ranked following a tender exercise and can be awarded contracts in line with the framework terms.
- All Framework Agreements must comply with the following:
  - maximum length of 4 years (unless exceptional and approved by the Monitoring Officer in writing)
  - identify all Contracting Authorities that can access the agreement; and
  - provide an estimated value of all potential call-offs by all contracting authorities
- No contractual commitment attaches from the creation of a framework itself, however contracts are formed when requirements are called-off under a purchase order or a call-off contract.
- Any Framework Agreement must be established in accordance with the requirements of these CPRs and/or the Procurement Regulations. Service Areas must not disaggregate purchases to avoid them, and guidance should be sought from the Procurement Team and Legal Services.

#### **1.5.9. Light Touch Regime**

- The light-touch regime ("LTR") is a specific set of rules for certain service contracts that tend to be of low interest to potential tenderers. Those service contracts mainly centre around social, health and education services.
- The use of LTR must be undertaken on the advice of The Procurement

Team.

#### **1.5.10. Concession Contracts**

- Concession contracts are governed by the Concession Contracts Regulations 2016. They are used where the Council engages a third party to provide a service or works, with or without a fee payable by the Council.
- Consideration for the service is in the form of the concessionaire being given a right to charge for the services being provided.
- Advice from the Procurement Team must be sought before engaging in any procurement exercise relating to a concession contract.

#### **1.5.11. Open, Competitive Dialogue, Negotiated Procedures, and Innovation Partnerships**

- The Open procedure should be used for all contracts and procurement exercises where the Service Area can clearly identify its requirements and the requirements can suitably be met by the market.
- The use of Competitive Dialogue can be used for procurement exercises where there are complex service requirements, and the preferred delivery option cannot be determined from preliminary market consultation.
- The Negotiated Procedure can be used in limited circumstances, principally where it is not clear at the outset that the Council cannot adequately specify its requirements as they need to be developed with the market.
- The use of Innovation Partnerships can be for inherently innovative development such as core research or new technical advancement.
- Part two of these CPR's sets out the process for undertaking an Open procurement exercise (except for the supply of Works over £100,000 up to the relevant threshold) and the advice of the Procurement Team and Legal Services should be sought where the Service Area wishes to use any of the other procedures as set out above.

#### **1.5.12. Transfer of Undertaking (Protection of Employment) Regulations 2006 (as amended) (TUPE)**

- Careful consideration must be given as to whether TUPE shall apply at commencement of any procurement exercise.
- Where a procurement exercise may involve the TUPE transfer of Council officers, the advice of the Strategic HR Lead and Legal Services must be

obtained prior to the start of the procurement.

- Any procurement exercise involving the TUPE transfer of Council officers must be approved by the relevant Director on the advice of the Director Governance & Communities.
- The application of TUPE should also be considered in respect of staff employed by existing contractor(s) when the Council is looking to re-procure the service currently provided by such contractor(s). Written guidance should be sought from the Legal Services.
- An anonymised table of TUPE information and, where relevant, pension information, must be available for release with the tender documentation, using the TUPE matrix template which is available from the Procurement Team or TOPdesk. Further information can be shared with interested parties on the successful completion of the appropriate non-disclosure agreement.

#### **1.6. Contract Templates, Signing, Extending and Modification**

- 1.6.1. In all instances the Council's standard terms and conditions must be used except where:
- a Council Wide Contract is being used;
  - an established Framework Agreement or DPS is being used;
  - any Contract under the value of £25,000; or
  - the relevant Director, in consultation with the Assistant Director Governance and Partnerships, has confirmed it is appropriate for alternative terms and conditions to be used.
- 1.6.2. The Council's standard terms and conditions for contracts with a value of up to £100,000, can be accessed via the Procurement Team portal on TOPdesk. Advice from Legal Services should be sought for:
- contracts over the value of £100,000;
  - Framework Agreements and DPS (where they are not established);
  - IT contracts; and
  - low value contracts, where there is a specific need or bespoke requirement.
- 1.6.3. Pursuant to paragraph 2.6 of the Council's Scheme of Delegation, all Directors are authorised to sign contracts that do not exceed the value of £100,000, provided that:

- the conditions set out in paragraph 2.6 of the Council Scheme of Delegation have been complied with; and
  - it does not require the affixation of the Common Seal.
- 1.6.4. Directors may seek to delegate their authority to sign contracts (as set out at paragraph 1.6.3) provided such delegation is undertaken in writing in accordance with the Council's Constitution, a copy of such delegation is provided to the Service Manager, Democracy and follows the Authorisation of Orders levels set out in the Council's Finance Manual.
- 1.6.5. The Assistant Director Governance and Partnerships is authorised to sign contracts that exceed the value of £100,000 and unless they determine otherwise, such contracts shall be executed by way of deed, under the electronic Common Seal of the Council.
- 1.6.6. The Assistant Director Governance and Partnerships is authorised to affix the electronic Common Seal of the Council to such contracts using the Council's electronic signature software.
- 1.6.7. Where a Contract is required (in accordance with paragraph 1.6.5 and 1.6.6) to be executed by the Assistant Director Governance and Partnerships the Service Area Lead shall complete a Contract Signature Form on the Legal and Democracy TOPdesk Page to arrange for the contract to be signed and completed. FOR THE AVOIDANCE OF DOUBT, the Service Area Lead shall not send the contract directly to the Assistant Director Governance and Partnerships either by email or through the Council's electronic signature software.
- 1.6.8. Contracts that do not need to be executed by the Assistant Director Governance and Partnerships, are to be signed electronically using the Council's electronic signature software. Services Areas are encouraged to contact IT Applications Team to ensure they have appropriate access to the electronic signature software prior to signing or completing any contract. .
- 1.6.9. A Contract can be extended provided that:
- the original contract included a specific provision to allow for it to be extended in both duration and value; and
  - it is appropriate to do so given the performance of the contract which has been identified through contract management by the Service Area.
- 1.6.10. Any Contract extension or variation during its term cannot cause:
- the aggregated value of the contract to breach the thresholds set out at paragraph 1.5.1.2, where it was procured as a below threshold:
  - a breach of UK Legislation (such as the Procurement Regulations); and/or
  - the value would exceed what was original advertised by more than 50%.

- 1.6.11. Where the Contract does not include an extension advice should be sought from the Procurement Team and Legal Services.
- 1.6.12. Under limited circumstances, the Procurement Regulations permit contract modifications during their term (regulation 72) and must be within the scope, or similar to the original specification and contract. Advice must be sought from the Procurement Team and Legal Services in the first instance.
- 1.6.13. Changes to contracts and/or terms and conditions must be authorised by the relevant Director and substantial (i.e., material) changes to contracts and/or terms and conditions must be authorised by the relevant Director following consultation with the Assistant Director Governance and Partnerships.

## **1.7. Award Letters**

- 1.7.1. All contracts let that are valued 10% under the relevant threshold (as identified at paragraph 1.5.1.2 above) are to be awarded on YORtender using the contract details page. There is no specific requirement to issue an additional award notice to the tenderers who were unsuccessful, but this can be done should the Service Area consider it to be appropriate.
- 1.7.2. All contracts let on or over the relevant threshold (as identified at paragraph 1.5.1.2 above):
  - must be awarded on YORtender using the contract details page;
  - all candidates and/or tenderers must be issued with a Pre-Award Letter and Notice via YORtender; and
  - a standstill period must be applied.
- 1.7.3. All Pre-Award Letters and Notices must:
  - be on the Council's standard template; and
  - approved and signed by the Assistant Director Governance and Partnerships.
- 1.7.4. The Assistant Director Governance and Partnerships will not authorise or sign any Pre-Award Letters without first seeing the Decision to Award.
- 1.7.5. Where a request for further feedback or a potential challenge to a Pre-Award Letter is received advice from the Procurement Team and/or Legal Services must be obtained

## **2. North Lincolnshire Borough Council Procurement Requirements**

The Council is required to comply with these CPR's and the Procurement Regulations when undertaking a procurement exercise. All procurement exercises must have a full audit trail, obtain value for money, and achieve efficient delivery of Council Services. The paragraphs below set

out the processes, including their minimum requirements for each separate value, to achieve this.

## 2.1. General Requirements

2.1.1. All procurement exercises are to be compliant with the requirements set out in this part 2 and consideration should also be given to the following with advice from the Procurement Team:

- economic development/environmental/sustainability implications;
- social value
- policy implications;
- risk management; and
- any other service delivery commitments

2.1.2. Advertising of Tenders

- All procurement exercises over the value of £100,000 must be advertised and let using the Council electronic purchasing system YORtender.
- The Procurement Team and/or the Services Area will:
  - publish details of all contracts let over £5,000 via YORtender on the Council's live Contracts Register (e-tendering system)
  - report annually to the relevant Cabinet Member for procurement on all contracts let over £5,000 (via YORtender) in the previous 12 months.
- Service Area Leads must notify the Procurement Team when, they have awarded a procurement exercises or entered into a contract over the value of £20,883, so that the Procurement Team can advertise these on Contracts Finder.
- It is at the discretion of the relevant Director as to whether any procurement exercises/opportunities are advertised using web-based media, such as twitter and the council website. Any advertisement shall:
  - specify the nature and purpose of the contract;
  - outline how to submit a compliant tender;
  - state the last date and time when tenders will be accepted; and
  - comply in all respect with the requirements of UK Legislation.

2.1.3. Compliance

Any tenderer who fails to complete all the documentation and/or comply with the

tender instructions and submission requirements set out in the Invitation to Tender may be deemed to be non-compliant and, subject to the discretion of the Council, acting reasonably, have their tender rejected. Advice must be sought from the Procurement Team and Legal Services prior to rejecting any tender submission.

#### 2.1.4. Late Tender or e-Sourcing Suite Access Errors

- The Council will not accept any late tender, other than where:
  - the tenderer can prove that a system access error has occurred;
  - YORtender have provided a system report confirming that the site was unavailable on the submission deadline; and/or
  - the Crown Commercial Services have provided a report from their Services e-Sourcing Suite system confirming that there was an error at the time of the submission deadline
- Any acceptance of a late tender shall be approved by the relevant Director in consultation with the Procurement Team and Legal Services.

#### 2.1.5. Omissions, Ambiguities, and Inconsistencies

- All clarifications, by the Council or tenderers, must be raised via YORtender. Guidance from the Procurement Team is recommended in all circumstances but mandated where the issue, error, omissions, or inconsistency is linked to price or potentially creates a material change.
- Where there is an omission, ambiguity, or inconsistency in a tender (including an arithmetical error), the Council reserves the right to contact the tenderer in writing via YORtender, setting out the ambiguous or inconsistent part and the alternative interpretations of it.
- The tenderer will be required to clarify within an appropriate time limit, via YORtender, which of the interpretations are correct and submit or complete relevant information or documentation, provided that such requests are made in compliance with the principles of equal treatment and transparency. Clarification is not an opportunity to alter or improve a bid it is only to clarify submissions.

#### 2.1.6. Abnormally low tenders

Where a tender has been received and it is considered by the Service Area to be abnormally low, explanations from tenderers must be sought. The Council may reject the tender where the explanation does not satisfy the concern/s.

#### 2.1.7. Prevention of corruption and the Bribery Act 2010

Requests for quotations and invitation to tenders must inform prospective tenderers of the Council's whistle blowing policy.

All contracts must contain a clause to the effect that the Council will be entitled to



cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if:

- the contractor, his employees, or agents, shall have offered or given or agreed to give to any persons any gift or consideration of any kind as an inducement or reward in any way relating to the contract or any other contract with the Council; or
- in relation to any contract with the Council, the contractor, his employees, or agents, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, Section 117 of the Local Government Act 1972, and the Bribery Act 2010.

2.1.8 Under the Bribery Act 2010 the following offences have particular relevance for the award of public contracts:

- bribing a person to induce or reward them to perform a relevant function improperly;
- requesting, accepting, or receiving a bribe as a reward for performing a relevant function improperly; and
- failing to prevent bribery

## **2.2. Procurement Process, Timescales and Evaluation**

- 2.2.1. The table below sets out the minimum requirements for each tender process depending on its value, once all the pre-procurement requirements set out within part 1 of these CPR's have been considered/undertaken and approval to proceed has been obtained (as set out in paragraph 1.4.1).
- 2.2.2. Advice should be sought from the Procurement Team and Legal Services as indicated in the tables below.

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Supplies/Services/ Works</p> <p>Up to £100,000 (this does not include aggregate spend for one-off purchases)</p>	<p><b>The Self-service guidance which can be found within the Procurement Portal on TOPdesk must be followed</b></p> <ul style="list-style-type: none"> <li>Typically, securing minimum of 3 written quotations based on a specification is an effective way of demonstrating competition and value for money.</li> <li>You must use YORtender to help you comply with these requirements.</li> <li>Your requests of bidders should be proportionate to the value and complexity of your requirement</li> <li>Treating all potential suppliers equally and fairly is crucial for securing a successful outcome and</li> </ul>	<ul style="list-style-type: none"> <li>Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>The request for quote documentation must be advertised for a minimum of 10 calendar days and is to be shared with all potential tenderers (except where approved otherwise by the Budget</li> </ul>	<ul style="list-style-type: none"> <li>The evaluation of requests for quotation or bids should be based on objective, transparent criteria and fully disclosed to bidders in advance of them submitting their bids.</li> <li>The criteria should be either: <ul style="list-style-type: none"> <li>Lowest “compliant” price; compliant meaning ability to meet the specification in full; (requirements are well defined); or</li> <li>Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Decision to award must be obtained in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>All the Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>Any spend over £20,883k must be published on Contracts Finder in accordance with paragraph 2.1.2 above.</li> <li>Decision to award to be published using the contract details page on YORtender.</li> </ul>

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
	minimising the risk of a challenge.	Holder or Director).	used.	
<p>Supplies/Services £100,000 - £213,47 (Threshold Level)*</p> <p><b>Support and advice from the Procurement Team and Legal Services should be sought throughout this process</b></p> <p>*Where the spend is within 10% of the relevant threshold (as identified within paragraph 1.5.1 above) and the Procurement Regulations have</p>	<ul style="list-style-type: none"> <li>• Adhere to the council governance frameworks for project management and produce a procurement timetable.</li> <li>• Indicative contract values to be published as an open advert on YORtender and on Contracts Finder.</li> <li>• Tender documentation to be published on YORtender.</li> <li>• All tender submissions must be kept confidential, opened by an officer of appropriate seniority, independent and non-conflicted.</li> <li>• Only fully complaint</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>• Request for quote or tender documentation must be advertised for a minimum of 10 calendar days but can be increased if</li> </ul>	<p>The evaluation criteria to be set will depend on the level of complexity and need based on the desired outcome. Advice from the Procurement Team should be sought if the Service Area Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be either</p> <ul style="list-style-type: none"> <li>• Lowest “compliant” price; compliant meaning ability to meet the specification in full (where requirements are well defined); or</li> <li>• Most Economically Advantageous (MEAT)</li> </ul>	<ul style="list-style-type: none"> <li>• Decision to award must be obtained and published in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>• All the Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>• Any spend over £20,883k must be published on Contracts Finder in accordance with paragraph 2.1.2</li> </ul>

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>been applied, the publishing and award process for above threshold should be followed and advice from the Procurement Team or Legal Services should be sought</p>	<p>tenders should be accepted</p> <ul style="list-style-type: none"> <li>• No negotiation with the existing or potential providers is permitted</li> <li>• At least two tender responses must be received.</li> <li>• The acceptance of the successful tender is concluded after evaluation</li> </ul>	<p>appropriate.</p> <ul style="list-style-type: none"> <li>• Sufficient time must be given to evaluate all request for quote/tender submissions.</li> </ul>	<p>– a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used.</p> <ul style="list-style-type: none"> <li>• The split should be 60% price and 40% quality with a minimum sub-weighting of 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.</li> <li>• Advice from the Procurement Team should be sought if the split of 60% Price and 40% cost is not considered appropriate and where it is agreed to be changed the change in split and justification for such change must</li> </ul>	<p>above.</p> <ul style="list-style-type: none"> <li>• A notification of award must be advertised on the contracts register via <a href="#">YORtender</a> .</li> <li>• The decision to award must be published using the contract details page on YORtender.</li> </ul>

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
			be included in the pre-procurement Officer Decision report.	

Value (Whole life incl extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Supplier/Services</p> <p>Over £213,477, and</p> <p>Works over £5,336,937</p> <p>(Threshold Levels)</p> <p><b>Support and advice from the Procurement Team and Legal Services should be sought throughout this process</b></p>	<ul style="list-style-type: none"> <li>Adhere to the council governance frameworks for <a href="#">project management</a> and produce a procurement timetable. Project managers should ensure that procurement is undertaken in line with the Council's agreed project management framework, as appropriate.</li> <li>Use standard tender documentation, unless agreed otherwise with Procurement Team.</li> </ul> <p>A suite of construction framework agreements and construction contracts have been developed to meet the majority of the Council's Works requirements and</p>	<ul style="list-style-type: none"> <li>Sufficient time must be given prior to going out to tender to finalise specification, obtain relevant approvals as set out at 1.4.1 above.</li> <li>Tender documentation must be advertised for a minimum of 35 calendar days but can be decreased in certain circumstances with advice from the Procurement Team.</li> <li>Sufficient time must be given</li> </ul>	<p>The evaluation criteria to be set will depend on level of complexity and need based on the desired outcome. Advice from the Procurement Team should be sought if the Service Area Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be either</p> <ul style="list-style-type: none"> <li>Lowest "compliant" price; compliant meaning ability to meet the specification in full (where requirements are well defined); or</li> <li>Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used. The split should be 60%</li> </ul>	<ul style="list-style-type: none"> <li>Contract notice must be published on Find a Tender Services prior to going out to tender.</li> <li>All the Council's expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>Any spend over £20,883k must be published on Contracts Finder in accordance with paragraph 2.1.2.</li> <li>Decision to award must be obtained and published depending on value in accordance with paragraph 1.4.1.</li> <li>Pre-Award Letters must be sent to all tenderers/candidates using YORtender and a 10-day standstill period must be applied.</li> <li>Post Award Letters must be sent to all tenderers/candidates using YORtender once the 10-day standstill period above has expired.</li> </ul>

	<p>should be considered.</p> <ul style="list-style-type: none"> <li>• An open formal tender procedure must be used</li> <li>• Where only one bid is received, advice should be sought from the Procurement Team or Legal Services prior to evaluation.</li> </ul>	<p>to evaluate all request for quote/tender submissions</p>	<p>price and 40% quality with a minimum sub-weighting of 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.</p> <ul style="list-style-type: none"> <li>• Advice from the Procurement Team should be sought if the split of 60% Price and 40% cost is not considered appropriate and where it is agreed to be changed the change in split and justification for such change must be included in the pre-procurement Officer Decision report..</li> </ul>	<ul style="list-style-type: none"> <li>• If a potential challenge or formal challenge is received support and advice must be obtained from Legal Services and extension of the standstill period considered.</li> <li>• Contract Award Notice must be published on Find a Tender Services.</li> </ul>
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Value (Whole life incl extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Works £100,000 to £4,733,252</p> <p>This process should only be used when it has been agreed between the Service Area Lead and the Business Services and Framework Management Lead that the Council Wide Contract (Highways and Construction Framework) cannot be used.</p>	<ul style="list-style-type: none"> <li>Adhere to the council governance frameworks for project management and produce a procurement timetable.</li> <li>Restricted process to be followed, except where determined otherwise by the Service Area.</li> <li>Indicative contract values to be published as an open advert on YORtender and on Contracts Finder.</li> <li>Tender documentation to be published on YORtender.</li> <li>All tender submissions must be kept confidential and opened by an officer of appropriate seniority who is independent and non-conflicted.</li> <li>Only fully compliant tenders should be accepted.</li> <li>At least six tender responses must be received.</li> <li>The acceptance of the successful tender is concluded after evaluation.</li> <li>NEC form of contract to be used,</li> </ul>	<ul style="list-style-type: none"> <li>Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>Tender documentation must be advertised for a minimum of 10 calendar days but can be increased if appropriate</li> </ul> <p>Sufficient time must be given to evaluate all request for quote/tender submissions</p>	<p>The evaluation criteria to be set will depend on the level of complexity and need based on the desired outcome and relevant legislation. Advice from the Procurement Team should be sought if the Service Area Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be either</p> <ul style="list-style-type: none"> <li>Lowest “compliant” price; compliant meaning ability to meet the specification in full; or (where requirements are well defined); or</li> <li>Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used. The Price quality should be 60% price and 40% quality with a minimum sub-weighting of 10% allocated to Social Value any variation from 10% to be addressed through</li> </ul>	<ul style="list-style-type: none"> <li>Decision to award must be obtained in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>All Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>Any spend over £20,883k must be published on Contracts Finder portal in accordance with paragraph 2.1.2 above.</li> <li>A notification of award must be advertised on the contracts register via <a href="#">YORtender</a>.</li> <li>The decision to award must be published using the contract details page on YORtender.</li> </ul>



	except where determined otherwise in accordance with these CPR's.		pre-procurement governance. <ul style="list-style-type: none"> <li>• Advice from the Procurement Team should be sought if the split of 60% Price and 40% cost is not considered appropriate and where it is agreed to be changed the change in split and justification for such change must be included in the pre-procurement Officer Decision report</li> </ul>	
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Value - all	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Local Bus Services, Education Transport Bus, and Taxis (including where subsidised)</p> <p><b>Support and advice from the Procurement Team and Legal Services should be sought throughout this process</b></p>	<ul style="list-style-type: none"> <li>• Invitations to tender should be made pursuant to section 89-91 of the Transport Act 1985 and all other relevant regulations and legislation.</li> <li>• Minimum subsidy contracts are deemed Concession Contracts and should be procured under the Concession Contracts Regulations 2016.</li> <li>• Invitations to tender should be advertised using the Council's standard tender documentation which include: <ul style="list-style-type: none"> <li>○ a statement that the Council are not obligated to accept the cheapest tender.</li> <li>○ a statement that, provided it is accompanied by a fully compliant bid, a tenderer may propose an alternative approach to meeting the transport requirement set out in the tender.</li> <li>○ a statement to the effect that when deciding whether to accept a tender the Council has a statutory duty to consider the effect on competition in the local market, and a combination of economy, efficiency, and effectiveness.</li> </ul> </li> <li>• Tender documentation to be</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>• Request for quote or tender documentation must be advertised for a minimum of 35 calendar days which can be decreased upon advice from the Procurement Team.</li> </ul>	<p>Evaluation criteria depends on the level of complexity and need based on the desired outcome and relevant legislation. Procurement Team advice should be sought if the Service Lead is unsure which criteria is the most suitable. The criteria should be</p> <ul style="list-style-type: none"> <li>• Lowest "compliant" price; compliant meaning ability to meet the specification in full; (where requirements are well defined); or</li> <li>• Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to</li> </ul>	<ul style="list-style-type: none"> <li>• Contract notice must be published on Find a Tender Services prior to going out to tender.</li> <li>• All Council's expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>• Any spend over £20,883k must be published on Contracts Finder in accordance with 2.1.2 above.</li> <li>• decision to award must be obtained in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>• Pre-Award Letters are to be sent to all tenderers/candidates using YORtender and a 10-day standstill period must be applied.</li> <li>• Post Award Letter are to be sent to all tenderers/candidates using YORtender once the 10-day standstill period has expired.</li> <li>• If a potential challenge or formal challenge is received, support and advice must be obtained from Legal Services and extension of the standstill period considered.</li> <li>• Contract Award Notice must be published on Find a Tender Services.</li> </ul>

	published on YORtender		price/quality and any sub criteria used which shall include as a a minimum 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.	
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## 2.3. Tender Documentation

- 2.3.1. For all procurement exercises under the value of £100,000, the Council's standard tender documentation templates are to be used. The templates can be found on the Procurement Team portal on TOPdesk as part of the **Procurement under £100,000 checklist**.
- 2.3.2. For all procurement exercises over the value of £100,000, the Council's standard tender documentation templates are to be used. The templates can be obtained from the Procurement Team via the **Ask Us** portal on TOPdesk.
- 2.3.3. The tender documentation for all procurement exercises, except those under the value of £100,000 or where the Procurement Team advises differently should include:
- the national Standard Supplier Questionnaire ("SSQ") template for services and supplies (which can include additional supplier suitability questions);
  - the Supplier Questionnaire PAS 91 for works contracts;
  - clear instructions for the submission of pricing quotations;
  - a clear written specification;
  - a form of tender including anti-collusion certificate;
  - freedom of information declaration;
  - a pricing schedule;
  - Method statements;
  - insurance limits requirements; and/or
  - the approved terms and conditions
- Service Area Leads should obtain advice from the Procurement Team with regards to what documentation is required when appropriate.
- 2.3.4. The Council must accept submissions of the information requested in the SSQ made via the European Single Procurement Documentation ("ESPD") and accept e-certis as a means of proof when certification is requested. It is mandatory for a potential supplier to complete Part 1 and Part 2 of the SSQ, or the ESPD template, for all procurements above the thresholds set out at paragraph 1.5.1.
- 2.3.5. All tender documentation must indicate the Council's obligation to publish commercial and other data provided by tenderers in accordance with Freedom of Information Regulations and the Local Government Transparency Code 2015, as amended.

### Financial Requirements

- 2.3.6. Minimum standards of financial standing and financial appraisals are subject to the advice of the Head of Financial Services, but the requirements must not exceed a turnover of twice the whole-life contract value.
- 2.3.7. Minimum standards of financial standing at award stage should be considered for all procurement exercises and contracts where, the estimated contract

value exceeds the thresholds set out at paragraph 1.5.1, any relevant UK legislation and/or where other risk is identified, including where there would be a significant effect on the delivery of Council services in the event of provider default or cessation of supply or service.

- 2.3.8. Where considered appropriate following a financial appraisal of a potential provider against the Council's minimum standards of financial standing, the potential contractor may be required to provide a Parent Company Guarantee ("PCG") or a Performance Bond ("Bond") in a form acceptable to the Council for the duration of the contract (including any extension period). All financial requirements should be published up front, including the possibility of a Bond or PCG. Any such PCG or Bond shall only be required where it is deemed that there is a specific ascertainable risk or where group company financial information forms part of the financial appraisal.

### **3. Exceptions**

- 3.1. These CPR's are to be followed, at all times except in certain circumstances. A Service Area should seek approval from the following should they wish to deviate from these CPR's;
- 3.1.1. The relevant Head of Service if the value of the contract is under £100,000 or
  - 3.1.2. the relevant Director (or authorised officer who has been delegated this authority in accordance with the Council's Constitution) if the value contract is above £100,00 but under £213,477; or
  - 3.1.3. the Director of Governance & Communities following authorisation by the relevant Director (or authorised officer who has been delegated this authority in accordance with the Council's Constitution) if the value of the contract is above £213,477.
- 3.2. All requests for exception must be on the standard template available on TOPdesk.
- 3.3. A Key Decision will be required for any exception request that is likely to:
- result in the council incurring expenditure or the making of savings (including the receipt or loss of income) over £350,000; and/or
  - have significant effects on communities living or working in an area comprising of two or more electoral wards or electoral divisions in the area of the local authority.

and the Key Decision process must be followed as set out in paragraph 1.4 of these CPR's.

3.4. For the avoidance of doubt,

3.4.1. an exception request **does need to be completed**:

- where the value of the contract is below £213,477; and
- where the Service Area are direct awarding a contract under an established Council-Wide contract, Framework Agreement or DPS which does not allow for direct award as a compliant call off procedure;

3.4.2. an exception request **does not need to be completed** where the contract is being procured by way of call off from a Council-Wide Contract, established Framework Agreement or DPS and the Service Area comply with the procedures set out within the Council-Wide Contract, established Framework Agreement or DPS; and

all authorised exceptions should be submitted to the Procurement Team via TopDesk for reporting and monitoring purposes.

3.5. There may be exceptions to the requirements of the CPRs which may be allowed in the following circumstances:

- 3.5.1. where important urgent repairs are required to maintain and ensure efficient and continuous service delivery due to the breakdown, or other failure, of buildings, plant, appliances, machinery or ICT equipment or software. Where the urgent repair relates to a repairs & maintenance item, and where the value exceeds £5,000, a retrospective request for exception is acceptable;
- 3.5.2. where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ICT equipment or software can only be efficiently carried out and most economically supplied with regards to time, cost, and speed of delivery by the original contractor or supplier (or their successors or other sole specialists);
- 3.5.3. where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier;
- 3.5.4. where an emergency exists as defined in the Council's Emergency Plan;
- 3.5.5. when the Council is properly required to adopt other procedures in accordance with the relevant regulations;
- 3.5.6. works orders placed with utility companies (e.g., For re-routing cables or pipework);
- 3.5.7. where there is only one potential supplier of the required supplies, services or works due to market factors and/or service exigency;

- 3.5.8. where the contract is reserved so that the competition is not available to the wider market and is; limited to certain types of providers, such as SMEs and Voluntary, Community and Social Enterprises, and/or based on supplier location
  - 3.5.9. where contracts are extended beyond their specified term;
  - 3.5.10. where contract are to be modified during their specified term;
  - 3.5.11. for contracts which the Council's Monitoring Officer advises through authorised exception fall within the scope of regulation 32 of the Procurement Regulations;
  - 3.5.12. for contracts which the Council's Monitoring Officer advises falls within the specific exclusions set out in regulation 10 and regulation 14 of the Procurement Regulations; and
  - 3.5.13. where there are other exceptional circumstances.
- 3.6. Where the Services Area believes one of the above apply and/or the contract or modification is likely to be above the threshold set out at paragraph 1.5 above or is subject to the Procurement Regulations, advice must be sought from the Procurement Team and Legal Services before any exception request is submitted for approval.
- 3.7. In all instances a written request for exception, clearly documenting the reasons (including reference to previous exceptions if applicable and how value for money can be evidenced) must be provided in advance to the approving officer before the exception can be approved. All authorised exceptions should be submitted to the Procurement Team via TopDesk for reporting and monitoring purposes.

## **DEFINITIONS AND GLOSSARY**

Academy/Academies	A school that is directly funded by central government and independent of local authority control
Regulation 84	Is Regulation 84 of the Public Contracts Regulations 2015 which sets out the decisions made throughout the procurement process which must be recorded and retained
Budget Holder	The manager with responsibility for the budget concerned and with delegated authority to award the contract
Cabinet Member	Elected member of the Council who is responsible for the Cabinet Portfolio under which the service area sits
Central Purchasing Bodies	A contracting authority (as defined by the Procurement Regulations) providing centralised purchasing activities and ancillary activities
Commissioning Strategy	The document by which the Council's Commissioning and Procurement Team sets out its priorities and objectives, and how it will achieve them
Concessions	A Concession Contract is where the Council grants a Service Provider the right to provide a service and rather than pay the Service Provider for providing the service. The Council transfers the opportunity of the market to the Service Provider, along with the demand risk in relation to the level of the market. Revenue from fees paid by service users is kept by the Service Provider and used to meet the costs incurred in delivering the service and potentially to make a profit
Constitution	The set of legal, administrative, and legislative principles by which the Council is governed, especially in relation to the rights of the people it governs.
Contract	Document setting out various particulars for the provision of supplies, services and works
Contracts Finder	An online database which enables suppliers to search for contract opportunities, across the nation and sectors.
Council Plan	The document by which the Council sets out its priorities and objectives, and how it will achieve them
Council	Refers to North Lincolnshire Borough Council unless otherwise specified
CPR	Contract Procedure Rule
Director	Officer who is responsible for a Service Area or grouping of services of the Council
Disaggregate	The splitting down of requirements into lower value packages
ESPD	European Single Procurement Document consists of a self- declaration as preliminary evidence of certification



Finance Manual	
Framework Agreement	An overarching agreement with a supplier where prices, specifications and terms are pre-agreed, but where there is no obligation to purchase. Requirements are “called off” as and when required over a specified timeframe.
Key Decision	Definition available at <a href="http://democracy.northlincs.gov.uk/meetings/key-decisions/">http://democracy.northlincs.gov.uk/meetings/key-decisions/</a>
Maintained School	Primary and secondary schools funded by central government via the local authority, not charging fees to students
Monitoring Officer	The Monitoring Officer ensures the lawfulness and fairness of Council decision making and serves as the guardian of the Council's Constitution and the decision-making process. Responsibilities include advising the Council on the legality of its decisions, providing guidance to councillors and officers on the Council's Constitution and its powers and assisting the Standards Committee in its role of promoting and maintaining high standards of conduct and probity within the Council.
Risk Management	The identification of potential risks and the arrangement of contingency plans to manage or minimise those risks
Service Area	An area of the Council that is responsible for specific service delivery
Service Area Lead	Means the lead officer responsible for the procurement exercise or contract within the Service Area
SME	Means Small and Medium sized Enterprises and is defined as: Any business with fewer than 250 employees and either an annual turnover below £45m or a total balance sheet less than £40m.
UK Legislation	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements
VAT	Value Added Tax
YORtender	Supplier Contract Management System (or equivalent e-tendering system) web portal by which the Council effectively advertises and manages quotations and tenders

## PART D RULE 8 - OFFICER EMPLOYMENT PROCEDURE RULES

### D8.01 DEFINITION

In these rules -

“the 1989 Act” means the Local Government and Housing Act 1989 ;  
“the 2000 Act” means the Local Government Act 2000 ;  
“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;  
“executive” and “executive leader” have the same meaning as in Part IA of the 2000 Act;  
“member of staff” means a person appointed to or holding a paid office or employment under the council; and  
“proper officer” means an officer appointed by the council for the purposes of the provisions in this Part,  
“the 2011 Act” means the Localism Act 2011;  
“chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;  
“independent person” means a person appointed under section 28(7) of the 2011 Act;  
“local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;  
“the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;  
“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and  
“relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

### D8.02 RECRUITMENT AND APPOINTMENT

#### (a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, step child, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the council, or of the partner of such persons.

- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant director or an officer nominated by him/her.
- (b) Seeking support for appointment
  - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) Subject to paragraph (iii) no councillor will seek support for any person for any appointment with the council.
  - (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission in connection with an application for appointment.
- (c) Subject to paragraphs D8.02 (d) and (g), the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the council must be discharged, on behalf of the council, by the head of paid service or by an officer nominated by him/her.
- (d) Paragraph D8.02(c) shall not apply to the appointment or dismissal of, or disciplinary action against -
  - (i) the officer designated as the head of the council's paid service;
  - (ii) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (iii) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (iv) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (v) a person appointed in pursuance of section 9 of the 1989 Act (b) (assistants for political groups).
- (e) Where a committee, sub-committee or officer is discharging, on behalf of the council, the function of the appointment or dismissal of an officer designated as the head of the council's paid service, the council must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

Where a committee or a sub-committee of the council is discharging, on behalf of the council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (i), (ii), (iii) or (iv) of paragraph

D8.02 (d) at least one member of the executive must be a member of that committee or sub-committee.

- (f) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, 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.

An offer of an appointment as an officer referred to in sub-paragraph (i), (ii), (iii) or (iv) of paragraph D8.02 (d) must not be made by the appointor until -

- (i) the appointor has notified the Director Governance and Communities 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;
- (ii) the Director: Governance and Communities has notified every member of the executive of the council of -
- (iii) the name of the person to whom the appointor wishes to make the offer;
- (iv) any other particulars relevant to the appointment which the appointor has notified to the Director: Governance and Communities; and
- (v) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the Director: Governance and Communities; and

either -

- (i) the executive leader has, within the period specified in the notice under sub-paragraph (f)(v), notified the appointor that neither he /she nor any other member of the executive has any objection to the making of the offer;
- (ii) the Director: Governance and Communities has notified the appointor that no objection was received by him/her within that period from the executive leader; or
- (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

- (g) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the council, the council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of

the council, that committee, sub-committee or other officer, as the case may be.

Notice of the dismissal of an officer referred to in sub-paragraph (i), (ii), (iii) or (iv) of paragraph D8.02 (d) must not be given by the dismisso until -

- (a) the dismisso has notified the Director: Governance and Communities of the name of the person who the dismisso wishes to dismiss and any other particulars which the dismisso considers are relevant to the dismissal;
- (b) the Director: Governance and Communities has notified every member of the executive of the council of -
  - (i) the name of the person who the dismisso wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismisso has notified to the Director: Governance and Communities; and
  - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Director: Governance and Communities; and

either -

- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismisso that neither he/she nor any other member of the executive has any objection to the dismissal;
  - (ii) the Director: Governance and Communities has notified the dismisso that no objection was received by him/her within that period from the executive leader; or
  - (iii) the dismisso is satisfied that any objection received from the executive leader within that period is not material or is not well-founded
- (h) Nothing in paragraph D8.02 (c) shall prevent a person from serving as a member of any committee or sub-committee established by the council to consider an appeal by -
  - (a) another person against any decision relating to the appointment of that other person as a member of staff of the council; or

- (b) a member of staff of the council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

### **D8.03 RECRUITMENT OF HEAD OF PAID SERVICE AND DIRECTORS**

Where the Council proposes to appoint a Head of Paid Service, Director (chief officer) or third tier officer (deputy chief officer) and it is not proposed that the appointment will be made exclusively from among their existing officers the appropriate officer will:

- (a) Draw up a statement specifying
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed.
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
- (c) Make arrangements for a copy of the statement mentioned in paragraph (a) above to be sent to any person on request.
- (d) Where a post has been advertised in accordance with paragraph D8.03 (a) the council shall -
  - (i) interview all qualified applicants for the post, or
  - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (e) Where no qualified person has applied the council shall make further arrangements for the advertisement in accordance with paragraph D8.03 (b).
- (f) Every appointment for the Head of Paid Service [or director] shall be made by the council.
- (g) For the purposes of paragraph D8.03 the appropriate officer shall be:-
  - (i) in the case of the Head of Paid Service, the Director: Governance and Communities following consultation with the leader
  - (ii) in the case of a Director the Head of Paid Service following consultation with the appropriate cabinet member and

- (iii) in the case of a third tier officer the relevant director following consultation with the appropriate cabinet member.
- (h) For the purposes of paragraph D8.03 (d) shortlisting and interview shall be undertaken by a special committee which shall include the appropriate cabinet member or, in the case of the Head of Paid Service, the Leader, or in either case a substitute member of the executive.
- (i) The Head of the council's Paid Service its Monitoring Officer or its chief finance officer, may not be dismissed, other than in accordance with the procedures set out in paragraphs (j) to (p) below following consideration and recommendation by a Panel of that dismissal to full Council.
- (m) The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- (k) In paragraph (m) "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- (o) Subject to paragraph (m), the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph (m) in accordance with the following priority order –
  - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
- (p) An authority is not required to appoint more than two relevant independent persons in accordance with the above paragraph but may do so.
- (q) The authority must appoint any Panel at least 20 working days before the relevant meeting.
- (r) Before the taking of a vote at the relevant council meeting on whether or not to approve such a dismissal, the authority must take into

account, in particular –

- (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
- (s) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.
- (t) Assistants to Political Groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that group.

No appointment shall be made to a post allocated to a political group until the council has allocated a post to each of the groups which qualify for one.

No post shall be allocated to a political group which does not qualify for one.

Not more than one post shall be allocated to any one political group.

(Note - the Council's officer employment procedure rules comply with the mandatory Standing Orders Regulations for the time being in force and with the Section 9 of the Local Government and Housing Act 1989 (Assistants for political groups). The rules will be amended from time to time to ensure compliance with any revised regulations.)



## **PART D RULE 9 – REMOTE MEETINGS PROCEDURE RULES (AND REMOTE MEETINGS PROTOCOL).**

### **D9.01 INTRODUCTION AND APPLICATION**

- (a) The Procedure Rules (and accompanying protocol in appendix A) provide the means and guidance for the conduct of any remote meeting of the Council, and its Cabinet (executive) meetings, Committees, Sub-Committees and Panels, held under the provisions of the [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)
- (b) The Procedure Rules (and accompanying protocol) should be read in conjunction with the council's related Procedure Rules within the Constitution. The above Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the council governing meetings and remain valid until 7th May 2021. This means that, wherever there is a conflict, these Remote Meetings Procedure Rules take precedence in relation to any remote meeting.

### **D9.02 NO REQUIREMENT TO HOLD AN ANNUAL MEETING**

- (a) The requirement to hold an Annual Meeting (see Procedure Rule D1.03(a) ) shall be disregarded and, prior to 7 May 2021, an Annual Meeting may only take place:
  - (i) when called by the Mayor with the agreement of the Director: Governance and Communities, following consultation with Group Secretaries, or
  - (ii) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

(Note: Applies to Council Procedure Rule D1.03)

### **D9.03 NOTICE OF MEETINGS AND ACCESS TO INFORMATION**

- (a) The Director: Governance and Communities shall give five clear working days' notice to the public of the time of the meeting, and the associated agenda papers, together with details of how to observe/ the meeting, which will be available on the council's website.

- (b) Members of the meetings in D9.01(a) above shall be notified of a remote meeting by email and all agenda papers will be made available via electronic means/software as appropriate, at least five clear working days before the meeting.
- (c) The 'place' at which the meeting is held, or to be held is interpreted as including reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone, or a number of these combined.
- (d) For all purposes (of the Constitution), the terms 'notice', 'summons', 'agenda', 'report', 'written record' and 'background papers' when referred to being a document that is:
  - (i) 'open to inspection' shall include for these and all other purposes as being published on the council's website, and
  - (ii) to be published, posted or made available at offices of the council, shall include publication on the council's website.

(Note: Applies to Council Procedure Rule D1.09 and relevant Access to Information Rules)

#### **D9.04 REMOTE ACCESS TO MEETINGS**

- (a) For all purposes (of the Constitution), the term 'meeting' is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:
  - (i) 'place' is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone number, or a number of these combined: and
  - (ii) 'open to the public' includes access to the meeting being through remote means including (but not limited to) video/audio conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person.
- (b) If the Chair of the meeting is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision (and this is validated), then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and

date arranged by the Chair. If he or she does not arrange a date, the remaining business will be considered at the next ordinary meeting.

- (c) Public access to the meeting by remote means, as described above, is different from the 'public attending to exercise a right (on invitation) to speak' – this public participation in the meeting is addressed in paragraph D9.05 below. Public access, including that of the press, is to observe, and or listen to the proceedings of the meeting by remote means as defined in (a) and (b) above.

**(Note: Applies to Council Procedure Rule D1.08 and D1.09 and relevant Access to Information Rules)**

## **D9.05 MEMBERS IN REMOTE ATTENDANCE**

- (a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
  - (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise an opportunity or a right to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. (for example, a remote connection failure). In such circumstance the Chair may, as they deem appropriate;
  - (i) adjourn the meeting for a reasonable short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;
  - (ii) count the number of Members in attendance for the purposes of the quorum (The normal quorum requirements for meetings as set out in the council's Constitution will also apply to a remote meeting); or
  - (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance (providing that the

meeting remains quorate and the public are able to hear proceedings).

- (c) If a remote Member(s) is able to successfully re-join the meeting, for example a connection is successfully re-established, then the remote Member(s) will be deemed to have returned at the point of re-establishment.
- (d) If for example, a connection to a remote Member is lost during a regulatory meeting, the Chair will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed (if quorate) but the remote Member who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.
- (e) The attendance of members at the meeting will be recorded by the Democratic Services Officer. (This includes those who have notified and/or have been noted by the Democratic Services Officer as attending under the provisions of Council Procedure Rule D1.37b, or as a ward member)

**(Note: Applies to Council Procedure Rule D1.11 and D1.37 (b))**

#### **D9.06 REMOTE ATTENDANCE AT MEETINGS (PARTICIPATION) BY MEMBERS OF THE PUBLIC**

- (a) A member of the public entitled to attend the meeting in order to exercise a right (or invitation) to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
  - (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right (or invitation) to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in paragraph (a) above are not met. In such circumstance, the Chair may, as he or she deems appropriate:
  - (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in (a) above to be re-established;
  - (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
  - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.
- (c) If a member of the public has given previous required notice (through meetings' procedure rules within the council's Constitution) to attend remotely and has not remotely accessed or joined the meeting by the start of the relevant item or specified time, and has made no attempt beforehand to contact the Democratic Services Officer, then the Chair in such circumstances will consider as deemed reasonably appropriate, whether to proceed without them or defer the relevant item of business.
- (d) The Democratic Services Officer or meeting facilitator should be able to mute the member of the public once they have spoken, and if required remove them from the remote meeting on the instruction of the Chair, in order to maintain the good administration of the meeting or to retain order.
- (e) If notice is given by the council of any technological remote access (participation) failure, which cannot be resolved prior to a scheduled remote meetings, then the council may request that public participation, speaking rights (or invitation) can be made by receipt of written representations. The chair or Democratic Services Officer will then read out submissions received from the public at the meeting.

#### **D9.07 REMOTE MEETING PROCEDURE AND PROTOCOL**

- (a) The council will put in place a technological platform to facilitate and enable members, officers and the public to participate and access meetings defined in paragraph D9.01 above. Democratic Services Officer(s), as supported where necessary by IT officers, shall facilitate the use of the technological platform for remote access and the

administration of meetings including public and Member interaction and engagement on the instruction of the Chair, and in accordance with these and other procedure rules within the Constitution and the '**Remote Meetings Protocol**' appended to these procedure rules.

- (b) The Chair of remote meetings will apply these, other related procedure rules set out in the Constitution and the Remote Meeting Protocol. Accordingly, the chair's ruling following any advice received from officers will be final.
- (c) Members, officers and members of the public shall adhere to the required etiquette during attendance at remote meetings, as set out in the Remote Meetings Protocol.

(Note: Applies to Council Procedure Rule D1.14 (k) and any scheme for public participation in respect planning, licensing and other committees).

## **D9.08 REMOTE VOTING**

- (a) When the Chair of a remote meeting is satisfied an adopted procedure is complete or that there has been sufficient debate, and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed, the Chair will progress to making a decision. Unless a recorded vote is demanded, (in accordance with procedure rule D1.22) the Chair will take the vote:
  - (i) by use of the electronic voting system for remote voting or where an electronic voting system is not working correctly or unavailable;
  - (ii) by the affirmation of the meeting if there is no dissent (by assent); or
  - (iii) the Chair will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. The Democratic Services Officer will confirm and read out the result of the vote, and the chair will move on the next item.

(Note: Applies to Council Procedure Rule D1.22)

## **D9.09 DECLARATIONS OF INTEREST – MEMBERS EXCLUDED FROM THE MEETING**

- (a) Where a Member is participating in a remote meeting and declares a disclosable pecuniary interest or personal and prejudicial interest, in any item of business they are required to leave the meeting. The means of

remote attendance is to be severed by the member(s) by turning off their camera and muting their microphone whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate. Their departure will be confirmed by the Democratic Services Officer(s) if required. The member(s) will be invited to re-join the meeting at the appropriate time.

(Note: Applies to Council Procedure Rule D1. 28 and the relevant paragraphs of the Council's Code of Conduct under the Localism Act 2011.

## **D9.10 EXCLUSION OF THE PRESS AND PUBLIC AT REMOTE MEETINGS**

- (a) The Democratic Services Officer(s) shall where the technology is available, ensure that there are no members of the public in remote attendance or remotely accessing the meeting to hear or see the proceedings after a resolution has been taken by members of the meeting in public to exclude the press and public so that confidential, or 'exempt' business (as defined in Schedule 12A (as amended) of the Local Government Act 1972) can be considered.
- (b) Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.
- (c) Any Member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled, could be in breach of the Members' Code of Conduct.
- (d) Where technology may not be available, the members of the remote meeting shall take the required resolution to exclude the press and public in public, and then the chair shall adjourn the meeting. The chair will then invite members to reconvene the meeting 'in private' through a separate remote invitation issued by the Democratic Services Officer(s).

## **D9.11 ADDITIONAL AMENDMENTS: The following Council Procedure Rules will be interpreted as follows:**

- (a) **COUNCIL PROCEDURE RULE D1.35 (b).**

Members of the public exercising speaking rights under paragraphs (iv) and (vii) of the above Rules shall be limited to 3 minutes per speaker.

Members of the public exercising speaking rights under paragraphs (vi) and (vii) shall be limited to three speaking in support of a major

development and three in objection to, limited to 3 minutes per speaker subject to the existing discretion afforded to the Chair over such matters.

Members of the Council exercising speaking rights under paragraph (x) shall be limited to 3 minutes per agenda item.

**(b) COUNCIL PROCEDURE RULE D1.37 (b)**

Any member of the Council present at a meeting of the Planning Committee under this rule and who is invited to speak shall be limited to 3 minutes per agenda item.

**(c) COUNCIL PROCEDURE RULE D1.33 (d) AND ITS EQUIVALENT RULE FOR EXECUTIVE DECISION MAKING.**

The requirement for the Director: Governance and Communities or their nominated representative to be present at all meetings of the Council, Committees, Sub-committees and Cabinet and in relation to portfolio holder decision making, shall be interpreted as virtual presence within the context of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

**(d) COUNCIL PROCEDURE RULE D1.31 (f)**

Where the office of Chairman or Vice Chairman remains or becomes vacant on any Committee during the municipal year 2020/21, that Committee may appoint any member to fill such vacancy for the remainder of such municipal year and such appointment shall be reported, where practicable, to the next meeting of Council.

**(e) COUNCIL PROCEDURE RULE D1.31 (e)**

Every vacancy on any Committee shall be filled by nomination from the relevant political group in accordance with the political balance requirements and notified to the Director: Governance and Communities who shall report the same to the next available meeting of Council.

## **D9.12 APPENDIX - REMOTE MEETING PROTOCOL**

### **Introduction**

The protocol provides guidance on the application of the 'Remote Meetings Procedure Rules' and for preparing and managing remote meetings accordingly. It also provides essential 'meetings etiquette' to be adopted by those participating in remote meetings. These can be adapted to suit the different requirements and functions of meetings, but the principles of which should remain similar and be adhered to.



## 1. Remote Meeting Preparation.

- (a) In accordance with statutory timescales (at least five clear working day's) notice will be given by email/electronic invitation to members (and officers) of the date and time of the remote meeting. This notice will also identify the electronic platform the remote meeting will be held on (Microsoft Teams). It should also identify how to, or provide a link to 'join the meeting' which should be saved in the participants electronic calendar for access, and any other information relating to arrangements/instructions/ etiquette for the remote meeting (see paragraph 2 below).

Similarly, the above information should be provided to any external participants (outside of the council) who will be attending the remote meeting, together with any other information/instructions/etiquette for remote meetings. (This may also include browser and Microsoft Teams app requirements to access the meeting).

- (b) In accordance with statutory timescales (at least five clear working day's) an electronic version of the agenda and all accompanying reports to be considered at the remote meeting will be circulated to all members and officers (and where applicable external participants). These will then also be published where appropriate (not where confidential/exempt) on the council's website. (The agenda will identify whether all or part of the meeting is likely be held in public, whether there is likely to be exempt business or not, and consequently, consideration should be given to IT Services disconnecting the 'public access' link to the meeting on the website at the required time, or whether to send a further remote meetings invitation to members so only they (and relevant officers) can gain access to the 'confidential/exempt' part of the remote meeting).
- (c) If the remote meeting is to be held in public (some licensing hearings, employment and admission/exclusion appeals are not) the 'public access link' should be created and set up as soon as practicable alongside the details of the remote meeting on the appropriate pages of the council's website (with any instructions on how to access the meeting). This provides the requirement to observe/listen to the remote meeting.
- (d) All member substitute notices shall be given as early as possible (at least 24 hours) before the meeting to enable substitute members to prepare for and to receive the invitation to join the meeting. Any other members attending the remote meeting under procedure rule D1.37b and/or Ward members for the Planning Committee for example, should also inform the relevant Democratic Services Officer by email of their intention to join the meeting as early as possible (at least 24 hours before). These members will require the meetings invitation so that they can attend/participate in the meeting. (Members may still wish to observe/listen to the meeting through the 'public access link' on the council's website but this *will not* be recorded as attending the meeting under the D1.37b procedure rule).

- (e) If any Members and officers invited to attend the meeting have any concerns or issues about joining/aspects of the meeting, they should contact the relevant Democratic Services Officer at least 48 hours before the meeting as usual.

## 2. Remote Meetings Etiquette

- (a) Members and officers (and external participants) should be and are asked to adhere to the following etiquette during remote attendance at a remote meeting:
- Members and officers should join the meeting promptly no later than ten minutes before the start to allow themselves and the meetings facilitator - Democratic Services Officer(s) the opportunity to test equipment, confirm attendance and to avoid any unnecessary interruptions. (External participants should be invited to join the meeting by the facilitator/Democratic Services Officer(s) when appropriate – Please see paragraph 5 below.
  - Any camera (video-feed) of a participant should show an appropriate/neutral background (or, where possible a virtual background) and all should be careful not to allow exempt or confidential papers to be seen.
  - All the committee, sub-committee or panel members participating in the remote meeting to have their camera turned ON and microphones muted by the start of the meeting.
  - All other members, officers and participants to have their camera OFF and microphones muted by the start of the meeting.
  - All members, officers and participants are to speak only when invited to do so by the chair, and before speaking, turn their microphones on, (and their camera on if not already on, and if so asked by the chair) – all should state their name before speaking.
  - Only one person may speak at any one time.
  - The chair may also mute everyone speaking except himself or herself at any time.
  - Rather than raising one's hand Members should also avail themselves of the remote process for requesting to be heard. Members should use the 'chat facility' to indicate to the chair that they wish to speak. The chair may also ask each member in turn if they wish to speak or/comment on a particular item. Members will unmute their microphone and turn their cameras on when the Chair invites them to speak. **The 'chat facility' must not be used for private conversations** between members, and external participants shall not use the chat facility for members of the meeting for any purpose unless invited by the chair.
  - The Chair will follow the rules set out in the Council's Constitution Procedure Rules when determining who may speak, as well as the order and priority of speakers and the content and length of any speeches in the normal way.
  - When participants are speaking and referring to a specific report, page, or slide, they should mention the report, page, or slide so that all members/participants have a clear understanding of what is being discussed at all times.

- The chair, or upon his instruction the Democratic Services Officer(s) may mute or turn off the camera of any participant at any time (and similarly turn them on for them to speak and then to switch them off afterwards).
- The chair, in accordance with relevant procedure rules, may remove anyone from the meeting for inappropriate behaviour.
- The chair following advice, or upon his instruction the Democratic Services Officer(s) with IT support, may pause (adjourn) the meeting by taking down the live stream from 'public access' and then reconvene and resume the live stream. (this is likely to be required for confidential/exempt business or any other required adjournment).
- The chair's ruling on any etiquette for remote meetings (in accordance with related procedure rules) is final.

### **3. The Remote Meeting.**

- (a) The Democratic Services Officer(s) shall confirm with the IT Support Officer that the 'public access' live link on the website is activated and working before the remote meeting, together with any recording facility (for internal administrative requirements only).
- (b) The Democratic Services Officer(s) and chair should liaise with each other at least 20 minutes before the start of the remote meeting to confirm/discuss any matters before joining the meeting at least ten minutes before.
- (c) If any IT connection to the remote meeting is not working for any member, officer and external participant they should email/contact the Democratic Services Officer(s) presenting the meeting as soon as possible.
- (d) The chair (or appointed chair) of the remote meeting will chair the meeting. The chair will follow the agenda previously circulated and applying speaking and voting procedures below. The Democratic Services Officer(s) (and any other relevant officer) present may also set up a private chat facility with the chair (through Skype for example) to advise on any business/matter during the remote meeting.
- (e) The chair at the start of the meeting will introduce themselves and welcome everyone to the meeting (naming it). The chair will remind/ confirm the remote meeting is live to the public through an audio web link (or not if applicable). They should also update the meeting on any matter if so required and remind participants of any etiquette requirements.
- (f) The chair will then -
  - (i) Request the Democratic Services Officer to inform the meeting of any substitute members joining the meeting.
  - (ii) Request members to confirm that they are present by asking them to state they are through a 'roll call' carried out by the Democratic Services Officer. (This may also include members who have given notice of attendance under Procedure Rule D1.37b or as Ward Members. (Officers may also be invited to confirm their attendance).

- (iii) Request all members in attendance to make any Declarations of Disclosable Pecuniary Interests and Personal and Personal and Prejudicial interests (or lobbying or whipping etc.) through a further 'roll call' by the Democratic Services Officer. (If members have none, they should state none, and also because of the nature of their declaration, state that they will not be participating or voting on a particular item).

(Members are reminded that if they are required through any declaration to 'leave' the remote meeting that before that item commences they should mute their microphone, turn their camera off and play no part in the remote meeting for that item. The Democratic Services Officer(s) if required will notify the member when they can re-join the remote meeting.

- (iv) Request that the minutes of the previous meeting(s) be approved, further requesting each member in turn if they are agreed. (The chair may move this and then request a seconder).
- (v) Take each item on the agenda in order (or follow any hearing procedure for example, for licensing sub-committees) inviting the relevant Director/service officer present to introduce the report or update the meeting on any matters on the report.

*(Please see paragraph 5 below for public participation at the Planning Committee (to be adapted for remote meetings of Licensing Sub-Committees, and for other remote meetings involving public participants as required)).*

- (vi) Request all members in turn to ask any questions/comments on the report, which will be answered by the Director/service officer present. (If members have none, they should state none).
- (vii) Upon any request received, consider and invite any other member in attendance under the provisions of 1.37b to speak at the remote meeting *(this is at the chair's discretion.)*
- (viii) As soon as the above is completed, the chair will ask all members present whether there are any proposed motions or amendments to the officer's recommendations/report. If any, these will be stated clearly by the named mover, and then seconded by a named seconder. If not, the chair can move the officer recommendations and ask for them to be seconded.

The chair will then proceed to the vote on the item, requesting the Democratic Services Officer through a further roll call as to how each member is voting, whether for, against or abstaining.(motions and amendments will be voted on in accordance with usual voting procedures). Once the vote is completed, the Democratic Services Officer will confirm/announce the result of the vote. *(The chair and Democratic Services Officer will have to be aware of any earlier*

*declarations made by member who may not be participating in any vote).*

- (ix) The chair will then move on to the next item on the agenda and apply the above stages (v) to (viii).
- (x) Once all business on the agenda has been completed, the chair will confirm that the business is concluded, the meeting is closed and thank all those present for joining the meeting.
- (xi) Where the remote meeting has to consider confidential/exempt business, the usual resolution to exclude the press and public will need to be made in public. Then, if applicable, IT Services can disconnect the 'public access' link to the meeting on the website at the required time, or the meeting can be adjourned and then members (and relevant officers) access the further remote invitation already sent, so only they (and relevant officers) can gain access to the 'confidential' part of the remote meeting).

The Democratic Services Officer(s) will confirm through the chair, what action will be taken.

- (xii) Each Member in remote attendance for exempt/confidential business must ensure and verbally declare (through another Democratic Services Officer roll call on the instruction of the chair) that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.

#### **4. After the Meeting**

- (a) Minutes of the meeting will be prepared by the Democratic Services Officer in the usual way and be published on the relevant pages of the council's website.
- (b) The IT Support Officer will provide the Democratic Services Officer with the recording of the remote meeting (for internal administrative purposes only).

#### **5. Public Participation at Remote Meetings of the Planning Committee (to be adapted for remote meetings of Licensing Sub-Committees, and for other remote meetings involving public participants as required).**

- (a) Members of the public who have contact Democratic Services 48 hours before the meeting in the usual way and requested to speak in accordance with procedure rule D1.35 (Planning Committee –public speaking), should be informed at that time that the meeting is a remote meeting. They should be informed that public participation is through Microsoft Teams and receive

instructions how they will prepare for and join the meeting through an 'email invitation link' to speak, together with any other processes/timings. This should include any browser and Microsoft Teams requirements, and associated remote meetings etiquette. (Speaker adjustments must be monitored as only those listed to speak will be allowed to participate in the remote meeting).

- (b) Two Democratic Services Officers will facilitate the remote meeting, one as the 'public participation facilitator' and the other as the more 'clerk/advisor' to the meeting and supporting the chair. IT Support will also be required as outlined in paragraph 3(a) above.
- (c) On the day of the meeting public participants/speakers will have been requested to join the meeting half an hour to 15 minutes before the meeting. Only those speakers who provide the correct name matched against the list of speakers held by Democratic Services Officer/'public participation officer' will be allowed to participate in the meeting. Eligible speakers will be held in the Microsoft Teams 'lobby' until allowed to join the meeting by the Democratic Services Officer/'public participation facilitator'.
- (d) Public participants/speakers having joined the meeting should apply the required meetings etiquette (mute microphones and switch off cameras) until asked to speak by the chair. Public participants/speakers should also be able to observe/listen to the meeting even after having spoken, until they leave the remote meeting. Once they have left the meeting they will not be able to re-join the remote meeting (unless asked to do so for any required reason by the chair).
- (e) If any public participant/speaker is unable to join the meeting due to connection difficulties procedure D9.06(b) should be considered and applied by the chair.
- (f) The Democratic Services Officer(s) (and any other relevant officer) present may set up a 'private' chat facility with each other and the chair (for example through Skype) to advise on any speaker issues/business/matter during the remote meeting.
- (g) The remote meeting should then follow the above paragraphs 3(a) to 3f(iv) above.
- (h) From thereon the following adjustments should be applied;

### **Planning Committee-**

Paragraph 3 above should be followed until 3f (iv) where the following should be replace 3f(v) to (xi), with any appropriate adaptations -

The chair will then:-

- (v) Take each item/application on the agenda in order and where applicable, inviting the relevant Director/service officer(s) present to introduce the report or update the meeting on any matters on the report.
- (vi) At the point in the meeting where public speakers are invited to speak the chair will welcome the public speakers to the meeting and inform them that they will be able to address the meeting for no longer than 3 minutes. The chair from the public speakers list (as advised by the Democratic Services Officers) request the relevant speakers in turn to turn on their microphone/camera and address the committee. The chair will inform the speakers when the 3 minutes has finished and thank them for joining the meeting. (The speakers will still be able to listen to the debate and decision on the relevant application, but have no right to reply).

Any members who are then invited by the chair to exercise speaking rights (as Ward members for example) are also limited to 3 minutes whether speaking under Procedure Rules D1.35 (b) (x) or D1.37 (b). When requested by the chair they should turn on their cameras and microphones and address the committee.

The Democratic Services Officer/'public participation facilitator' will monitor the speakers use of the microphones/cameras and adjust where applicable (following any instruction by the chair) so that they can/cannot be heard or seen.

- (vii) Request all members in turn to ask any questions on the report, which will be answered by the Director/service officer(s) present. (If members have none, they should state none).
- (viii) As soon as the above is completed, the chair will ask all members present whether there are any proposed motions or amendments to the officer's recommendations/report. If any, these will be stated clearly by the named mover, and then seconded by a named seconder.
- (ix) The chair will then proceed to the vote on the item, requesting the Democratic Services Officer/'clerk/advisor' through a further roll call as to how each member is voting, whether for, against or abstaining. (motions and amendments will be voted on in accordance with usual voting procedures). Once the vote is completed, the Democratic Services Officer will confirm/announce the result of the vote. *(The chair and Democratic Services Officer(s) will have to be aware of any earlier declarations made by member who may not be participating in any vote).*
- (x) The chair will then move on to the next item on the agenda and apply the above stages (v) to (viii) again, where applicable.
- (xi) Once all business on the agenda has been completed, the chair will confirm that the business is concluded, the meeting is closed and thank all those present for joining the meeting.

## **Licensing Sub-Committees**

- (i) For the above sub-committees (which are quasi-judicial bodies) the above paragraphs should be applied and adapted where applicable. However, notice will have been received from applicants/licence holders and other parties of their request to speak in accordance with statutory or licensing policy provisions. Their 'right to speak' and participate in such remote meetings should also be facilitated through Microsoft Teams and information and instructions how to do so be given in a similar way to above.
- (k) For Licensing Sub-Committee remote meetings, the adopted 'hearings procedures' will be applied for applicants/licence holders relevant to the Licensing (Activities) Sub-Committee and Licensing (Miscellaneous) Sub-Committee.
- (l) Consideration should be given as to whether or not the whole of the hearing/remote meeting will be conducted in public or not and apply or remove any 'public access' requirements on the council's website. (Similar consideration should be given to any required adjournments of the hearing/remote meeting for sub-committee deliberations, how this should be done, and any necessary provisions to continue or pause any 'live public access link').

## **Public Participants at other Remote Meetings**

- (m) The above paragraphs should be applied, adapted and their principles implemented for other statutory remote meetings where public participants may be required to attend. Also, the associated requirement for 'public access' to remote meetings through the 'live link' on the council's website should be considered at all times.
- (n) This protocol as part of the 'Remote Meetings Procedure Rules' shall be reviewed regularly as experience of remote meetings is developed and other associated requirements so determine any necessary adjustments.



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## PART E CODE 1 - MEMBERS CODE OF CONDUCT

### E1.01 INTRODUCTION

- (a) This Code of Conduct ('Code') has been adopted by North Lincolnshire Council ('Authority') as required by Section 27 of the Localism Act 2011 ('Act').
- (b) The Authority has a statutory duty under the Act to promote and maintain high standards of conduct by its Members.
- (c) This Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply from time to time. Members should also comply with the following "Nolan" principles:

Selflessness  
Integrity  
Objectivity  
Accountability  
Openness  
Honesty  
Leadership

### E1.02 WHO DOES THIS CODE APPLY TO AND WHEN DOES IT APPLY?

- (a) This Code applies to all Members of the Authority and to all co-opted Members of any committee, sub-committee or joint committee of the Authority.
- (b) This Code applies whenever a person is acting in his/her official capacity as a Member of the Authority or co-opted Member in the conduct of the Authority's business, or acting as a representative of the Authority, including -
  - (i) at meetings of the Authority, its Committees and Sub-Committees, its Cabinet and Cabinet Committees;
  - (ii) when acting as a representative of the Authority;
  - (iii) in discharging their functions as a ward Councillor or as a member of the Executive;
  - (iv) at briefing meetings with officers; and
  - (v) at site visits, and

(vi) 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

(c) Any allegation received by the Authority that a Member has failed to comply with this Code will be dealt with under the Arrangements which the Authority has adopted for such purposes.

### **E1.03 WHAT STANDARDS OF CONDUCT ARE MEMBERS EXPECTED TO OBSERVE?**

- (a) You must treat others with respect and courtesy.
- (b) You must not bully or harass any person, as further defined in Appendix 2.
- (c) You must not do anything which may cause the Authority to breach any equality laws.
- (d) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.
- (e) You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
- (f) You must act solely in the public interest and not use, or attempt to use, your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage.
- (g) You must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.
- (h) You must only use, or authorise the use of, the Authority's resources for proper purposes (non-political with regard being had to any applicable Code of Recommended Practice on Local Authority Publicity) and in accordance with the Authority's procedural and policy requirements.
- (i) You must not disclose information which is given to you in confidence, or information which you believe, or ought to be aware, is of a confidential nature, except where:

- (i) you have the consent of the person authorised to give it;
  - (ii) you are required to do so by law;
  - (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 in the public interest, made in good faith, and that you have consulted the Monitoring Officer.
- (j) You must:
- (i) undertake Code of Conduct training provided by the Authority.
  - (ii) co-operate with any Code of Conduct investigation and/or determination
  - (iii) not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
  - (iv) comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.
- (k) You must not accept gifts and hospitality regardless of value where it may lead any reasonable person with knowledge of the relevant facts to believe that you might be influenced by the gift or hospitality given.

#### **E1.04 DISCLOSABLE PECUNIARY INTERESTS ('DPI')**

- (a) You have a Disclosable Pecuniary Interest (DPI) in any business of the Authority if that interest falls under any of the descriptions at Appendix 1 of this Code.

##### **Disclosure Requirement**

- (b) You must, within 28 days of taking office as a Member or co-opted Member, notify the Authority's Monitoring Officer of any DPI as defined in Regulations made by the Secretary of State and set out in Appendix 1 of this Code, where the DPI is yours or your partner's (which means spouse or civil partner, a person with whom you are living with as husband or wife or a person with whom you are living with as civil partners). You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs.
- (c) You must make verbal declaration of the existence and nature of any DPI at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that

interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a “sensitive interest” (see paragraph E1.04(e), you need only declare the existence of the DPI but not the detail.

- (d) If you are present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, and you have a DPI in any matter to be considered or being considered at the meeting, unless a dispensation has been granted,
  - (i) you must not participate in any discussion of the matter at the meeting.
  - (ii) you must not participate in any vote taken on the matter at the meeting.
  - (iii) you must withdraw from the room or chamber whilst the matter is being discussed and voted on.
  - (iv) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

### **Sensitive Interest**

- (e) Where you consider that disclosure of the details of a DPI could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a DPI, the details of which are withheld under Section 32(2) of the Act.

## **E1.05 CRIMINAL SANCTIONS RELATING TO DISCLOSABLE PECUNIARY INTERESTS**

- (a) A Member commits a criminal offence if, without reasonable excuse, you -
  - (i) fail to notify the Monitoring Officer of any DPI within 28 days of election;
  - (ii) fail to disclose a DPI at a meeting if it is not on the register;
  - (iii) fail to notify the Monitoring Officer within 28 days of a DPI that is not on the register that you have disclosed to a meeting;
  - (iv) participate in any discussion or vote on a matter in which you have a DPI (including taking a decision as an Executive Member acting alone);

- (v) as an executive Member discharging a function acting alone, and having a DPI in such a matter, fail to notify the Monitoring Officer within 28 days of the interest; and
  - (vi) knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.
- (b) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for a maximum of 5 years.

## **E1.06 PERSONAL INTERESTS**

- (a) You have a personal interest in any business of the Authority where either it relates to or is likely to affect -
- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
  - (ii) any body -
    - exercising functions of a public nature;
    - directed to charitable purposes; or
    - 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.
  - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25, such gift or hospitality to be registered within 28 days of receipt.
- (b) You have a personal interest in any business of the Authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or relates to or is likely to affect any interests you have registered as a DPI.
- (c) A *relevant person* is -
- (i) a member of your family or any person with whom you have a close association; or

- (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (iv) any body of a type described in sub-paragraphs E1.06(a) (i) and E1.06(a) (ii)

### **Disclosure Requirement**

- (d) If you have a personal interest as defined in paragraph E1.06(a), you must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer in writing of such interest. You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your personal interests defined in paragraph E1.06(a).
- (e) Subject to paragraph E1.06(f), you must make a verbal declaration of the existence and nature of any personal interest you have under this paragraph, at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph E1.04(e), you need only declare the existence of the interest but not the detail.
- (f) Where you have a personal interest in any business of the Authority which relates to or is likely to affect a body defined in paragraphs E1.06(a)(i) and E1.06(a)(ii) you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (g) Having disclosed a personal interest and providing it is not a prejudicial interest, you may still continue to participate and vote on the matter at that meeting.
- (h) Where you have a personal interest in any business of the Authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **E1.07 PREJUDICIAL INTERESTS**

- (a) Where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest



is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest (unless the matter falls within one of the exempt categories detailed in paragraph E1.08) and where that business -

- (i) affects your financial position or the financial position of a person or body described in paragraph E1.06(c); or
- (ii) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph E1.06(c).

### **Disclosure Requirement**

- (b) Subject to paragraph E1.07(c), where you have a prejudicial interest in any business of the Authority, you must make verbal declaration of the existence and nature of such interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and, unless a dispensation has been granted, -
  - (i) you must not participate in any discussion of the matter at the meeting.
  - (ii) you must not participate in any vote taken on the matter at the meeting.
  - (iii) you must, unless paragraph E1.07(c) applies, withdraw from the room or chamber whilst the matter is being discussed and voted on.
- (c) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.
- (d) Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **E1.08 EXEMPT CATEGORIES**

- (a) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the Authority in respect of -
  - (i) housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to Members;
  - (v) any ceremonial honour given to Members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **E1.09 OVERVIEW AND SCRUTINY COMMITTEES**

- (a) In any business before an overview and scrutiny committee of the Authority (or of a sub-committee of such a committee) where –
  - (i) that business relates to a decision made (whether implemented or not) or action taken by an executive or another of the Authority's committees, sub committees, joint committees or joint sub-committees; and
  - (ii) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph E1.09(a)(i) and you were present when that decision was made or action was taken, you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.

## **E1.10 REGISTER OF INTERESTS**

- (a) Any interests notified to the Monitoring Officer will be included in the register of members' interests. A copy of this register will be available for public inspection and will be published on the Authority's website.
- (b) For the purposes of this Code a DPI is the subject of a 'pending notification' where it has been notified to the Authority's Monitoring Officer but has not yet been entered in the register of members' interests in consequence of that notification.

## APPENDIX 1

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

Interest	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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority -
Land	<p>(a) Under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> <p>Any beneficial interest in land which is within the area of the relevant authority.</p>

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) - (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where -  (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either -  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

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

## **APPENDIX 2**

### **Bullying and Harassment**

The following should be read in conjunction with the paragraph E1.03(b) of this Code.

Bullying maybe characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, denigrate or injure the recipient.

Harassment maybe characterised as: unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images or by email and phone. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Some examples of bullying and harassment include:

- Spreading malicious rumours, or insulting someone by word or behaviour
- Exclusion or victimisation
- Ridiculing or demeaning someone
- Unfair treatment
- Deliberately undermining the competence of an employee by constant criticism.
- Unwanted sexual advances
- Threats to a person's wellbeing, reputation or employment.

These examples are not exhaustive and due regard will be had to any guidance issued by ACAS, from time to time, on the definition of bullying and harassment in the application of paragraph E1.03(b) of this Code.

## PART E CODE 2 - OFFICERS' CODE OF CONDUCT

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### E2.01 CODE OF CONDUCT

Section 82 of the Local Government Act 2000 permits the Secretary of State to issue a code as regards the conduct which is expected of employees of the council. This has not yet been done but when it is the Code of Conduct will be deemed to have been incorporated in the Terms of Appointment and Conditions of Employment of every employee.

In the meantime the Council expects all officers to have regard to the Code of Conduct issued by the Local Government Management Board (or equivalent, to date)



## PART E CODE 3 - PROTOCOL ON MEMBER/OFFICER RELATIONS

### E3.01 GENERAL PRINCIPLES

The following general principles shall govern the relations between members and employees.

- (a) Members and employees recognise that they have an essential role to play in the success of the council in achieving its vision, mission and promise.
- (b) Members and employees will work to develop relationships which are based on mutual respect, trust and support.
- (c) Members and employees recognise that both are subject to and must abide by national and local codes of conduct.
- (d) Members and employees will avoid actions which may be seen as promoting personal gain but will work to achieve the Council's agreed objectives.
- (e) Employees will at all times abide by the politically restricted post provisions of the Local Government and Housing Act 1989 and Regulations made thereunder and, except in the case of political assistants, will not act in the course of their employment in a manner which could create a suspicion that they favour one political group above another.
- (f) Members and political groups will seek advice only on Council business and not use council resources for political business.
- (g) It is recognised by members and employees that occasions will arise when politically sensitive information is communicated to an employee in confidence. In those circumstances the employee will not communicate that information to other party groups.

## PART E CODE 4 - ROLES AND RESPONSIBILITIES OF MEMBERS

### E4.01 MAYOR AND DEPUTY MAYOR

#### **Constitutional Role**

In the ceremonial role to promote North Lincolnshire Council and the area of North Lincolnshire.

To chair meetings of the Full Council.

#### **Duties and Responsibilities**

- (a) To promote North Lincolnshire Council and the area of North Lincolnshire as its first citizen and ambassador.
- (b) To attend such civic and ceremonial functions as the council and the Mayor determine appropriate.
- (c) To act as host to overseas visitors including students to local schools/colleges in the area and where appropriate to lead official visits overseas.
- (d) To uphold and promote the purposes of the constitution and to interpret the constitution when necessary.
- (e) To preside over meetings of the council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
- (f) To ensure that the council meeting is a forum for the debate of matters of concern to the local community and a place at which members who are not on the executive or hold committee chairs are able to hold the executive and committee chairs to account.
- (g) To promote public involvement in the council's activities.
- (h) To nominate charities for the year of office and to raise funds for these causes during that period.
- (i) To be the conscience of the council.

## **E4.02 LEADER OF THE COUNCIL**

### **Constitutional Role**

To provide visible and pro-active political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of council policies, strategies and service delivery.

To lead on behalf of the council the development of local, regional, national and European policy and strategic partnerships.

To promote a sustained community planning process.

To communicate the council's position to its many publics so as to project the authority and the wider area positively.

### **Duties and Responsibilities**

- (a) To appoint and chair the Cabinet and to lead the Cabinet and Cabinet members as an effective body in driving forward the council.
- (b) To represent the council and wider area; acting as an ambassador, leading the development of strategic partnerships with agencies, citizens and stakeholders in relation to the delivery of strategic objectives and the provision of services to citizens.
- (c) To ensure a whole council response to strategic policy initiatives and cross cutting issues in line with the council's priorities and objectives.
- (d) To promote the development, implementation, and evaluation of the community plan.
- (e) To ensure effective management of the council's capital and revenue budgets, probity and financial monitoring including proposals on annual budget allocations.
- (f) To communicate the council's values, vision and priority objectives to citizens, partners, stakeholders, councillors, staff and trade unions.
- (g) To ensure that robust management systems exist to appraise the performance of senior managers and in support of greater emphasis in joint working across service areas.
- (h) To represent the council on appropriate bodies/organisations whose objectives are considered to be beneficial to the area.

- (j) To oversee the pro-active development of public engagement and consultation and lead the council in developing initiatives with the public and organisations in North Lincolnshire.

## **E4.03 DEPUTY LEADER OF THE COUNCIL**

### **Constitutional Role**

To assist the Leader and other Cabinet members in providing visible and proactive political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of council policies, strategies and service delivery.

To work with the Leader in developing local, regional, national and European policy and strategic partnerships with particular emphasis on regeneration.

To drive forward the marketing of North Lincolnshire and the North Lincolnshire area.

### **Duties and Responsibilities**

- (a) In the absence of the Leader to deputise for him/her including chairing Cabinet.
- (b) To have oversight and responsibility for the service, organisational and council-wide portfolios detailed in the council's schedule of Cabinet member portfolios.
- (c) To work together with other members of the Cabinet to achieve the authority's aims, objectives and action plans.

## **E4.04 LEADER OF THE OPPOSITION**

### **Constitutional Role**

To contribute to political leadership in relation to citizens, stakeholders and partners on the overall co-ordination of Council policies, strategies and service delivery.

To comment, challenge and review the council's controlling group's performance in the co-ordination and implementation of its policies and procedures.

### **Duties and Responsibilities**

- (a) To attend meetings of the council and other appropriate groups as necessary.
- (b) To work with the controlling group to ensure that the council's duties and responsibilities can be carried out.
- (c) To contribute to the development, implementation and evaluation of the community plan.
- (d) To contribute to the work of the Scrutiny function.
- (e) To oversee the group's electoral duties and strategies.
- (f) To act as lead spokesperson on behalf of the group and as a representative of the authority to external bodies/organisations as appropriate.
- (g) To lead the group's dealings with the media.
- (h) To deal with correspondence to the group from the public and other bodies and external organisations.
- (i) To determine policy matters in consultation with the group.
- (j) To act as a focus for political opposition of the controlling group on behalf of the relevant group.
- (k) To determine priorities for the staff supporting the group within the resources available.

#### **E4.05 ALL CABINET/EXECUTIVE MEMBERS**

- (a) To be responsible for the service, organisational, councilwide and representative portfolio as detailed in the council's scheme of cabinet member portfolios.
- (b) Working within that scheme and within the scheme of delegation to cabinet members, to take decisions on behalf of the executive based on professional, technical and other advice within the rules, procedures and protocols contained within the constitution.
- (c) To work with "lead members" to assist in the development of specific aspects of policy.
- (d) To facilitate and encourage public participation and consultation and to ensure the effective communication of council policies and strategies to citizens, partners, stakeholders, the media, councillors, staff and trade unions.
- (e) To promote the core values and objectives of the council.
- (f) To contribute to the community planning process.
- (g) To work in partnership with relevant external organisations.
- (h) To develop new policies consistent with the overall strategic approach of the council.
- (i) To set targets and monitor officer performance in relation to the pursuance of policies and strategies.
- (j) To speak on behalf of the council.
- (k) To represent the council, and in consultation with the group secretary to identify other councillors to do so, on relevant external bodies.
- (l) To request or commission research or other studies on matters of policies or service provision, particularly within the individual member's portfolio.
- (m) To refer to the Cabinet all matters with corporate implications or political sensitivity, again particularly in relation to the individual member's portfolio.
- (n) To value the independence and the contributions made by the Scrutiny Panels and to treat panel findings with the utmost respect, giving full debate and consideration to recommendations.
- (o) To give guidance on budget priorities.

- (p) To receive presentations from councillors acting in their capacity as ward members in relation to the provision of services to citizens in their areas.



## **E4.06 LEAD MEMBERS**

### **Main Role**

To champion and assist individual cabinet members with specific aspects of their portfolio by carrying out policy development work.

### **Duties and Responsibilities**

- (a) To contribute to the process of setting policy direction, development and review, by assisting a cabinet and committee member to develop specific aspects of their individual portfolio, for example in relation to a community plan objective or a new policy area.
- (b) To work on aspects of policy development on a time limited, task based approach in accordance with evolving corporate priorities. For each task a specific brief would be drawn up by the relevant cabinet member in consultation with other cabinet members as appropriate.
- (c) To report to relevant cabinet members in respect of progress in carrying out lead member duties.
- (d) To promote the core values, corporate priorities and objectives of the council.
- (e) To contribute to policy developments as a member of the relevant cabinet member(s) team(s).

#### **E4.07 SCRUTINY PANEL CHAIRMEN**

- (a) To chair meetings of the panel and regulate and control proceedings in accordance with good practice having particular regard to the council's overview and scrutiny procedure rules and protocols.
- (b) To proactively raise awareness, develop and drive forward the scrutiny function within a new political management structure.
- (c) To ensure that the arrangements for the calling-in of decisions of the executive are managed by the Panel.
- (d) To ensure that appropriate and meaningful deliberation is given to consultation on the Council's budget and policy framework and other consultation.
- (e) To ensure that Scrutiny Panel members are aware of and adhere to their responsibilities, remit and relationship with full council and the cabinet.
- (f) To liaise with the Scrutiny Officer as to all matters relating to the management of the scrutiny process and meetings of the Panel or other public meetings.
- (g) To discuss with the Scrutiny Officer the scope of scrutiny reviews and investigations including the research and information sources to be considered including appropriate witnesses to be interviewed.
- (h) To ensure that witnesses are questioned carefully, but courteously, by members of the Panel.
- (i) To liaise with appropriate officers as to the training and development requirements for Panel members.
- (j) To liaise with the Scrutiny Officer to ensure that the final report accurately reflects decisions made by the Panel and to write an introduction to the report.
- (k) To lead the member presentation of any reports produced by the Panel and to liaise with the council's Media Relations Section over any media statements or other publicity.
- (l) To monitor the implementation of any recommendations made by the Panel.
- (m) Where the cabinet or individual cabinet members wish to take an urgent key decision, to agree or otherwise that the matter is urgent and is consistent with the rules, procedures and protocols.

#### **E4.08 SCRUTINY PANEL VICE-CHAIRMEN**

- (a) In the absence of the Chairman to chair meetings of the Panel and regulate and control proceedings in accordance with good practice having particular regard to the Council's overview and scrutiny procedure rules and protocols.
- (b) To assist the Chairman in proactively raising awareness, developing and driving forward the role of the scrutiny function within a new political management structure.
- (c) To assist the Chairman in ensuring that the arrangements for the calling in of decisions of the executive are managed effectively by the Panel.
- (d) To assist the Chairman in ensuring that appropriate and meaningful deliberation is given to consultation on the Council's budget and policy framework and other consultation.
- (e) To assist the Chairman in all other aspects of the work of the Scrutiny Panel/function, to ensure that this work is carried out effectively efficiently and to the benefit of the whole Council.

#### **E4.09 CHAIRMEN OF REGULATORY COMMITTEES - PLANNING, AUDIT, LICENSING, AND APPEALS (GENERIC - TO APPLY TO ALL CHAIRMEN OF SUCH COMMITTEES)**

##### **Constitutional Role**

To undertake the regulatory responsibilities of the Council in accordance with the Council's Policies and Procedures.

To carry out these duties at all times in a professional manner.

##### **Duties and Responsibilities (all committees)**

- (a) To chair meetings of one of the regulatory committees in accordance with the relevant terms of reference and the Council's constitution and procedure rules.
- (b) To assist in the determination of the agenda of committee meetings.
- (c) To consider the submission of late items and to determine whether or not these are sufficiently urgent to be considered by the committee.
- (d) To investigate and arrange proper consideration of the issues presented to the committee and ensure that it has all the necessary information before it to make informed decisions.
- (e) To represent the Council in all dealings with the public, media and other bodies.
- (f) To maintain an awareness of national and local issues and regulations relating to the particular sub-committee.
- (g) To liaise with appropriate officers as to the training and development requirement for committee members.

##### **Duties and Responsibilities (applicable to the committee indicated)**

- (a) To assist in the arrangement of site visits as required - (planning and licensing committees).
- (b) To act as a point of reference or contact to officers proposing enforcement action where appropriate - (planning and licensing committees).
- (c) To deal with and decide upon all appeals under the local conditions of service relating to gradings, grievances, disciplinary matters and dismissals on grounds of redundancy or capability - (appeals committee).

## **E4.10 ALL COUNCILLORS (REPRESENTATIVE ROLE)**

### **Constitutional Role**

To contribute towards the good government of the whole area and actively encourage community participation and citizen involvement in the democratic decision making processes.

To effectively represent the interests of the ward and of individual constituents and deal with constituents' enquiries and representations fairly and without prejudice insofar as this does not conflict with the legal requirements as a councillor working within existing rules and regulations.

### **Duties and Responsibilities**

- (a) To use local knowledge in the development of council policies, including listening to the needs of local people and taking their view into account when considering policy proposals and decision making.
- (b) To contribute to local people being informed about -
  - services in their area
  - decisions that affect them
  - the reasons why decisions are taken by the council
  - the rights of constituents in North Lincolnshire
- (c) To champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement in the quality of life in the community in terms of equity, economy, environment and citizenship.
- (d) To participate in the activities of any outside body to which the councillor is appointed, providing two-way communication between the outside body and the council, and to develop and maintain a working knowledge of the authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and functions. To ensure that the council receives value for money from outside bodies particularly where the council provides grant aid or funding.
- (e) To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the community's well being and identity.
- (f) To carry out case work on behalf of constituents and to represent their interests to the council.
- (g) To contribute constructively to open government and democratic renewal through actively encouraging the community to participate in

the government of the area and take up their roles in terms of effective citizenship.

- (h) Promote and maintain the highest standards of conduct and ethics and observe the Code of Conduct.
- (i) To ensure consistency of culture within the council.
- (j) To promote and support the principles of leadership in all aspects of involvement with the council and outside organisations.
- (k) To maintain effective relationships with members of minority parties and to meet with them, on a regular basis or as required, on any issues relevant to the council.
- (l) To promote the council as an authority, regionally and nationally.
- (m) To identify individual training and development needs and ensure that these are considered and actioned.

## **E4.11 GROUP SECRETARY (MAJORITY GROUP)**

### **Constitutional Role**

To foster and maintain a co-ordinated approach by the group collectively to allow councillors to work effectively together, using their abilities to the full as the foundation for political success.

To aspire to the highest standards of personal and group behaviour and ethics.

### **Duties and Responsibilities**

In relation to the management of the council -

- (a) To be a member and attend meetings of the Cabinet.
- (b) To contribute to the political process of setting policy direction, development and review, by assisting the leader in managing councillors' roles as elected representatives and politicians.
- (c) To play a lead role in the regular review of council structures and processes to ensure effectiveness in meeting councillors' needs, to enable them effectively to perform their roles in serving the community.
- (d) To act as a main point of liaison between the Cabinet, non-executive members and individual councillors on the development of effective procedures and protocols for the efficient management of the scrutiny process.
- (e) To ensure majority group members receive all relevant information in order to inform themselves and debate issues sufficiently to take a coherent and co-ordinated approach to complex decisions.
- (f) In liaison with the leader, to arrange the allocation of committee places and seats on outside bodies.
- (g) To ensure that all members register and declare their interests in accordance with appropriate regulations and guidelines.
- (h) To liaise with the Service Manager: Democracy on all matters relating to meetings of full council and the decision making process.
- (i) To promote and participate in appropriate member training and development in order for all councillors to be able to effectively undertake their roles.
- (j) To liaise as appropriate and necessary with the minority group secretary.

In relation to the management of a specific political group -

- (a) To convene group meetings and preparation of the agenda.
- (b) To convene the annual meeting of the group for the election of officers etc prior to the statutory annual meeting of the council.
- (c) To act with other group officers to maintain the unity, identity and integrity of the group.
- (d) To liaise with the local party to ensure that there are at least four meetings during the year to discuss developments and policy.
- (e) To receive correspondence to and from the group and to copy and distribute information to group members.
- (f) To facilitate support/interest groups for non-executive members' concerns to be voiced and addressed and to ensure that all members contribute towards achieving key objectives.



## **E4.12 GROUP SECRETARY (OPPOSITION GROUP)**

### **Constitutional Role**

To foster and maintain a co-ordinated approach by the group collectively to allow councillors to work effectively together, using their abilities to the full as the foundation for political success.

To aspire to the highest standards of personal and group behaviour and ethics.

### **Duties and Responsibilities**

In relation to the management of the council -

- (a) To contribute to the political process of setting policy direction, development and review, by assisting the group leader in managing councillors' roles as elected representatives and politicians.
- (b) To play a lead role in the regular review of council structures and processes to ensure effectiveness in meeting councillors' needs, to enable them effectively to perform their roles in serving the community.
- (c) To act as a main point of liaison between members of the group and individual councillors on the development of effective procedures and protocols for the efficient management of the scrutiny process.
- (d) To ensure members receive all relevant information in order to inform themselves and debate issues sufficiently to take a coherent and co-ordinated approach to complex decisions.
- (e) In liaison with the group leader, to arrange the allocation of committee places and seats on outside bodies.
- (f) To ensure that all members register and declare their interests in accordance with appropriate regulations and guidelines.
- (g) To liaise with the Service Manager: Democracy on all matters relating to meetings of full council and the decision making process.
- (h) To promote and participate in appropriate member training in order for all councillors to be able to effectively undertake their roles.
- (i) To liaise as appropriate and necessary with the majority group secretary.

In relation to the management of a specific political group -

- (a) To convene group meetings and preparation of the agenda.
- (b) To convene the annual meeting of the group for the election of officers etc prior to the statutory annual meeting of the council.
- (c) To act with other group officers to maintain the unity, identity and integrity of the group.
- (d) To receive correspondence to and from the group and to copy and distribute information to group members.
- (e) To facilitate a forum for members' concerns to be voiced and addressed and to ensure that all members contribute towards achieving key objectives.

## **E4.13 PARTY WHIPS**

### **Constitutional Role**

To foster and maintain a disciplined approach by the group collectively, to allow councillors to work effectively together using their abilities to the full as the foundation for political success.

To aspire to the highest standards of personal and group behaviour and ethics.

### **Duties and Responsibilities**

- (a) To contribute to the political process of setting policy direction, development and review, by assisting the group leader in managing councillors' roles as elected representatives and politicians.
- (b) To play a lead role in the regular review of council structures and processes to ensure effectiveness in meeting councillors' needs to enable them effectively to perform their roles in serving the community.
- (c) To ensure members receive all relevant information in time to inform themselves and debate issues sufficiently to take a coherent approach to complex decisions.
- (d) In liaison with the group leader, to arrange the allocation of committee places and seats on outside bodies and establish with colleagues a fair system of allowances to support the process of sensible decision making and develop the work of councillors.
- (e) To ensure that all members attend formal and informal meetings of the council and its committees and to take appropriate disciplinary action against members who do not do so, where no reasonable explanation is offered.
- (f) To promote and participate in appropriate member training in order for all councillors to be able to effectively undertake their roles.

In relation to the management of a specific political group -

- (a) To have responsibility for resolving any perceived conflict of interest for councillors bound by group decisions through support and discussion to ease the tension between carrying out representative responsibilities and political responsibilities.
- (b) To facilitate an adequate forum for members' concerns to be voiced and addressed and to ensure that all members can contribute towards achieving key objectives.

- (c) To take appropriate disciplinary measures, as laid down in party rules, to maintain a well functioning group.

## PART E CODE 5 – GOOD PRACTICE GUIDE FOR ALL MEMBERS AND OFFICERS INVOLVED WITH PLANNING APPLICATIONS AND RELATED MATTERS

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### E5.01 GOOD PRACTICE GUIDE

- (a) This Good Practice Guide was produced after taking into account current advice and examples of good practice. In particular it incorporates the resolutions made by the Development and Environment Committee in January 1998 in the light of the Report on Standards of Conduct in Local Government (“The Nolan Report”) and the Royal Town Planning Institute Report on the Role of Elected Members in Plan-making and Development Control. It will be reviewed from time to time to ensure it remains up-to-date but may be varied only by formal resolution of the Council. This latest revision has been prepared to reflect the changes in legislation notably the Localism Act 2011 and the Council’s Constitution.
- (b) This Guide is intended to supplement the Council’s **Codes of Conduct for Members and Officers**. The provisions of this Guide continue to have full force and effect in relation to all **members and officers** involved with planning matters.
- (c) In this Good Practice Guide, unless otherwise stated, the word “committee” means the Planning Committee or any other committee of the Council that has responsibility for the determination of planning applications. “Planning application” means any application for permission, consent or approval under the provisions of the Town and Country Planning Acts and related legislation.

### E5.02 BACKGROUND

- (a) In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today’s place-shaping context, early councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.
- (b) This Guide is intended to reinforce councillors’ community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.
- (c) Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

- (d) Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- (e) One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.
- (f) Whilst councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- (g) The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

### **E5.03 THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- (a) Councillors and officers have different but complementary roles. Councillors and officers are responsible to both the public and the electorate, whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions. Any Committee member who wishes to attend the Planning Chairman's briefing, may do so upon request being made and approval given by the Chairman.
- (b) Officers act as part of a management structure and therefore councillors should only discuss a planning matter, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a councillor level.
- (c) Both councillors and officers are guided by codes of conduct. Members are covered by the Code of Conduct which was adopted on 1 July 2012. Officers are bound by the Code of Conduct for Employees adopted in 2005 which is incorporated in their terms and conditions of employment.
- (d) Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute.

- (e) In addition to these codes, the Council's Constitution sets down rules which govern the conduct of council business.
- (f) Councillors and officers should be cautious about accepting gifts and hospitality and should exercise their discretion. The requirements for members are set out in the Code of Conduct and those for officers in the Code of Practice for Gifts and Hospitality. Copies of, and advice on, these codes can be obtained from Democratic Services.
- (g) Officers and councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.
- (h) Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

#### **E5.04. TRAINING**

- (a) Training on planning procedures and issues, particularly important new or changed policies and procedures, will be provided each year and will include events presented by officers with the help of experts from outside the Council where appropriate. In accordance with the recommendation of the Nolan Committee, all members of the Planning Committee must attend and members who have not undergone training will not be eligible to sit on the committee as a substitute.
- (b) An induction course for new members of the committee will be prepared for presentation by Council officers.
- (c) Planning officers responsible for the preparation of written reports and for advising members at committee meetings will be qualified to an appropriate level in Town Planning. They will be required to undertake continuing professional development to a level required of its members by the Royal Town Planning Institute (RTPI) whether or not they are actual RTPI members.
- (d) Other officers of the Council may attend the committee to give appropriate advice from time to time. Such officers may possess qualifications in some or all of the following disciplines: archaeology, conservation, environmental health, highways, and law (this list is not exhaustive).

## **E5.05. REGISTRATION AND DISCLOSURE OF INTERESTS**

- (a) Chapter 7 of the Localism Act 2011 places requirements on councillors regarding the registration and disclosure of their pecuniary and other interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.
- (b) It is always best to identify a potential interest early on. If a councillor thinks that they may have an interest in a particular matter to be discussed at planning committee he or she should raise this with the monitoring officer as soon as possible.
- (c) Councillors are referred in particular to the Council's Code of Conduct to be found at Part E of the Council's Constitution which sets out the interests that councillors need to register and declare
- (d) Appendix 1 illustrates how interests should be dealt with.

## **E5.06 PREDISPOSITION, PREDETERMINATION, OR BIAS**

- (a) Members of the committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.
- (b) The courts have sought to distinguish between situations that involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.
- (c) Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.
- (d) Section 25 of the Localism Act 2011 also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.



- (e) This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.
- (f) For example, a councillor who states  
  
"Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a councillor who states: "Many people find windfarms, ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area."
- (g) If a councillor has predetermined their position, they should withdraw from being a member of the committee. This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). The member concerned may wish to consider being substituted for the relevant meeting.

#### **E5.07 APPLICATIONS CONCERNING MEMBERS, SENIOR OFFICERS OR THEIR SPOUSES/PARTNERS**

- (a) Where a planning application is submitted by any of the following: -
  - (i) A member of the Council;
  - (ii) a senior officer (which in this context means any officer at or above Unit Manager level)
  - (iii) any officer responsible to the Director Operations
  - (iv) or the spouse or partner of any of the foregoing who resides at the same addressor relates to any land in which any of the foregoing have an interest, that application will be reported to the committee for decision.
- (b) In these circumstances it is the responsibility of both the applicant and of the member or officer concerned, provided he or she has been served with the requisite notice, to draw the Local Planning Authority's attention to the existence of such an interest at the time that the application is made
- (c) The officer's report will include reference to these particular circumstances.

## **E5.08 PLANNING APPLICATIONS MADE BY THE COUNCIL**

- (a) Where the committee is considering such planning applications it shall base its decision on planning policy and other material planning considerations only and shall disregard all other considerations, however worthy. Decisions relating to the Council in its role of landowner are the responsibility of the relevant cabinet member(s).
- (b) Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

## **E5.09 LOBBYING OF AND BY COUNCILLORS**

- (a) Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.
- (b) As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".
- (c) Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.
- (d) As noted earlier in this Guide, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.
- (e) Councillors can raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.
- (f) Any councillor, not being a member of the committee, who attends the committee meeting and speaks on behalf of a lobby group should consider withdrawing once any public or ward member speaking opportunities had been completed in order to counter any suggestion that

members of the committee may have been influenced by their continuing presence.

- (g) It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.
- (h) Planning committee members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors

#### **E5.10 GROUP MEETINGS**

- (a) There is nothing either in law or in the Code of Conduct to prohibit political group meetings being held prior to committee meetings, the consideration of planning applications should not, however, be discussed at such meetings. Decisions should not be made until the actual committee meeting, when all material information is to hand. Any group meeting that is held must not be used to decide how members will vote.
- (b) Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.

#### **E5.11 PRE-APPLICATION DISCUSSIONS**

- (a) Pre-application discussions between a potential applicant and the council can benefit both parties and are to be encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- (b) In the past concerns have been raised about probity issues with regard to the involvement of councillors in pre-application discussions in that councillors may be accused of predetermination when the subsequent application came in for consideration. Now, through the Localism Act 2011 and previously the Audit Commission, it is recognised that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors lead on community issues and helps to make sure that issues don't come to light for the first time at committee.
- (c) The Localism Act 2011, and in particular Section 25, by endorsing this approach, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place within the following guidelines. (NB Although the term 'pre-

application' has been used, the same considerations should apply to any discussions which occur before a decision is taken).

- Clarity at the outset that the discussions will not bind the council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
  - An acknowledgement that consistent advice will be given by officers based upon the development plan and material planning considerations.
  - Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.
  - Confirmation that a written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
  - A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.
  - The scale of proposals to which these guidelines would apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. The Nolan Committee argued that keeping a register of these conversations would be impractical and unnecessary. However thought should be given as to when discussions should be registered and notes written.
- (d) Similar arrangements can also be used when authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.
- (e) The Statement of Community Involvement sets out the council's approach to involving communities and other consultees in pre-application discussions.

## **E5.12 MEETINGS INVOLVING PLANNING OFFICERS**

- (a) Officers will inevitably meet applicants and third parties as part of their normal duties. They will:
- (i) record any significant contacts on the relevant application file along with the outcome, if any;
  - (ii) report orally to the committee any significant contacts made subsequent to the report being prepared;
  - (iii) be prepared to offer their professional opinion, but in so doing will avoid giving, or appearing to give, a commitment as to the likely outcome and will make it clear that any views expressed are their own and not necessarily those of the Council;
  - (iv) not disclose the content of the officer's report until after publication with the agenda for the relevant committee meeting.

## **E5.13 OFFICER REPORTS TO COMMITTEE**

- (a) As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:
- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
  - Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.
  - Reports should have a written recommendation for a decision to be made.
  - Reports should contain technical appraisals which clearly justify the recommendation.
  - If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.
- (b) Any oral updates or changes to the report should be recorded.

- (c) Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

#### **E5.14 PUBLIC SPEAKING AT COMMITTEE MEETINGS**

- (a) Applicants and third parties, or their representatives, are permitted to address the committee in accordance with Procedure Rule D.1. 35b.

#### **E5.15 DECISIONS WHICH DIFFER FROM A RECOMMENDATION**

- (a) The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).
- (b) This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.
- (c) The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- (d) Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- (e) The committee should consider taking the following steps before making a decision which differs from the officer recommendation:
  - discussing the areas of difference and the reasons for that with planning officers beforehand (as part of a standard 'call-over' meeting where all items on the agenda are discussed).
  - recording the detailed reasons as part of the mover's motion.
  - adjourning for a few minutes for those reasons to be discussed and then agreed by the committee.
  - where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.
- (f) If the planning committee makes a decision contrary to the recommendation of the officers (whether for approval or refusal or

changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'.

- (g) The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the Council, should one be made.
- (h) All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- (i) The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the report of the officer recommends approval of such a departure, the justification for this should be included, in full, in that report.
- (j) Where a decision taken contrary to the officer's recommendation results in an appeal, particularly one to be heard at a public inquiry or hearing, it will be necessary for all Council members and officers to work together to determine the best way of supporting the committee's decision in a unified manner and in the best interests of the Council. In certain circumstances it may be determined that evidence is best presented by expert witnesses from outside the Council and/or by members. Planning officers representing the Council in these circumstances will do so to the best of their ability without prejudice to their professional integrity.
- (k) Once the committee's decision has been taken all Council officers and members should not express views that may compromise the outcome of any appeal.
- (l) Copies of appeal decisions will be sent to the Group offices as soon as practical after they have been received.

#### **E5.16 SITE VISITS**

- (a) As far as possible officers will provide information that enables the committee to reach a decision at the meeting. Site visits by the committee have a place in the planning process. They are intended to be a means of providing members of the committee with an opportunity to inspect the application site and its surroundings in order to gather information which enables them to gain a better understanding of the proposal. Site visits are expensive and time-consuming and delay the determination of the

application. They should be viewed as an exception to the usual process which can be justified only by the importance or complexity of the application.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers.
  - the comments of the applicant and objectors cannot be expressed adequately in writing or
  - the proposal is particularly contentious.
- (b) With the exception of Major planning applications, site visits will be arranged only by resolution of the committee. Any member proposing a site visit should identify the benefit that will accrue from such a visit. The reasons for holding a site visit will be recorded in the minutes of the meeting.
- (c) The procedure governing the conduct of site visits is set out in the Council's Constitution. However, in future the Group Manager: Development Management (or as titled) and the Chairman can consider whether or not a site visit is necessary for each individual major application and it can be foregone should it be perceived that no benefit will be gained from attending.
- (d) Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.
- (e) This should be made clear to any members of the public who are there. Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.
- (f) Only members who take part in the site visit or who have sufficient relevant knowledge and familiarity with the site can take part in the decision making process.

## **E5.17 CONTACT WITH THE MEDIA**

- (a) Media comment is usually co-ordinated by the Council's Communications Team. Whether advising the Team or responding directly, if asked to



comment on a planning application before its determination, members and officers should adopt the general approach outlined in this Guide and avoid saying anything which commits, or appears to commit, the Council, or any group, to a particular course of action.

- (b) If commenting to the media after a decision is taken, members and officers should avoid saying anything that is likely to compromise the Council's ability to defend that decision successfully.

## **E5.18 PRE-MEETING BRIEFINGS**

- (a) Before each committee meeting the officers who will attend the meetings will hold a briefing with the Chairman and Vice Chairman. If requested, arrangements will be made for a similar briefing to be held with a representative of any minority political grouping represented on the committee.
- (b) The purpose of such briefings will be:
  - (i) to bring those members present up-to-date with any information received since the officer's report was printed;
  - (ii) to ensure that the rationale behind the recommendations are understood;
  - (iii) to allow members to identify issues of particular concern and where additional information or explanation is necessary;
  - (iv) to identify any special procedural or other practical arrangements that may need to be made.

## **E5.19 DELEGATION OF DECISION-MAKING TO OFFICERS**

- (a) Planning applications are delegated to officers except in those circumstances specified in the Council's Scheme of Delegation, which will be reviewed from time to time.

## **REFERENCES**

Report to Development and Environment Committee on 27 January 1998 on the Third Report of the Committee on Standards in Public Life (The Nolan Report) and The Role of Elected Members in Planning and Development Control (RTPI)

North Lincolnshire Council Publicity for Planning Applications  
North Lincolnshire Council Constitution.

Probity and planning for councillors and officers. The LGA and PAS.

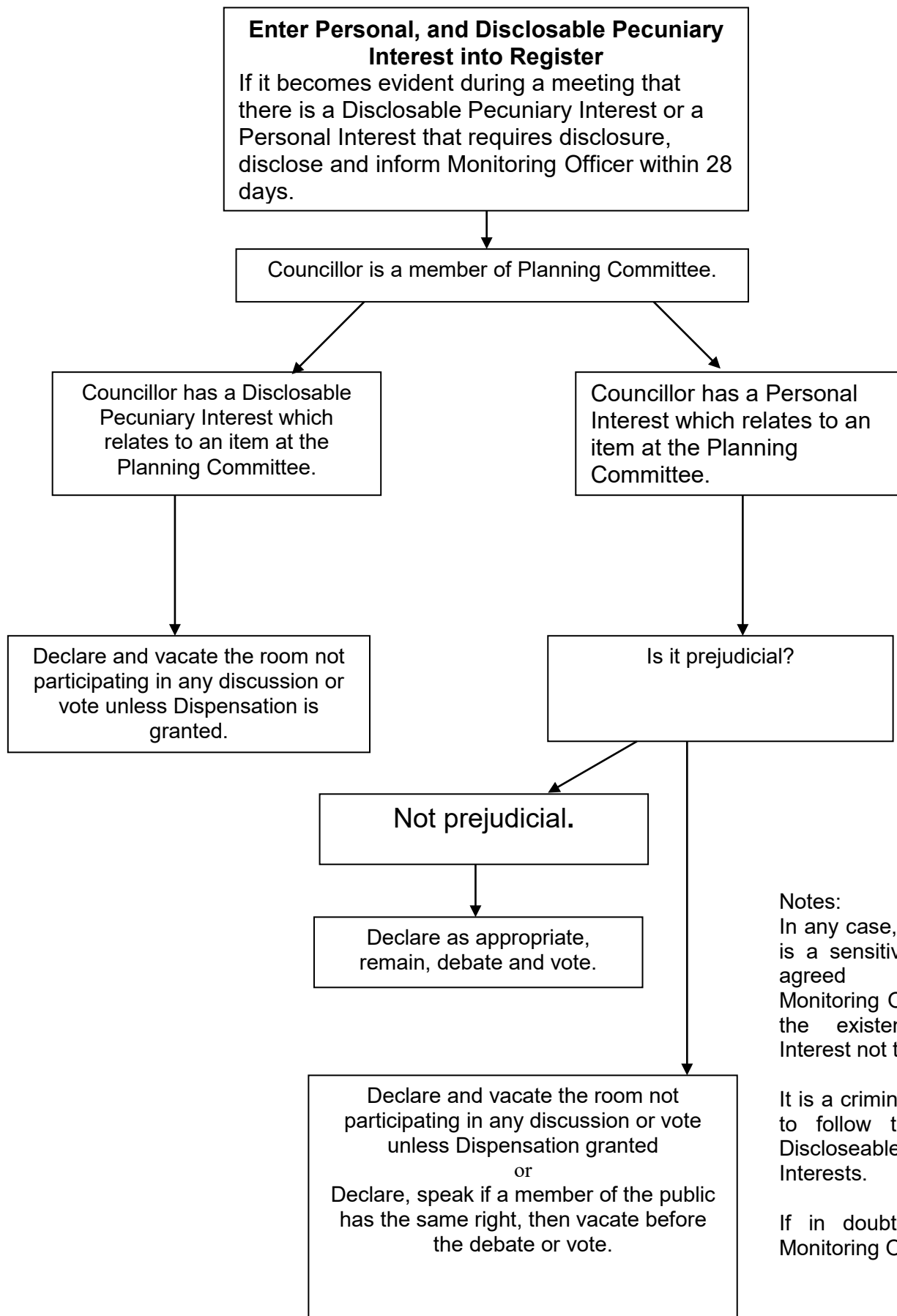
North Lincolnshire Council :Code of Conduct (members).

North Lincolnshire Council : Code of Conduct (officers).

North Lincolnshire Council : Code for Gifts and Hospitality.

Statement of Community Involvement.

(Reviewed by Legal Services September 2021)



Notes:  
In any case, if the interest is a sensitive interest as agreed with the Monitoring Officer declare the existence of the Interest not the detail.

It is a criminal offence not to follow the rules on Discloseable Pecuniary Interests.

If in doubt consult the Monitoring Officer.

**Members' Allowance Scheme**

Scheme of Allowances .....	F1.01
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**MEMBERS' ALLOWANCE SCHEME**  
**Financial Years 2020/21, 2021/22 and 2022/23**

Scheme of Allowances

The council's approved scheme of allowances payable to members of the council for the financial years 2020/21, 2021/22 and 2022/23 is set out below -

	2020/2021, 2021/22 and 2022/23	
Group	Special Responsibility Allowance	Proposed New Allowance £
1	Leader of the Council	16,799
2	Deputy Leader of the Council	11,127
	Mayor	11,781
3	Cabinet Members (x 9)	10,162
	Chairman of Planning Committee	9,146
	Chairman of Licensing Committee	8,130
	Chairman of Scrutiny Panels (x 4)	8,637
	Leader of Minority Group	8,400
4	Chairman of Health and Wellbeing (Board) Management Group	6,040
	Chairman of Audit Committee	5,312
	Deputy Mayor	5,902
	Deputy Leader of Minority Group	5,563
5	Vice Chairman of Planning Committee	4,461
	Vice Chairman of Licensing Committee	3,965
	Vice Chairman of Scrutiny Panels (x4)	4,213
	Lead Members (x 10)	4,957
	Ambassador for Inward Investment and Steel	8,400
	Appeals Committee	£253 per annum
	Co-optees Allowance	£42 per meeting
	Independent Persons Allowance	£42 per complaint referral
	Substitute Allowance (Procedure Rule D1.07 of the Council's Constitution)	£47 per meeting
6	Basic Allowance	£6,874

(1) Mileage Rates

Travel to be paid at the following approved Her Majesty's Revenue and Custom (HMRC) rates -

Cars - 45p per mile

Motorcycles - 24p per mile

An additional 5p per mile can be claimed in respect of each passenger carried to whom a travelling allowance would otherwise be paid.

A maximum of 5,000 miles has been set as eligible for claim. Any mileage incurred by members in the course of their duties, including meetings where members are representing North Lincolnshire Council's interests, which involves travelling outside the boundary of North Lincolnshire will not count against the maximum amount of mileage claimable.

In addition, the actual cost of tolls, ferries and parking fees may be claimed. Receipts, must be provided.

(2) Public Transport

If you are using public transport for journeys out of the council's area you may use standard class travel only. Wherever possible travel arrangements should be pre-booked in advance in order to allow better access to discounts. These can be obtained through the group office. Receipts or used tickets (train tickets tube fare tickets etc) should be retained and produced as receipts. The reimbursement of public transport costs is not taxable or subject to NI contributions.

(3) Hired transport

If you wish to hire a vehicle, please contact your group PA who will ensure that the best possible rates are obtained.

(4) Bicycle - Travel to be paid at the approved HMRC rate of 20p per mile.

(5) Subsistence

Subsistence allowances will no longer be included in the member allowance scheme and members will not therefore be able to claim.

(6) Overnight rates

Actuals, claimed to a maximum of

London	£100.50
Elsewhere	£88.10
Out of pocket expenses	£4.39 per night
Overseas allowance	£20.50 per night

Accommodation should be pre booked by group office staff in order for the council to reclaim VAT and take advantage of discounts.

PART G - MANAGEMENT STRUCTURE

Senior Management Structure

Structure ..... G1.01

