

DERBYSHIRE DALES DISTRICT COUNCIL

CONSTITUTION

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Part 1

SUMMARY AND EXPLANATION

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Summary and Explanation

THE COUNCIL'S CONSTITUTION

Derbyshire Dales District Council has adopted 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 law, while others are a matter for the Council to choose.

The Constitution is divided into 13 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.

WHAT'S IN THE CONSTITUTION?

Article 1 of the Constitution commits the Council to provide accountable, transparent, effective and efficient decision making and community leadership which involves local people, organisations, and its partners. Articles 2 - 13 explain the rights of local people and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens Involvement and Participation (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- The Council's Committees (Article 6)
- Area Community Forums (Article 7)
- Joint arrangements (Article 8)
- Officers (Article 9)
- Decision making (Article 10)
- Finance, contracts and legal matters (Article 11)
- Review and revision of the Constitution (Article 12)
- Suspension, interpretation and publication of the Constitution (Article 13)

HOW THE COUNCIL OPERATES

The Council is composed of 34 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow the Council's Code of Conduct to ensure high standards in the way they undertake their duties. The Council's Monitoring Officer trains and advises them on the Code.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each

year. The Council holds the policy committees to account, and is itself a policy development body. There is an opportunity at Council meetings for members of the public to participate by putting their questions to Councillors. The Civic Chairman of the District of Derbyshire Dales reports to each meeting and the Leader of the Council has an opportunity to address the Council meeting on issues concerning the District of Derbyshire Dales at Council and their attendance at meetings with significant partners.

HOW DECISIONS ARE MADE

Most day-to-day decisions are made by policy committees. The Council has 2 policy committees called Governance and Resources and Community and Environment. Committees also carry out a number of regulatory functions, including dealing with planning applications, licensing and most other regulatory business.

Meetings of the Council's policy and other committees are open to the public except where personal or confidential matters are being disclosed.

In addition, senior officers of the Council make decisions under delegated authority.

Decisions can be challenged and reviewed before they are implemented by the Scrutiny Committee, which also examines how well the Council is performing and identifies potential improvements to policies, procedures and services.

AREA COMMUNITY FORUMS

In order to give local people a greater say in Council affairs, there are 3 Area Community Forums. These cover the Northern, Central and Southern areas of the District and are intended to act as a focus point for mutual communication and consultation between the local community, stakeholders and Councillors from all local councils in their area. They are held in public at various meeting venues throughout the District.

THE COUNCIL'S EMPLOYEES

The Council has people working for it to give advice, implement decisions and manage the day-to-day delivery of its services. Some employees have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol governs the relationships between employees and members of the Council. The Protocol is included in Part 5 to this Constitution.

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. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a leisure centre user or as an applicant for planning permission, 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
- 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
- Participate in the Council's Public Participation Scheme
- Attend committee and Council meetings where key decisions are being discussed or decided
- See reports and background papers, and any record of decisions made by the Council and its committees.
- Complain to the Council about the exercise of any of its functions through the Complaints Scheme. A copy of this can be found on the District Council's website derbyshiredales.gov.uk or by calling at any Council reception to request one.
- Complain to the Council's Monitoring Officer about the behaviour of one of its Councillors or the behaviour of a local Parish/Town Councillor
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they are recommended to do this after using the Council's own complaints process
- Inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by local citizens in its work. For further information on your rights as a citizen, please contact the Committee Team – committees@derbyshiredales.gov.uk.



Part 2

ARTICLES OF THE CONSTITUTION

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ARTICLE 1 - THE CONSTITUTION

1.01 Powers of the Council

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

1.02 Constitution

This Constitution, and all its appendices, is the Constitution of the Derbyshire Dales District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (i) Give a framework for the Council to provide high quality services which give best value in order to maintain and enhance the environment, and quality of life for all residents and businesses in the Derbyshire Dales;
- (ii) Enable the Council to provide clear leadership to the community in partnership with local people, businesses and other organisations;
- (iii) Support the active involvement of local people in the process of local authority decision making;
- (iv) Help Councillors represent their constituents more effectively;
- (v) Enable decisions to be taken efficiently and effectively.
- (vi) Create a powerful and effective means of holding decision makers to public account;
- (vii) Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (viii) Provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always 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 12.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

- (i) **Composition.** The Council will comprise 34 Members, otherwise called 'Councillors'. Up to 3 Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by Parliament.
- (ii) **Eligibility.** Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

Election and Terms. The regular election of Councillors will be held on the first Thursday in May every four years. 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.

(i) **Key Roles.**

All Councillors will:

- (a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate leadership functions
- (b) Represent their communities and bring their views into the Council's decision making process, ie. Be the advocate of and for their communities
- (c) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
- (d) Balance different interests identified within their ward and represent the ward as a whole
- (e) Be involved in decision making
- (f) Be available to represent the Council on other bodies, and
- (g) Maintain the highest standards of conduct and ethics.

(ii) **Rights and Duties**

- (a) 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.
- (b) 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.

- (c) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.03 Conduct

Councillors will at all times observe the Council’s Code of Conduct for elected members and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.04 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of the Constitution.

ARTICLE 3 - CITIZENS INVOLVEMENT AND PARTICIPATION

3.01 Citizens on the electoral roll for the borough have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution. Any citizen may organise, sign and present a petition to the Council in accordance with the Council's Scheme for handling petitions.

Information

3.02 Citizens have the right to:

- 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;
- find out from the forward plan what decisions will be taken by the Council and policy committees and when;
- see reports and background papers and any records of decisions made by the Council and its committees; and
- inspect the Council's accounts and make their views known to the Council's external auditors
- such other information as may be specified in the Council's Publication Scheme under the Freedom of Information Act 2000
- make requests to the Council under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 for information not contained within the Publication Scheme.

Participation

3.03 Citizens have the right to submit questions to and make statements at meetings of the Council and its committees. They may also contribute to investigations undertaken by the Scrutiny Committee. We particularly welcome petitions and the District Council has agreed special procedures to ensure that petitions are reported to an appropriately senior level within the District Council

Complaints

3.04 Citizens have the right to complain to –

- Council itself under its complaints procedure;
- the local government ombudsman;
- the Monitoring Officer about a breach of the Members' Code of Conduct;
- the Information Commissioner about a refusal by the Council to disclose information.

Petitions

3.05 We particularly welcome petitions as one way in which you can let us know your concerns. We set out below how the District Council will respond to petitions which you send us.

What is a petition?

3.06 We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 10 signatories or petitioners before we treat it as a petition. Whilst we like to hear from people who live, work or study in the Derbyshire Dales, this is not a requirement and we would take equally seriously a petition from, for example, 10 visitors to the District on the subject of facilities at one of our Leisure Centres.

What should a petition contain?

3.07 A petition should include –

- (i) A clear statement of your concerns and what you want the District Council to do. This must relate to something which is the responsibility of the District Council, or over which we have some influence. Where a petition relates to a matter which is within the responsibility of another public body, we will ask the petition organiser whether he/she would like us to redirect the petition to that other public body. Where a petition relates to a matter over which the District Council has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;
- (ii) The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address;
- (iii) The names of at least 10 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but actual signature is not essential. Where the petition is in electronic form, a list of the names and addresses of the petitioners will suffice.
- (iv) If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

Who should you send a petition to?

3.08 Where you submit a petition in response to consultation by the District Council, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered. We have appointed a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the District Council. Please address petitions to –

The Petitions Officer
Derbyshire Dales District Council,
Town Hall,
Bank Road,
Matlock,
Derbyshire,
DE4 3NN

Or to Petitions@derbyshiredales.gov.uk

The Petitions Officer will ensure that the petition is acknowledged. The Petitions Officer can also provide you with advice about how to petition the District Council or the progress of your petition, at either of the above addresses.

Types of Petition

3.09 There are three different types of petition, as set out below. How we deal with a petition depends on which type of petition you submit:

(i) Ordinary Petitions

these are petitions which do not come within any of the following specific types. Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Monitoring Officer, rather than considered under this Petitions Procedure.

(ii) Consultation Petitions

These are petitions in response to an invitation from the District Council for representations on a particular proposal or application, for example on planning or licensing applications or proposals prior to their determination, for parking restrictions or speed limits or a major capital scheme. Consultation petitions which are received by the response date in the consultation invitation will be reported to a public meeting of the person or body which will be taking the decision on the application or proposal

(iii) Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

The Petitions Website

3.10 The purpose of the e-petition service is to enable as many people as possible to make their views known to the District Council.

3.11 E-petitions must follow the same guidelines as paper petitions set out in Article 3.08 and combinations of the two are allowed.

3.12 As a petition organiser you will need to provide your name, email and postal address. You will also need to decide how long you would like your petition to be open for signatures. The maximum time is 6 months.

3.13 When you create an e-petition, it can take up to 5 working days before it is published online. If we feel we cannot publish your petition for some reason we will contact you and offer you an opportunity to resubmit your petition if you wish.

- 3.14 Acknowledgements will be emailed to everyone who signs an e-petition and they will be asked to verify their email address by clicking a link to confirm their signature.
- 3.15 Use of individuals' personal data including their email addresses will be protected under the terms of the Data Protection Act 1998 and will be held by the Council only for the purpose of corresponding in relation to the petition so submitted.

The role of Ward Councillors

- 3.16 When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Member at the same time as acknowledging receipt of the petition to the petition organiser.
- 3.17 When the petition is reported to the person or body within the District Council who can take a decision on the matter to which it relates, the relevant Ward Member will be invited to attend and to address the decision-taker for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.

What happens when a petition is received?

- 3.18 Whenever a petition is received:
- (i) Within 5 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.
 - (ii) In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant Officer to take appropriate action. For example where the petition relates to fly-tipping and the District Council can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.
 - (iii) Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will aim, within 10 working days of receipt of the petition, to provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 3 minutes on the issue covered by the petition.
- 3.19 What happens to a Consultation Petition?
- (i) Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application.
 - (ii) The petition will be reported to person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in Part 3 of the Constitution. So, for example, where a petition has been received objecting to the grant of

planning permission, the application would be reported to the Planning Committee for decision. Where the petition supports the planning application, it may be determined by the Director of Regulatory Services.

3.20 What happens to a Statutory Petition?

- (i) Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council or relevant Committee in accordance with the statutory requirements.

3.21 What happens to an Ordinary Petition?

- (i) The Petitions Officer will arrange for each Ordinary petition to be reported to the relevant senior officer, or Committee or Sub-Committee of Council which has the power to take a decision on the matter.
- (ii) An ordinary petition will only be referred to the appropriate Committee or Sub-Committee of Council with the agreement of the Chair and Vice Chair of that Committee in consultation with the Director of Corporate and Customer Services and the relevant officer.

At the meeting, when the matter to which the petition relates is considered –

3.22 Petitions will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise.

3.23 The decision-taker or the Chair of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 3 minutes. The Chair may then ask questions of the petition organiser, and will then invite any relevant Ward Member present to address him/her on the matter for up to 3 minutes (each). The Chair will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body. Where the matter is to be determined by an officer, s/he will take a decision on the matter. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of Council or a Committee of the Council for determination.

The role of the Petition Organiser

3.24 The petition organiser will receive acknowledgement of receipt of the petition within 5 working days of its receipt by the District Council.

3.25 Where the petition is not accepted for consideration (see 9.1 to 9.4 for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

3.26 Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 10 working days of receipt by the District Council as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting

for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

- 3.27 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.
- 3.28 The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

Petitions which will not be reported

3.29 Duplicate Petitions

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting. This does not prevent any other member of the public addressing the meeting during the specific public time allotted at each meeting. Where possible the Council will inform each petition organiser of the duplication and provide details if we are able.

3.30 Repeat Petitions

A petition will not normally be considered where it is received within 6 months of another petition being considered by the District Council on the same matter.

3.31 Rejected Petitions

Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not relate to something which is the responsibility of the District Council, or over which the District Council has some influence.

- 3.32 Petitions relating to Planning and Licensing matters will not be considered outside of the proper consideration of the matter. So for example a petition following a planning decision by the appropriate committee will not be considered as there are proper statutory routes for appealing such decisions and these are laid out in the appropriate legislation.

Citizens Responsibilities

- 3.33 Citizens must not be violent, abusive or threatening to Councillors or Council employees and must not wilfully harm things owned by the Council or employees.

ARTICLE 4 - THE FULL COUNCIL

4.01 Functions of the Full Council

Only the Council will exercise the following functions:

- (i) Adopting and changing the Constitution
- (ii) Approving, adopting or amending the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (iii) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (iv) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (v) Adopting a Members Allowances Scheme as set out in Part 6 of this Constitution;
- (vi) Changing the name of the area, or conferring the title of Honorary Alderman/woman.
- (vii) Confirming the appointment or dismissal of the Head of Paid Service, and designation of Monitoring Officer and Chief Financial Officer;
- (viii) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (ix) Delegating functions to other local authorities and deciding whether or not to accept such a delegation from another local authority;
- (x) Considering petitions in accordance with the Council's scheme ; and
- (xi) All other matters which by law must be reserved to Council.

4.02 Council Meetings

There are four types of Council meeting:

- (i) The annual meeting
- (ii) Ordinary meetings
- (iii) Special Meetings
- (iv) Extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.03 Meanings

- (i) **Policy Framework.** The policy framework means the following plans and strategies:
 - (a) those required by Statute:

- Performance Plan;
 - Crime and Disorder Reduction Strategy;
 - Local Transport Plan;
 - Plans and strategies which together comprise the Development Plan;
 - Budget - including the allocation of financial resources to services and projects, contingency funds, setting the Council Tax and decisions relating to the Control of the borrowing requirements.
- (b) those other plans and strategies adopted by the Council as part of the Policy Framework:
- Council's Corporate Plan;
 - The plan and strategy which comprise the Housing Investment Programme;
- (c) those strategies which the Council has decided should be adopted by the Council:
- Development Plan Policy
 - Financial Strategy
 - Treasury Management Policy
 - Commercial Investment Policy
 - Minimum Revenue Provision Policy
- (d) Any strategies proposed by one of its Policy Committees which represents a major departure from existing Policy.

ARTICLE 5 - CHAIRING THE COUNCIL

5.01 Role and Function of the Chair of the Council

Chairing the Council Meeting

The Chair of the Council will be elected by the Council annually. The Chair of the Council will have the following responsibilities

- (i) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) 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;
- (iii) 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 do not sit on Policy Committees or hold Committee Chairs are able to hold the Members of the Policy Committees and Committee Chairmen to account;
- (iv) To promote public involvement in the Council's activities;
- (v) To be the conscience of the Council.

5.02 Role and Function of the Civic Chair of the Derbyshire Dales

The Civic Chair of the Derbyshire Dales will be appointed by the Council annually. The role of the Civic Chair of the Derbyshire Dales is:

- ***As a symbol of the authority.***

To be the Council's ambassador and to represent the Council at civic functions within the County boundaries.

- ***As a symbol of open society***

To promote inclusiveness and equality.

- ***As an expression of social cohesion***

To act as a link between the Council and the various community bodies and organisations.

The Civic Chair of the Derbyshire Dales will use the special responsibility allowance attached to the position in accordance with the Protocol on the management of the Civic Allowance set out in Part 4 of the Constitution.

ARTICLE 6 - THE COUNCIL'S COMMITTEES

6.01 **Policy Committees**

The Council will appoint 2 Policy Committees whose terms of reference will between them reflect the Council's Aims and Objectives and the Council's Community Leadership role.

The functions attributed to the Policy Committees are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

6.02 **Planning Committees**

The Council will appoint a Planning Committee which will be politically proportionate. The Committee will be responsible for determining planning applications and dealing with related matters.

The functions of the Committee is set out in Part 3 of this Constitution entitled "Responsibility for Functions".

6.03 **Licensing & Appeals Committee**

The Council will appoint a Licensing and Appeals Committee which will be responsible for all the service areas within the Committee's remit.

The functions of the Committees are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

6.04 **Scrutiny Committee**

The Council will appoint a Scrutiny Committee which will hold decision makers to account, review performance and designated projects and make recommendations to Policy Committees and officers

The functions of the Committee are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

6.05 **Attendance by Members**

A Member of the Council whose Ward (but not the whole of the District) is directly affected by a matter to be discussed by a Committee or Sub-Committee is entitled to attend the meeting and speak, but shall not have the right to vote. The Ward Members' contribution will be limited to 5 minutes.

ARTICLE 7 - AREA COMMUNITY FORUMS

7.01 Area Community Forums

The Council will establish Area Community Forums in the North, Central and Southern areas of the District.

7.02 Form, Composition and Function

The Forums will act as major consultees to the Council and aim to be inclusive of all sectors of the local population as well as organisations, the local community, local members of this Council, the County and Parish councils will be invited to attend.

The terms of reference of the Area Community Forums are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

An annual report of the Area Community Forums activities and plans will be presented to a meeting of the Full Council.

7.03 Area Community Forums - Access to Information

Area Community Forums will comply with the Access to Information Rules in Part 4 of this Constitution.

ARTICLE 8 - JOINT ARRANGEMENTS

8.01 Arrangements to Promote Well Being

The Council, in order to promote the economic, social or environmental well being of its area, may:

- (i) Enter into arrangements or agreements with any person or body;
- (ii) Co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (iii) Exercise on behalf of that person or body any functions of that person or body.

8.02 Joint Arrangements

- (i) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (ii) Details of any joint arrangements including any delegations to joint committees will be found in in Part 3 of this Constitution which details functions and responsibilities.

8.03 Access to Information

- (i) The Access to Information Rules in Part 4 of this Constitution apply.
- (ii) If the Joint Committee contains Members who are not on the executive of any participating authority then the Access to Information rules in Part VA of the Local Government Act 1972 will apply.

8.04 Delegation to and from Other Local Authorities

- (i) The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.
- (ii) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

8.05 Contracting Out

- (i) The Council may contract out to another body or organisation 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.

ARTICLE 9 - OFFICERS

9.01 Management Structure

- (i) **General.** The full Council may engage such staff (referred to as employees) as it considers necessary to carry out its functions.
- (ii) **Statutory Officers Group.** The full Council will engage persons for the following posts.

| Post | Functions and areas of responsibility |
|---|---|
| Chief Executive (also Head of Paid Service) | <p>Overall corporate leadership and operational responsibility (including overall management responsibility for all employees).</p> <p>Provision of professional advice to all political parties in the decision making process.</p> <p>Leadership of the Corporate Leadership Team in the achievement of the Councils corporate objectives and effective implementation of Council policy.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> |

- (iii) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

| | |
|-------------------------|---|
| • Chief Executive | Head of Paid Service |
| • Monitoring Officer | Director of Corporate and Customer Services |
| • Chief Finance Officer | Director of Resources |

Such posts will have the functions described in Article 9.02 - 9.04 below

- (iv) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of employees. This is set out at Part 7 of this Constitution.

9.02 Functions of the Head of Paid Service

- (i) **Discharge of Functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees.
- (ii) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

9.03 **Functions of the Monitoring Officer**

- (i) **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, staff and the public.
- (ii) **Ensuring Lawfulness and Fairness of Decision Making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council if he or 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 stopping the proposal or decision being implemented until the report has been considered.
- (iii) **Promoting high ethical standards.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct by elected members of the District Council and the parish/town councils in the District.
- (iv) **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.
- (v) **Providing Advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, and probity to all Councillors.
- (vi) **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

9.04 **Functions of the Chief Finance Officer**

- (i) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or 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.
- (ii) **Administration of Financial Affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (iii) **Contributing to Corporate Leadership.** The Chief Finance Officer will contribute to the corporate leadership of the Council, in particular through the provision of professional financial advice.
- (iv) **Providing Advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, and probity to all Councillors and will support and advise Councillors and officers in their respective roles.

- (v) **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (vi) **Restriction on Posts.** The Chief Finance Officer cannot also be the Monitoring Officer, but may be the Head of Paid Service.

9.05 **Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

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

9.06 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

9.07 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

ARTICLE 10 - DECISION MAKING

10.01 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 relating to particular areas of functions. This record is set out in Part 3 of this Constitution.

10.02 Principles of Decision Making

All decisions made by the Council and its Committees will be made in accordance with the following principles:

- (i) The rule of law;*
- (ii) Proportionality (i.e. the action must be proportionate to the desired outcome);*
- (iii) Due consultation and the taking of professional advice from officers;*
- (iv) Respect for human rights;*
- (v) A presumption in favour of openness; and*
- (vi) Clarity of aims and desired outcomes.*

10.03 Decision Making by the Full Council

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

10.04 Decision Making by Other Committees and Sub-Committees Established by the Council

Other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

10.05 Decision Making by Council Bodies Acting as Tribunals

The Council, a Committee 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 ensure that their actions and decisions accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention for the Protection of Human Rights and fundamental freedoms.

ARTICLE 11 - FINANCE, CONTRACTS AND LEGAL MATTERS

11.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 9 of this Constitution.

11.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

11.03 Legal Proceedings

The Director of Corporate and Customer Services is authorised to initiate the institution, defence or participation in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of Corporate and Customer Services considers that such action is necessary to protect the Council's interests. The Legal Services Manager is authorised to act in similar terms in the absence of the Director of Corporate and Customer Services.

11.04 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Corporate and Customer Services 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.

All contracts entered into on behalf of the Council in the course of the discharge of a policy function shall be made in writing and in accordance with the Council's Contract Standing Orders.

11.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Corporate and Customer Services. 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 will be affixed to those documents which in the opinion of the Director of Corporate and Customer Services should be sealed. The affixing of the Common Seal will be attested by the Director of Corporate and Customer Services or some other person authorised by him/her.

ARTICLE 12 - REVIEW AND REVISION OF THE CONSTITUTION

12.01 Duty to Monitor and Review the Constitution

The Monitoring Officer 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 Monitoring Officer

A key role for 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 undertaking this task the Monitoring Officer may:

- (i) Observe meetings of different parts of the Member and officer structure;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- (iv) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

12.02 Changes to the Constitution

- (i) **Approval.** Changes to the Constitution will be approved by the Council, although the Monitoring Officer is authorised to make consequential changes arising from decisions of the Council, changes in the law or changes in management structures.
- (ii) **Change from a Mayoral Form of Executive to another form of Executive or to a Committee Structure, or from a Committee Structure to a Mayoral Form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.
- (iii) **Change from a Leader and Cabinet form of Executive to a Committee Structure, or Vice Versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

ARTICLE 13 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.01 Suspension of the Constitution

- (i) **Limit to Suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.
- (ii) **Procedure 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 suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (iii) **Rules Capable of Suspension.** The Procedure Rules set out in Part 4 may be suspended in accordance with Article 25.1 of that section;

15.02 Interpretation

The ruling of the Chair of the Council 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.

15.03 Publication

- (i) The Director of Corporate and Customer Services will provide a copy of this Constitution in electronic form to each Member of the authority following the Council's Annual Meeting, and shall ensure that an up to date version is available at all time on the Council's website.
- (ii) The Director of Corporate and Customer Services will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

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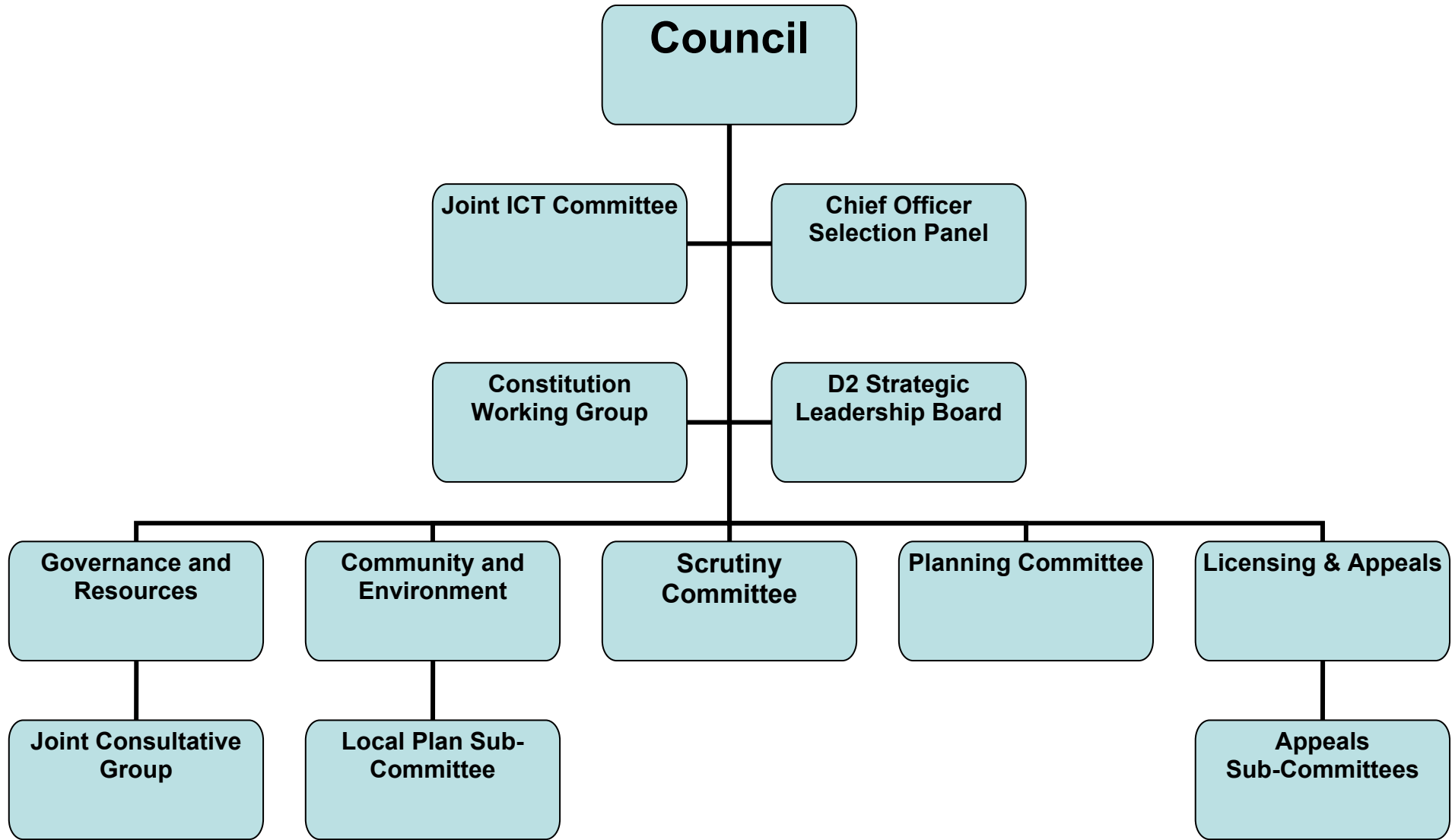
Part 3

RESPONSIBILITIES FOR FUNCTIONS

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DECISION MAKING STRUCTURE OF THE COUNCIL



COUNCIL – TERMS OF REFERENCE

The Council is responsible for all functions and services administered or delivered in its name.

Some of the Council's functions may only be exercised by meetings of the full assembly of Councillors, whilst authority to deal with others may be delegated to Committees or Officers.

The following table demonstrates how the Council operates in relation to its Committees and the remaining part of this Section describes the functions Council has delegated to its Committees. Such arrangements do not in any way prevent the Council from exercising all or any of the delegated functions provided that the right to withdraw delegations must be subject to any third-party rights consequent upon a Committee's or Sub-Committee's decision.

Council reserves to itself the following powers:

- a) Adopting and changing the Council Constitution, subject to the delegation to the Monitoring Officer to make consequential changes arising from Council decisions, changes in the Management Structure or new or amended legislation;
- b) Approving and adopting the policy framework and strategies set out in Article 4 of the Constitution;
- c) Considering all proposals which seek to establish new strategy or policy, matters which the Council has resolved to itself or any matter which seeks to propose a significant departure from existing policy.
- d) Approving the revenue budget, capital programme, supplementary estimates and revised revenue budget, setting the council tax, approving the local council tax support scheme and authorising the treatment and use of reserves and balances;
- e) Approving or adopting a plan or strategy for the control of borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision;
- f) Agreeing and/or amending terms of reference for committees, sub-committees and forums, deciding on their composition and making appointments to them including the appointment of Chairs and Vice-Chairs;
- g) Approving Membership of, and appointing representatives to, outside bodies and approved conferences
- h) Adopting a scheme for members allowances, following receipt of recommendations from the Independent Remuneration Panel;
- i) Confirming the appointment or dismissal of the Head of Paid Service, Corporate Director, Monitoring Officer or Chief Financial Officer
- j) Making arrangements for the discharge of any of the Council's functions by another local authority or a joint committee with other authorities;
- k) Making, amending revoking, re-enacting or adopting bylaws and promoting or petitioning against any bills in parliament
- l) Approving any proposals relating to local government areas and the transfer, conferment or withdrawal of powers of local authorities;
- m) Matters relating to the variation of parliamentary and local government electoral areas and representation;
- n) Considering petitions where this is required under the Petitions Scheme.
- o) Considering reports of statutory officers i.e. from the Chief Financial Officer or Monitoring Officer.

- p) Considering the reports of the Head of Paid Service in relation to organisational review and resources
- q) Adopting the District Council's Code of Conduct for elected Members

Urgent Business Procedure in relation to Council functions

The Chief Executive, subject to the concurrence of the Leader or, in his/her absence, the Deputy Leader together with the Chair of the Council or, in his/her absence, the Vice-Chair of the Council, may authorise Chief Officers or Directors of Service to perform all functions within the Powers and Duties of the Council in any case of urgency in which the prompt performance of any of the Council's functions is desirable and necessary.

Urgent business is defined as:-

1. The decision cannot reasonably be deferred until it would be possible to convene a meeting of the Council.
2. In considering the above the following factors should be taken into account:
 - the need to respond to adverse naturally occurring events e.g. flood, fire etc;
 - the need to respond to peace-time emergency situations under the Emergency Planning arrangements;
 - the need to respond to or embark upon, a course of action with an externally set deadline which would result in significant or lesser but substantial economic social or environmental benefits or disadvantage accruing to the District.
3. Affected ward members will be given notification of urgent business decisions to be taken and the method of determination

TERMS OF REFERENCE – POLICY COMMITTEES

All policy committees, other than where specified, will comply with the proportionality rules, as set out in the Local Government and Housing Act 1989.

The Council appoints standing policy committees. Within the remit of each Policy Committee and subject to decisions being

- (i) within the approved Budget,
- (ii) not contrary to the Policy Framework, and
- (iii) in accordance with the priorities detailed in the agreed Corporate Plan, the following matters are reserved to Policy Committees:

Service and Financial Planning and Review

- Agreeing policy issues that are not reserved to full Council
- Approval of the proposed withdrawal or variation of any service where this is outside the scope of an agreed Service Plan and the likely impact on present or future users of the service is considered significant
- Agreeing alterations to Council Services Plans (provided they remain within the constraints of the Budget and Policy Framework)
- Agreeing fees and charges (other than any set by the full Council as part of the budget setting process) in line with the Medium Term Financial Plan and any policies in respect of fees and charges
- Agreeing to policy and performance priorities for the short and medium term, taking into account the needs of the Council as a whole
- Considering reviews of service performance against approved plans.

Consultation and Petitions

- Agreeing the Council's response to consultation by Government or other external agencies where this relates to proposed policy changes where the Chairman of the Committee considers the proposed changes to be significant
- Dealing with petitions in accordance with the Council's scheme

Each Committee shall be comprised of a number of members based on the principles of political proportionality and agreed by the Council.

The Access to Information Act also provides for urgent business to be considered by the Council or any Committee within the legal definition of the Act.

The Policy Committees will take decisions within their remit on any reserved matter. When devising policy, evaluating service delivery and taking decisions the Committee must consider:

- Public engagement in informing its work
- Equality and diversity implications
- Climate Change and Biodiversity

Details of the Policy Committees are set out below:

| | |
|-------------------------------------|--|
| Community and Environment Committee | <p>To consider specific issues or aspects of policy, procedure or service relating to:</p> <ul style="list-style-type: none"> • Affordable Housing • Anti-Social Behaviour and Community Safety • Car Parking • Climate Change • Community Development • Conservation and Design • Council housing • Countryside Management • Disabled Facility Grants • Dog Warden Service • Economic Development • Economic and Strategic Partnerships • Environmental Crime • Environmental Health • Empty Homes • Estate Regeneration • Events • Flooding • Gypsy & Travellers • Homelessness • Home Options • Housing Allocations Policy • Housing Strategy • Leisure Services • Markets • Matlock Bath Illuminations • Neighbourhood Plans • Planning Policy • Private Sector Housing • Public Conveniences • Public Health and Safety • Refugees and Asylum seekers • Sports Development • Supplementary Planning Guidance • Transport Operations • Tree Protection • Waste Collection and Recycling |
| Governance and Resources Committee | <p>The following corporate responsibilities are within the remit of this Committee:</p> <ul style="list-style-type: none"> • Providing strategic direction to the Council by reviewing progress against priorities within the Corporate Plan and making decisions on cross-cutting policies and practice where such decisions are not reserved to the Council • Responsibility for any issue identified as being of significant strategic importance or financial risk to the Council (which is considered to be by its nature cross-cutting) |

| | |
|--|--|
| | <ul style="list-style-type: none"> • Considering reports which an Ombudsman requires to be published by the Council where it is proposed that the Council take the recommended action • Considering the overall performance of the Authority and making recommendations to Council where there is a serious performance concern <p>To consider specific issues or aspects of policy, procedure or service relating to:</p> <ul style="list-style-type: none"> • Asset Management • Central Support Services • Communications and Marketing • Consultation and Engagement • Customer Access and Complaints • Data Protection and Information Governance • Digital Transformation and Business Process Improvement • Electoral Administration and Registration • Equalities and Diversity • Financial Governance • Internal and External Audit • Human Resources • Legal and Corporate Governance • Member Support and Development • Procurement and Contract Management • Revenues and Benefits |
|--|--|

Provision for urgent business

In the following circumstances, any Policy Committee may make any decision delegated to any other Policy Committee, relating to urgent business.

Urgent business is defined as:-

1. The decision cannot reasonably be deferred until it would be possible to convene a meeting of the decision making body.
2. In considering the above the following factors should be taken into account:
 - the need to respond to adverse naturally occurring events e.g. flood, fire etc;
 - the need to respond to peace-time emergency situations under the Emergency Planning arrangements;
 - the need to respond to or embark upon, a course of action with an externally set deadline which would result in significant or lesser but substantial economic social or environmental benefits or disadvantage accruing to the District.
3. Where urgent business cannot be deferred until a Policy Committee meets, urgent decisions will be taken by the Chief Executive or Director of Corporate and Customer Services in consultation with:-
 - the Chair of the relevant decision making body;

- in his/her absence, the Vice-Chair;
- advice should be obtained on vires from the Monitoring Officer
- advice on financial implications should be sought from the Director of Resources in accordance with Financial Regulations;

Affected ward members will be given notification of urgent business decisions to be taken and the method of determination

OFFICER DELEGATIONS

GENERAL DELEGATIONS

1. All matters which have not been reserved to Council or a Committee are delegated to Officers. Delegated decisions are to be taken by Chief Officers (Head of Paid Service, Corporate Director, Section 151 Officer and Monitoring Officer) or Directors of Service. Each Directorate must develop and maintain their own internal scheme of management which will be published on the Council's website, as required by section 100G of The Local Government (Access to Information) Act 1985. Delegated decisions are to be taken in accordance with the relevant internal scheme of management. Officers may take decisions within the responsibilities of their directorate as determined by the Chief Executive, who themselves may take decisions delegated to any Chief Officer or Director of Service.
2. Chief Officers and Directors of Service are authorised to take the necessary action to implement decisions taken by Committees of the Council.
3. The Council may use provisions of the Local Government Act 1972 and the Localism Act 2011 to commission and monitor work for and on behalf of the Council. When services remain the responsibility of the Council, but are delivered by people who are not officers of the authority, Chief Officers may authorise non-Council employees to take delegated decisions, such people will be bound by the Constitution, this scheme, and the obligations contained in it, at all times when engaged on Council business.
4. Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Chairman when the matter falls within the remit of that committee or the Council. Officers shall inform the local Ward Members when they exercise delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this.
5. The Openness of Local Government Bodies Regulations 2014 require every local authority to publish details of certain decisions taken by Officers under delegated authority as soon as practicable. Chief Officers and Directors of Service are responsible for ensuring that decisions taken within their areas of responsibility are recorded in accordance with these regulations.
6. In exercising their delegated powers, Chief Officers and Directors of Service must act within the law and the Council's Procedures, Contract Standing Orders and Financial Regulations, and must follow Council policy and the instructions of Council committees. If, exceptionally, it is necessary to depart from Council policy or Committee instructions, a full report must be submitted to Committee as soon as is practicable.
7. The Chief Executive, subject to the concurrence of the Leader or, in his/her absence, the Deputy Leader together with the Chair or, in his/her absence, the Vice-Chair of the relevant committee, may authorise Chief Officers or Directors of Service to perform all functions within the Powers and Duties of that Committee in any case of urgency in which the prompt performance of any of the Council's functions is desirable and necessary.

8. Where an officer has delegated powers, the Council or relevant Committee can still exercise that power in a particular case if it considers it appropriate to do so. Equally it is always open to an Officer not to exercise delegated powers but to refer the matter up as appropriate.
9. Subject to any matters being expressly reserved to the Council or its Committees, Chief Officers are authorised to take decisions and to act:
 - (a) To discharge the functions allocated to them or dealt with by them or their staff
 - (b) In all matters in which they have managerial or professional authority unless there is a legal or professional impediment
10. Subject to any matters being expressly reserved to the Council or its Committees, Chief Officers or Directors of Service may exercise discretion and use whatever means they consider appropriate to discharge those functions and implement those decisions and to exercise general, specific or special delegated powers, including:
 - (a) Incurring expenditure and collecting income
 - (b) Determining use of land and premises and all other resources within their control
 - (c) Placing contracts and procuring other resources within or outside of the Council
 - (d) Settling claims and disputes
 - (e) Making statutory determinations and orders, granting and refusing permissions, licences and consents, and certificates of all kinds
 - (f) Signing and authenticating documents of all kinds
 - (g) To make representations in respect of applications under the Licensing Act 2003 and Gambling Act 2005
 - (h) To appoint “authorised officers / persons”, “approved officers / persons”, “inspectors” etc to carry out duties and exercise powers within that individual’s area of responsibility, including but not limited to:
 - (i) Entering and inspecting premises;
 - (ii) Taking action under the Scheme of Delegation from Council and committees
(Chief Officers must keep lists of who they have authorised, for what purpose and what limitations apply.)
 - (i) To authorise the Director of Corporate and Customer Services and the Legal Services Manager to issue and pursue legal proceedings and serve notices in respect of functions
 - (k) To serve statutory notices, issue cautions and take enforcement action (including but not limited to the issue of fixed penalty notices)
 - (l) Submitting a planning application for development linked to their area of responsibility
 - (m) To make decisions in relation to the spend of grant funding received in connection with approved projects or government initiatives
 - (n) To make decisions in relation to the spend of monies allocated to Council approved specific reserves
11. Subject to Officer Employment Procedure Rules, the delegated powers of Chief Officers and Directors of Service include:
 - (a) Power to determine staffing arrangements and structures within approved salary budgets subject to:

- (i) Agreement on grading following Job Evaluation
- (ii) Conformance with approved Council strategies, plans, policies, and procedures; and
- (iii) Chief Executive approval for structural changes establishing or affecting posts beyond the approved budget for the service
- (b) Power to recruit, appoint, agree conditions of service, appraise, develop, manage and reward employees subject to compliance with Council policies and procedures
- (c) Power to suspend, dismiss or take other disciplinary action and to deal with grievance, capability and sickness matters in accordance with the Council's policies and procedures

12. Chief Officers or Directors of Service may enter into contracts, make payments, write off debts etc in accordance with the financial levels of authority set out in Contract Standing Orders and Financial Regulations.

SPECIFIC FUNCTIONS AND RESPONSIBILITIES DELEGATED TO OFFICERS

The following table sets out the specific delegations made to officers in accordance with functions of the District Council in law or specific decisions:

| Subject | Act | Functions Delegated | Officer |
|---|--|---|--|
| Article 8 – The Redress Schemes for Lettings Agency Work and Property Management Work | Requirement to Belong to a Scheme etc (England) Order 2014 | Issue of notice, issue of final notice and imposition of monetary penalty of £5,000 | Principal Environmental Health Officer, all Environmental Health Officer, Environmental Health Manager |
| Abandoned Vehicles and Refuse | Refuse Disposal (Amenity) Act 1978 | To carry out the duties of the Council in accordance with the Act. | Director of Place and Economy/ Principal Officer – Environmental Health/ Environmental Health Officers/Environmental Health Technician/Environmental Health Manager |
| | Clean Neighbourhoods & Environment Act 2005 Section 10 & Refuse Disposal (Amenity) Act 1978 Section 2B | Issue of fixed penalty notices for abandoning a vehicle | Environmental Health Officers/Environmental Health Technicians |

| Subject | Act | Functions Delegated | Officer |
|---|--|---|--|
| | Clean Neighbourhoods & Environment Act 2005 Section 10 & Refuse Disposal (Amenity) Act 1978 Section 2B | Power to require the name and address of a person to whom a fixed penalty notice is to be issued | Environmental Health Officers/Environmental Health Technicians |
| Abseiling Licences – Council Owned Land | - | That delegated authority be granted to the Director of Corporate and Customer Services, following consultation with appropriate governing bodies and organisations, to agree the detailed wording and subsequent issue of abseiling licences for land in Council's ownership. | Director of Corporate and Customer Services |
| Access to Information | Local Government (Access to Information) Act 1985 | Proper Officer provision <ul style="list-style-type: none"> • Identification and retention of background papers and reports • Identification of exempt information and reasoning of public interest test | Chief Executive and Directors of Service Monitoring Officer and Chief Financial Officer in relation to their statutory roles Estates and Facilities Manager in relation to role as the Council's valuer. |
| | | To increase charges for the production of background papers, agendas, reports and minutes annually, in line with inflation | Director of Corporate and Customer Services |
| | | In relation to staffing matters | Chief Executive, Director of Corporate and Customer Services, and Human Resources Manager |

| Subject | Act | Functions Delegated | Officer |
|-----------------------|---|---|---|
| Anti-Social Behaviour | Anti-Social Behaviour, Crime and Policing Act 2014 Section 22 | To apply for a Criminal Behaviour Order on conviction | Solicitor, Legal Assistant and/or Community Safety Officer in Consultation with the Director of Corporate and Customer Services and/or Legal Services Manager |
| | Anti-Social Behaviour, Crime and Policing Act 2014 Part I | To apply for a Civil Injunction | Solicitor, Legal Assistant, Revenue Services Manager and/or Community Safety Officer in consultation with the Director of Corporate and Customer Services and/or Legal Services Manager |
| | Anti-Social Behaviour, Crime and Policing Act 2014 Section 43 | To issue a Community Protection Notice | Environmental Health Officers, Community Safety Officer, and Neighbourhoods Manager |
| | Anti-Social Behaviour, Crime and Policing Act 2014 Section 52 | To issue a Fixed Penalty Notice for failing to comply with a Community Protection Notice | Environmental Health Officer, Neighbourhoods Manager, Community Safety Officer or any other enforcement officers employed by DDDC |
| | Anti-Social Behaviour, Crime and Policing Act 2014 Section 48 | To instigate legal proceedings for failing to comply with a Community Protection Notice | Solicitor, Legal Assistant and/or Community Safety Officer in with consultation Director of Corporate and Customer Services and/or Legal Services Manager |
| Anti-Social Behaviour | Anti-Social Behaviour, Crime and Policing Act 2014 Section 68 | To issue a Fixed Penalty Notice for failing to comply with a Public Spaces Protection Order | Environmental Health Officers, Neighbourhoods and Clean & Green staff and any other enforcement officers employed by DDDC. |
| Anti-Social Behaviour | Anti-Social Behaviour, Crime and Policing Act 2014 Section 67 | To instigate legal proceedings for failure to comply with a Public Spaces Protection Order | Director of Corporate and Customer Services and/or Legal Services Manager in conjunction with Director of relevant service |

| Subject | Act | Functions Delegated | Officer |
|--|--|--|--|
| | Anti-Social Behaviour, Crime and Policing Act 2014 Section 76 | To issue a Closure Notice – 24 Hours | Licensing Manger, Principal Environmental Health Officer Environmental Health Manager |
| | Anti-Social Behaviour, Crime and Policing Act 2014 Section 76 | To issue a Closure Notice – 48 Hours | Director of Community & Environmental Services and Legal Services Manager |
| | Anti-Social Behaviour, Crime and Policing Act 2014 Section 80 | To apply for a Closure Order | Director of Corporate and Customer Services and/or Legal Services Manager in conjunction with Director of relevant service |
| Approval of Disabled Facilities Grants | Housing Grants, Construction and Regeneration Act 1996 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 | Approve grant assistance Refuse grant assistance | Principal Environmental Health Officer/Environmental Health Manager |
| Arts Development Scheme | - | To determine the distribution of the Arts Development in Derbyshire Dales Fund | Events Manager |
| Assets of Community Value | Localism Act 2011 | To determine all nominations for inclusion on the list of Assets of Community Value and initial applications for compensation. | Director of Community and Environmental Services and Neighbourhood Services Manager |
| | | To determine requests to review the listing of a Community Asset and compensation decisions | Director of Corporate and Customer Services/ Legal Services Manager (where primary contact has a conflict of interest) |

| Subject | Act | Functions Delegated | Officer |
|-------------------------|--|---|--|
| Atmospheric Pollution | Clean Air Act 1993 | Determine applications regarding arrestment plant. | Principal Environmental Health Officer /Environmental Health Manager |
| Atmospheric Pollution | Clean Air Act 1993 | Institute proceedings. | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Audible Intruder Alarms | Clean Neighbourhoods & Environment Act 2005 Section 70 | Withdrawal of alarm notification area designation. | Principal Environmental Health Officer /Environmental Health Officer |
| Audible Intruder Alarms | Neighbourhoods & Environment Act 2005 Part 7 Chapter 1 | Institute proceedings for offences under this Chapter. | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Audible Intruder Alarms | Clean Neighbourhoods & Environment Act 2005 Section 73 | Issue of fixed penalty notices for offences under this Chapter. | Environmental Health Officers |
| Audible Intruder Alarms | Clean Neighbourhoods & Environment Act 2005 Section 76 | Power to require the name and address of a person to whom a fixed penalty notice is to be issued. | Environmental Health Officers |
| Audible Intruder Alarms | Clean Neighbourhoods & Environment Act 2005 Section 77 | Power of entry. | Environmental Health Officers |
| Audible Intruder Alarms | Clean Neighbourhoods & Environment Act 2005 Section 78 | Authority to obtain warrant. | Environmental Health Officers |
| Audible Intruder Alarms | Clean Neighbourhoods & Environment Act 2005 Section 79 | Power of Entry: Supplementary | Environmental Health Officers |

| Subject | Act | Functions Delegated | Officer |
|--------------------------------------|---|---|--|
| Authority to Enter Land and Premises | | Authority to issue Authority to Enter Premises Notifications for the purposes of pursuing official duties where such provisions exist in law | Chief Executive/ Director of Corporate and Customer Services |
| Banking | | To open bank and investment accounts and to approve changes to the bank mandate | Director of Resources |
| | | To be a signatory on the bank mandate | Director of Resources/ Director of Corporate and Customer Services/ Financial Services Manager |
| Budget Virements | | To approve virements up to the thresholds set in financial regulations from one service provision (cost centre) to another in their respective directorate portfolio. | Service Directors in consultation with the Director of Resources |
| Budget Virements | | To approve virements up to the (higher) threshold set in Financial Regulations including those between those directorate budget portfolios. | Chief Financial Officer Director of Resources |
| Building Control | Building Regulations 2010, Building (Approved Inspectors etc) Regulations 2010, Building Act 1984 | To exercise the powers, including Proper Officer provisions under the relevant legislation | Director of Place and Economy |
| Building Regulations | Building Act 1984 S32 and S66 | To serve notice that plans have no effect where work to which the plans relate has not commenced within 3 years from their deposit | Derbyshire Building Control Partnership in consultation with the Director of Place and Economy |

| Subject | Act | Functions Delegated | Officer |
|---|---|---|---|
| Building Regulations – Charges | Building Regulations (Local Authority Charges) Regulations 2010 | To vary the adopted Scheme of Charges where competition for the Building Control service prevails | Derbyshire Building Control Partnership in consultation with the Director of Place and Economy |
| Building Regulations – Contraventions | Public Health Act 1936 S287(1)(a) | Authorisation of Officers to enter premises and to institute proceedings against any person who wilfully obstructs any officer in pursuit of their duties | Derbyshire Building Control Partnership in consultation with the Director of Place and Economy |
| Burial/ Cremation (Assisted Burials) | Public Health (Control of Disease) Act 1984 | To make such arrangements as are necessary for the burial or cremation of deceased persons where no suitable arrangements have been or are being made | Director of Place and Economy / Principal Officer – Environmental Health, Environmental Health Officers/ Environmental Health Manager |
| Byelaws | Local Government Act 1972 S328 | Proper Officer – to certify printed copies of byelaws | Director of Corporate and Customer Services |
| Car Boot Sales | Local Government (Miscellaneous) Provision Act 1982 | To take action to prevent the establishment of a permanent car boot sale on a commercial basis | Director of Place and Economy, following consultation with the Chairman of the appropriate Committee |
| Car Parking Enforcement | Road Traffic Regulations Act 1984 S35A and 112 | To carry out prosecutions | Director of Community and Environmental Services/ Director of Corporate and Customer Services/ Legal Services Manager |
| Car Parking Consent to site Third Party Electric Vehicle Charge Points on District Council land | - | To negotiate and enter into formal agreement for the provision of third-party EV charging points on District Council owned car parks | Director of Community and Environmental Services and Neighbourhood Services Manager |

| Subject | Act | Functions Delegated | Officer |
|-----------------------------------|---|--|--|
| Carsington Reservoir Fund | - | To approve applications for grant aid | Chief Executive / Director of Community and Environmental Services, in consultation with the Ward Member |
| CCTV | Data Protection Act 2018 | Authority to sanction third parties for the usage of public space CCTV, CCTV systems and recordings | Director of Community and Environmental Services and/or Neighbourhood Services Manager |
| | Data Protection Act 2018 and Local Government Act 2003 S93(1) | Authority to set fees for the usage of public space CCTV, CCTV systems and recordings | Director of Community and Environmental Services |
| | Data Protection Act 2018 | To act as data controller for CCTV systems; and to appoint and train responsible officers; and to make decisions in compliance with legislation relating to CCTV | CCTV Manager and/or Neighbourhoods Manager |
| Certified Resolutions | Local Government (Miscellaneous Provisions) Act 1976 s41 | Certification of copies of resolutions, minutes and other documents | Director of Corporate and Customer Services |
| Chief Financial Officer | Local Government Finance Act 1988 S. 112 and Local Government Act 1972 S. 151 | Statutory designation | Director of Resources (Deputy – Financial Services Manager) |
| Churchyards not closed by statute | - | To increase grant levels annually in line with inflation | Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|--|---------------------------|---|--|
| Civil Emergencies | | To take any urgent action necessary in the event of a civil emergency and deal with matters relating to civil protection/emergency planning arising from the Council's powers and duties under the appropriate legislation. | Chief Executive |
| Code of Conduct (Elected members) | Local Government Act 2000 | Consequential changes required to Code of Conduct required by legislation | Monitoring Officer |
| Complaints under the Member Code of Conduct | Localism Act 2011 | Proper Officer to receive complaints of failure to comply with Code of Conduct | Monitoring Officer |
| Complaints under the Member Code of Conduct – selection of Hearing Panel | Localism Act 2011 | To select Members of the Governance and Resources Committee to serve as a Sub-Committee in relation to Hearings required under the procedure for the consideration of complaints | Monitoring Officer, in consultation with the Chairman of the Governance and Resources Committee |
| Contaminated Land | Environment Act 1995 | Powers to enter premises | Director of Corporate and Customer Services/ Director of Place and Economy / Principal Officer – Environmental Health / Environmental Health Officers/ Environmental Health Technicians / Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|--------------------|---|--|---|
| | Environmental Protection Act 1990 Part IIA | To determine that land is contaminated; service of urgent remediation notices; authorise urgent remediation work and recover costs; service of remediation notices; publish remediation declarations | Director of Place and Economy / Principal Officer – Environmental Health / Environmental Health Manager |
| | Environmental Protection Act 1990 Part IIA | Maintain Remediation Register | Director of Place and Economy / Principal Officer – Environmental Health / Environmental Health Manager |
| | Environmental Protection Act 1990 Part IIA | Institute proceedings | Director of Place and Economy in consultation with the Director of Corporate and Customer Services |
| Contracts | | Authority to accept alternative tenders in respect of any contract in the event of a withdrawal before the contract is complete. | Chief Executive and Directors of Service in consultation with the Monitoring Officer |
| Control of Disease | Public Health (Control of Disease) Act 1984 | To appoint authorised officers | Chief Executive/ Director of Director of Place and Economy |
| | | To act as authorised officers | Environmental Health Officers / Environmental Health Technicians |
| Control of Disease | Public Health (Control of Disease) Act 1984 | To institute legal proceedings | Director of Place and Economy, in consultation with the Director of Corporate and Customer Services |
| | | To have power of entry | Environmental Health Officers/ Environmental Health Technicians |
| | | To nominate a GP in respect of infectious persons | Principal Environmental Health Officer / Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|------------------------------------|--|--|--|
| | | Authority to authorise staff to issue fixed penalty notices for offences under this section | Principal Environmental Health Officer / Environmental Health Manager |
| Council Tax Base | Local Government Finance Act 1992 – S.67 | To determine the Council Tax Base | Director of Resources |
| Council Tax Local Discounts | Local Government Finance Act 1992 S. 13A(1)(c) | To determine applications for such reliefs | Director of Resources in consultation with Revenues & Benefits Manager (Chesterfield BC) |
| Council Tax and Non-Domestic Rates | Local Government Finance Act 1992 S.14 | To institute committal proceedings and to execute warrants of arrest with bail as necessary | Director of Resources |
| Council Tax Support Scheme | Local Government Finance Act 1992 | The administration of the Council Tax Support Scheme (including decisions on the backdating of claims and determining amounts of Hardship Relief to be awarded under the scheme) | Director of Resources Revenues & Benefits Manager (Chesterfield BC) Benefits Technical Officer (Chesterfield BC) |
| Councillors | Local Government Act 1972 S83 (1-3) | Proper Officer to witness and receive declarations of acceptance of office made by the Civic Chair of the District and Councillors | Chief Executive or Director of Corporate and Customer Services |
| | Local Government Act 1972 S84 | To receive written notice of resignation from the office of Civic Chair of the District or Councillors | Chief Executive or Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|-----------------------------|---|--|---|
| | Local Government Act 1972 S88(2) | To convene a meeting of the Council to fill casual vacancy in the office of Civic Chair of the District | Director of Corporate and Customer Services/ Chief Executive |
| | Local Government Act 1972 Schedule 12 (4,3) | To receive written notice of a councillor's address | Director of Corporate and Customer Services/ Chief Executive |
| | Local Government Act 1972 Schedule 12 (42b) | To sign a summons to attend meetings of the Council and its committees | Director of Corporate and Customer Services/ Chief Executive |
| Councillors – Dispensations | Localism Act | To grant dispensations from the requirement to withdraw from a meeting in circumstances where so many of the councillors on that decision making body have Disclosable Pecuniary Interests (DPI) in a matter that would impede transaction of business | Monitoring Officer |
| County Court Proceedings | - | Authority to represent the Council in hearings at County Court | Head of Revenues / Business Rates Technical Officer / Recovery Team Leader / Operational Revenues Manager / Senior Legal Assistant (all at Chesterfield BC) |
| Customer Complaints | - | To determine restrictions to be applied to complaints in accordance with the Persistent and Unreasonable Complaints Policy | Director of Corporate and Customer Services / Chief Executive (where primary contact has a conflict of interest) |

| Subject | Act | Functions Delegated | Officer |
|----------------------|---|---|--|
| Dangerous Structures | Building Act 1984 S78 | Authority to take emergency steps to secure remedial action to remove danger in consultation with Chairman or Vice-Chairman of relevant Committee | Director of Place and Economy in conjunction with Derbyshire Building Control Services |
| | - | Recovery of expenses via the courts following Committee approval | Director of Corporate and Customer Services / Director of Place and Economy |
| Data Protection | Data Protection Act 2018 General Data Protection Regulations | To ensure compliance with the Data Protection Act and the General Data Protection Regulations and to respond to specific requests for information and the issuing of decision notices | Director of Corporate and Customer Services |
| | | To investigate data protection security breaches and report to the ICO where appropriate | Director of Corporate and Customer Services |
| Data Protection | Data Protection Act 2018 General Data Protection Regulations | To deal with complaints and appeals arising from matters relating to information requests. | Director of Corporate and Customer Services/ Chief Executive |
| | | Data Protection Officer | Director of Corporate and Customer Services (when absent: Chief Executive) |
| Defective Premises | Building Act 1984 S76 | Service of notices, authority to authorise works in default | Director of Place and Economy / Principal Officer – Environmental Health/ Environmental Health Officers / Environmental Health Technicians/ Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|-----------------------------|---|--|--|
| Drainage | Local Government (Miscellaneous Provisions) Act 1976 S35 and Public Health Act 1961 S17 | To issue Notices and carry out necessary works in default. | Principal Officer – Environmental Health / Environmental Health Officers / Environmental Health Manager |
| Drainage | Public Health Act 1936 | Power to enter premises | Principal Officer – Environmental Health / Environmental Health Officers/Environmental / Environmental Health Technicians / Environmental Health Manager |
| Drainage | Building Act 1984 | Institute proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Drains, Sewers and Culverts | Public Health Act 1936 S.50, S.275 and S.290 Building Act 1984 S59/60 | Serving of Statutory Notices indicating nature of remedial work to be completed. Execute works in default and re-claim all necessary expenses. | Principal Officer – Environmental Health/ Environmental Health Officers/Environmental Health Manager |
| Elections | Local Government Act 1972 (S.41) | Proper Officer to act as Returning Officer for District and Parish Council elections | Chief Executive |
| | Local Government Act 1972 S89(1B) | Proper Officer for the receipt of written notice of a casual vacancy of Councillor for the District Council | Chief Executive |
| | Representation of the People Act 1983 S75, 81, 82 and 89 | Receipt of returns of election expenses | Chief Executive Deputy – Director of Corporate and Customer Services |
| | Representation of the People Act 1983 S12B | Publication of Election Petition | Chief Executive Deputy – Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|------------------------|--|---|--|
| Electoral Registration | Representation of the People Act 1983 S8(2) | Electoral Registration Officer (automatically Acting Returning Officer for UK Parliamentary elections | Deputy: Chief Executive Director of Corporate and Customer Services |
| Environmental Damage | Environment Act 1995 | Environmental Damage (Prevention and Remediation) (England) Regulations 2015 | Principal Officer – Environmental Health /Environmental Health Officers/Environmental Health Manager |
| Environmental Damage | Environmental Damage (Prevention and Remediation) (England) Regulations 2015 | To act as authorised officers | Principal Officer – Environmental Health /Environmental Health Officers/Environmental Health Manager |
| Environmental Damage | Environmental Damage (Prevention and Remediation) (England) Regulations 2015 | Service of notices | Principal Officer – Environmental Health /Environmental Health Officers/Environmental Health Manager |
| Environmental Damage | Environmental Damage (Prevention and Remediation) (England) Regulations 2015 | To authorise works in default and recover costs. | Principal Officer – Environmental Health /Environmental Health Manager |
| Environmental Damage | Environmental Damage (Prevention and Remediation) (England) Regulations 2015 | Institute proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Events | - | Authority to approve applications for events on Council owned land in accordance with the Events Strategy and approved schedule of fees | Director of Community and Environmental Services/ Chief Executive (in the absence of the primary contact or in the event of a conflict of interest) |

| Subject | Act | Functions Delegated | Officer |
|----------------|---|---|--|
| Fly Tipping | Environmental Protection Act 1990 Section 33 and 33ZA | Service of Fixed Penalty Notices | Director of Place and Economy / Environmental Health Officers / Environmental Health Technicians |
| Fly Tipping | Environmental Protection Act 1990 Section 33 | Institute proceedings for the offence of depositing controlled waste on land | Director of Place and Economy, in consultation with Director of Corporate and Customer Services |
| Food | Food Safety Act 1990 (as amended) and all subordinate legislation. | Authority to appoint Authorised Officers as defined by Section 5(6) of the Act and all subordinate legislation and in accordance with current Codes of Practice. To appoint a Public Analyst | Chief Executive/ Director of Place and Economy Chief Executive/ Director of Place and Economy |
| | Food Safety Act 1990 (as amended) and all subordinate legislation | To act as Authorised Officers as defined by Section 5(6) of Act and all subordinate legislation under the Food Safety Act 1990. To issue Improvement and Emergency Prohibition Notices | Environmental Health Officers/Environmental Health Technicians/ Agency Staff |
| | Food Safety Act 1990 (as amended) and all associated/sub-ordinate legislation | To institute legal proceeding | Director of Place and Economy, in consultation with Director of Corporate and Customer Services |
| | Contaminants in Food (England) Regulations 2013 | To appoint authorised officers | Director of Place and Economy / Manager |
| | | To act as authorised officers | Environmental Health Officers/Environmental Health Technicians |
| | To institute proceedings | Director of Place and Economy, in consultation with Director of Corporate and Customer Services | |

| Subject | Act | Functions Delegated | Officer |
|----------------|--|--|--|
| Food | Meat (Enhanced Enforcements Powers (England) Regulations 2000 | To appoint authorised officers | Environmental Health Manager |
| | | To act as authorised officers | Environmental Health Officers/Environmental Health Technicians |
| Food | Meat (Enhanced Enforcements Powers (England) Regulations 2000 | To institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| | | To appoint authorised officers | Chief Executive/Director of Place and Economy |
| | Transmissible Spongiform Encephalopathies (England) Regulations 2018 | To act as authorised officers | Environmental Health Officers/Environmental Health Technicians |
| | | To institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| | European Union (Withdrawal) Act 2018 s.1A and s.1B and all subordinate legislation under the European Communities Act 1972 | To fulfil the requirements of the Act and of all subordinate legislation | Director of Place and Economy / Principal Environmental Health Officer /Environmental Health Manager / Environmental Health Officers/ Environmental Health Technicians/ Agency staff |
| | Trade in Animals and Related Product Regulations 2011 | To appoint authorised officers | Environmental Health Manager |
| | | To act as authorised officers | Environmental Health Officers/Environmental Health Technicians |
| | | To institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|----------------|---|--|---|
| Food | Food Safety Act 1990 (as amended) and all associated/ subordinate legislation Food and Environment Protection Act 1985 | Institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| | Food Safety and Hygiene (England) Regulations 2013 | Authority to appoint Authorised Officers | Director of Place and Economy |
| | | To act as Authorised Officer | Environmental Health Officers/Environmental Health Technicians/Agency Staff |
| | | Regulation 6 – Service of Hygiene Improvement Notice | Environmental Health Officers/Environmental Health Technicians/Agency Staff |
| | | Regulation 8 – Hygiene Emergency Prohibition Notices and Orders | Environmental Health Officers/Environmental Health Technicians/Agency Staff |
| | | Regulation 9 – Remedial Action Notices and Detention Notices | Environmental Health Officers/Environmental Health Technicians/Agency Staff |
| | | To institute legal proceedings | Director of Place and Economy, in consultation with Director of Corporate and Customer Services |
| | The Official Feed and Food Controls (England) Regulations 2009 | Authority to appoint Authorised Officers under Regulation 3(3) | Director of Place and Economy / Environmental Health Manager |
| | | Regulation 30: Notices in pursuance to Article 19 of Regulation 882/2004 | Environmental Health Officers/Environmental Health Technicians/Agency Staff |
| | Food | | To institute legal proceedings |

| Subject | Act | Functions Delegated | Officer |
|---|---------------------------------|---|--|
| Former Council Owned Properties in the Peak District National Park (Derbyshire Clause Policy) | Housing Act 1985 S37 and 157 | To determine applications for proposed transactions according to the Derbyshire Clause Policy and Procedure | Director of Housing |
| | | To refer applications to a hearing panel made up of Members of the Licensing and Appeals Committee | Director of Housing |
| | | To make minor amendments to the Derbyshire Clause Policy and Procedure in line with any clarification provided by Members of a hearing panel of the Licensing and Appeals Committee | Director of Housing |
| Freedom of Information | Freedom of Information Act 2000 | <p>To ensure compliance with the Freedom of Information Act including:</p> <ul style="list-style-type: none"> • Developing, implementing, monitoring and correcting minor errors to the publication scheme required by the Freedom of Information Act 2000 • Responding to specific requests for information and issuing decision notices | Business Support Manager |
| | | To deal with complaints and appeals arising from matters to information requests | Legal Services Manager/ Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|--------------------------|--|--|---|
| Graffiti and Fly-Posting | Anti-Social Behaviour Act 2003 | Institute proceedings | Director of Community and Environmental Services, in consultation with the Director of Corporate and Customer Services |
| | | Authority to authorise officers for the purpose of Section 43 of the Act (Fixed Penalty Notices) | Director of Community and Environmental Services/ Neighbourhoods Manager |
| Head of Paid Service | Local Government and Housing Act 1989 S4 | Statutory designation | Chief Executive |
| Health Protection | Public Health (Control of Disease) Act 1984 | To have powers to enter premises to carry out local authority health protection functions | Director of Place and Economy /Principal Officer – Environmental Health/All Environmental Health Officers/Environmental Health Technicians/Environmental Health Manager |
| | | Application for a warrant to enter premises | Director of Corporate and Customer Services / Director of Place and Economy/ Principal Officer Environmental Health/Environmental Health Manager |
| Health Protection | Health Protection (Local Authority Powers) Regulations 2010 Regulation 2 | Service of notice requiring that a child be kept away from school | Director of Corporate and Customer Services /Director of Place and Economy/ Principal Officer Environmental Health/Environmental Health Manager |
| | Health Protection (Local Authority Powers) Regulations 2010 regulation 3 | Service of notice requiring a Head Teacher to provide contact details of children attending school | Director of Corporate and Customer Services / Director of Place and Economy/ Principal Officer Environmental Health/Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|-------------------|---|---|---|
| | Health Protection (Local Authority Powers) Regulations 2010 regulation 8 | Service of notice requesting co-operation for health protection purposes | Director of Corporate and Customer Services / Director of Place and Economy / Principal Officer Environmental Health/Environmental Health Manager |
| | Health Protection (Local Authority Powers) Regulations 2010 regulation 9 | Service of notice prohibiting contact with a dead body | Director of Place and Economy / Principal Officer Environmental Health/Environmental Health Manager |
| | Health Protection (Local Authority Powers) Regulations 2010 regulation 10 | Service of notice prohibiting any person from entering a room in which a dead body is located | Director of Place and Economy / Principal Officer Environmental Health/Environmental Health Manager |
| | Health Protection (Local Authority Powers) Regulations 2010 regulation 11 | Service of notice requiring the relocation of a dead body | Director of Place and Economy / Principal Officer Environmental Health/Environmental Health Manager |
| | Health Protection (Local Authority Powers) Regulations 2010 | Institute proceedings for failing to comply with a notice served under the Regulations | Director of Place and Economy /Director of Corporate and Customer Services |
| Health Protection | Public Health (Control of Disease) Act 1984 | Make application to a Justice of the Peace for a Part 2A Order | Director of Place and Economy /Director of Corporate and Customer Services |
| | | Make application for the variation or revocation of a Part 2A Order | Director of Place and Economy /Director of Corporate and Customer Services |
| | Health Protection (Part 2A Orders) Regulations 2010 regulation 3 | Service of notice informing of the application for a Part 2A Order | Director of Place and Economy |
| | | Recovery of costs | Director of Place and Economy |

| Subject | Act | Functions Delegated | Officer |
|-------------------|---|---|--|
| | Public Health (Control of Disease) Act 1984 | Institute proceedings for failing to comply with a Part 2A Order | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Health and Safety | Health and Safety at Work Act 1974 S19 | To authorise such officers or technicians or agency staff as deemed appropriate with enforcement powers | Chief Executive/ Director of Place and Economy |
| | Health and Safety at Work Act 1974 | To authorise persons to enter premises in the company of an inspector | Chief Executive/ Director of Place and Economy |
| | | To act as inspectors in accordance with the Act | Environmental Health Officers/ Environmental Health Technicians/ Agency Staff |
| | | To indemnify inspectors against any action brought against them arising from carrying out their inspectorial duties | Chief Executive/ Director of Place and Economy in conjunction with Director of Resources |
| | | To serve improvement/ prohibition notices | All Environmental Health Officers, Technicians and Agency Staff authorised under the Act |
| Health and Safety | Health and Safety at Work Act 1974 S28(3)(i) | To act as a proper recipient of information | Chief Executive/ Director of Place and Economy/ Principle Environmental Health Officer / Environmental Health Officer |
| | Health and Safety at Work Act 1974 S25 | Power to deal with cause of imminent danger | Environmental Health Officers |
| | Health and Safety at Work Act 1974 and all associated regulations | Institute legal proceedings | All Environmental Health Officers, Technicians and Agency Staff authorised, in consultation with the Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|---|--|---|---|
| | The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 | To act as the enforcing authority in those premises detailed in the Regulations | All Environmental Officers, Technicians and Agency Staff authorised under the main Act. |
| | | To institute legal proceedings for an offence contravening the Regulations | All Officers, Technicians and Agency Staff authorised, in consultation with the Director of Corporate and Customer Services |
| | The Notification of Cooling Towers and Evaporative Condensers Regulations 1992 | To institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| High Hedges | Anti-Social Behaviour Act 2003 | To determine high hedge complaints, including the issue, modification or relaxation of remedial notices | Director of Place and Economy / Development Manager/ Principal Planning Officer/ Environmental Health Manager |
| Highways – Speed limit amendments and temporary closing and de-trunking | - | To respond to proposals from the Highways Authority | Director of Corporate and Customer Services, following consultation with Ward Member(s) |
| Homelessness | Housing Act 1996 Homelessness Reduction Act 2018 | To make any determination and notify as appropriate | Director of Housing, Housing Strategy Officer/ Home Options Officers |
| Housing Benefit First Tier Tribunals | The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 Tribunals, Courts & Enforcement Act 2007 | Authority to represent the Council in appeal hearings at First Tier Tribunals convened by the Department of Justice | Benefits Manager (Chesterfield BC) Benefits Technical Officer (Chesterfield BC) |

| Subject | Act | Functions Delegated | Officer |
|--|---|---|--|
| Human Resources – Disciplinary Procedure – Formal Warnings | - | To issue formal warnings to employees in accordance with the Disciplinary Procedure | Chief Executive and Directors of Service |
| Human Resources – Disciplinary Procedure – Dismissal | - | To dismiss employees in accordance with the Disciplinary Procedure | Chief Executive and Directors of Service |
| Human Resources – Recruitment | - | To fill vacant posts on current establishment with the prior consent of the Chief Executive | Directors of Service |
| | | Authority to sign employment contracts | Human Resources Manager |
| Interest in Land | Local Government (Miscellaneous Provisions) Act 1976 S16 | To issue Notices requiring information as to a person's interest in land | Licensing Manager/ Principal Officer – Environmental Health/ All Environmental Health Officers/ Environmental Health Technicians |
| Internal Audit | Accounts and Audit Regulations 2015 & Local Government Finance Act 1982 S23 | Responsibility for the maintenance of effective and adequate systems of internal audit | Director of Resources |
| Land – permission to use for ancillary purposes | - | To determine, in consultation with Ward Member(s), applications to temporarily occupy Council land for ancillary purposes i.e. fairs, circuses, promotional vans and trailers and to set appropriate rental | Director of Resources/ Director of Community and Environmental Services |
| Land Charges | Local Land Charges Act 1975 S3(3 and S9(4) | Proper Officer to maintain register of Local Land Charges and to issue the certificate of a result of a search | Director of Corporate and Customer Services/ Chief Executive/ Legal Services Manager |

| Subject | Act | Functions Delegated | Officer |
|-------------------|------------------------|--|---|
| Land Drainage | Land Drainage Act 1991 | Powers to enter premises to carry out local authority land drainage functions | Principal Officer – Environmental Health/ All Environmental Health Officers/ Environmental Health Technicians/ Environmental Health Manager |
| Land Transactions | - | To approve the contractual revision of rents, where new rent of £25,000 per annum or less, and licence fees; to approve lease and licence renewals and amendments to their terms | Estates and Facilities Manager |
| Land Transactions | - | To grant or enter into licences, periodic tenancies and leases (for less than 10 years) at a fee/rental not exceeding £25,000 per annum | Estates and Facilities Manager |
| | | To grant or obtain or enter into easements, rights of way, rights of light and wayleaves; to consent assignments, sub-lettings and surrenders | Estates and Facilities Manager |
| | | To approve the sale or purchase of land where the estimated value is less than £25,000 | Estates and Facilities Manager, subject to notifying the Leader of the Council and Chair of the Governance and Resources Committee and consulting with Ward Member(s) and relevant Parish Council |

| Subject | Act | Functions Delegated | Officer |
|-------------------|--|--|---|
| Legal Proceedings | All relevant | To authorise the institution, defence or participation in any legal proceedings in any case where such action is necessary to give effect to decisions where such action is necessary to protect the Council's interests | Director of Corporate and Customer Services or Legal Services Manager |
| Litter | Clean Neighbourhoods and Environment Act 2005 S19 & 24 and Environmental Protection Act 1990 S88 | Authority to authorise members of staff to issue fixed penalty notices for dropping litter | Director of Community and Environmental Services/ Neighbourhoods Manager |
| | Environmental Protection Act 1990 S87 and S88 | Institute legal proceedings and institute legal proceedings for failing to provide name and address | Director of Community and Environmental Services, in consultation with the Director of Corporate and Customer Services |
| | Environmental Protection Act 1990 S88A | Issue of Fixed Penalty Notices for the offence of littering from a motor vehicle | Principal Officer – Environmental Health, all Environmental Health Officers, all Environmental Health Technicians, Environmental Health Manager |
| | Environmental Protection Act 1990 S93 & 94 | Services of street litter control notices | Director of Community and Environmental Services/ Environmental Health Officers/ Neighbourhoods Manager |
| | Clean Neighbourhoods and Environment Act 2005 S23 and Environmental Protection Act 1990 S94B and | Issue of consents for the distribution of free printed material | Director of Community and Environmental Services |
| | | Seizure of material where an offence is committed | Director of Community and Environmental Services/ Neighbourhoods Manager |

| Subject | Act | Functions Delegated | Officer |
|---|--|---|--|
| | Schedule 3A | Authority to authorise members of staff to issue fixed penalty notices for offences under this section | Director of Community and Environmental Services |
| | | Institute legal proceedings under Part 3 | Director of Community and Environmental Services, in consultation with the Director of Corporate and Customer Services |
| Local Authority Waste Collection and Disposal | Environmental Protection Act 1990 S47ZA | Issue of fixed penalty notices under S46 and 47 | Waste and Recycling Manager/ Waste and Recycling Officer |
| | Environmental Protection Act 1990 S59 and 59ZA | Service of notices | Environmental Health Officers |
| | Environmental Protection Act 1990 S33 | Institute proceedings for the offence of depositing controlled waste on land | Director of Place and Economy, in consultation with the Director of Corporate and Customer Services |
| Magistrates Court | Local Government Act 1972 S223 S1 | Proper Officer to prosecute or defend on behalf of the Council in proceedings before Magistrates Courts | Legal Services Manager, Principal Solicitor, Solicitor and Trainee Solicitor Head of Revenues/ Business Rates Technical Officer/ Recovery Team Leader/ Operational Revenues Manager/ Senior Legal Assistant (Chesterfield BC) |
| Matlock Bath Illuminations | - | To make operational decisions in relation to the staging of the event | Events Manager, in consultation with the Working Group and the Director of Community and Environmental Services |
| Means of Escape | Building Act 1984 S72 | Service of Notices, authority to authorise works in default | Director of Place and Economy / Principal Officer – Environmental Health/ Environmental Health Officers/ Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|----------------------------|---|--|---|
| | Building Act 1984 S72 | Institute proceedings | Director of Place and Economy, in consultation with the Director of Corporate and Customer Services |
| Money Laundering | Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 | Money Laundering Reporting Officer | Director of Resources |
| Neighbourhood Planning | Localism Act 2011, Town and Country Planning Act 1990, Planning and Compulsory Purchase Act 2004, and Neighbourhood Planning (General) Regulations 2012 | Designation of an area as a Neighbourhood Area following statutory publicity of the application for Neighbourhood Area designation and where no representations of objection are received during the publicity period. | Planning Policy Manager/ Director of Corporate and Customer Services or Director of Place and Economy in the absence of the Planning Policy Manager |
| Nighttime Noise | Noise Act 1996 | Service of warning notices and fixed penalty notices | All Environmental Health Officers |
| | | Institute proceedings | Director of Place and Economy, in consultation with the Director of Corporate and Customer Services |
| Noise | Noise Act 1996 S8B | Power to require the name and address of a person to whom a fixed penalty notice is to be issued | Environmental Health Officers |
| Noise – Construction Sites | Control of Pollution Act 1974 | Power to enter premises | Director of Place and Economy / Environmental Health Officers/ Principal Officer – Environmental Health |

| Subject | Act | Functions Delegated | Officer |
|----------------------------|---|---|--|
| Noise – Construction Sites | Control of Pollution Act 1974 | To determine applications for prior consent | Director of Place and Economy/ Environmental Health Officers/ Principal Officer – Environmental Health |
| | | Service of notices | Director of Place and Economy/ Environmental Health Officers/ Principal Officer – Environmental Health |
| | | Institute proceedings | Director of Place and Economy, in consultation with the Director of Corporate and Customer Services |
| Non-Domestic Rates | Local Government Finance Act 1988 The Non Domestic Rating (Rates Retention) Regulations 2013 | The calculation and notification of non-domestic rating income and other amounts | Director of Resources |
| Non-Domestic Rates | Local Government Finance Act 1988 S49 | Determination of applications for hardship relief | Director of Resources Head of Revenues (Chesterfield BC) Revenues & Benefits Manager (Chesterfield BC) |
| Non-Domestic Rates | Local Government Finance Act 1988 S47 | Determination of applications for discretionary rate relief | Director of Resources Head of Revenues (Chesterfield BC) Revenues & Benefits Manager (Chesterfield BC) |
| Non-Domestic Rates | | Determination of applications for rate relief under the temporary revaluation relief scheme for business rate revaluation in 2017 | Director of Resources Head of Revenues (Chesterfield BC) Revenues & Benefits Manager (Chesterfield BC) |

| Subject | Act | Functions Delegated | Officer |
|--|--|---|---|
| Non-Domestic Rates | Local Government Finance Act 1997 S1 | Authority to grant the extended provisions of the rural rate relief regulations | Director of Resources |
| Non-Domestic Rates | Local Government Finance Act 1997 S1 | Annual Review of the rural settlement list | Director of Resources |
| Nuisance and Abandoned Vehicles | Clean Neighbourhoods and Environment Act 2005 S4 & 6 | Issue of fixed penalty notices for repairing vehicles on a road | Environmental Health Officers/ Environmental Health Technicians |
| | Clean Neighbourhoods and Environment Act 2005 S7 | Power to require the name and address of a person to whom a fixed penalty notice for the above mentioned offences is to be issued | Environmental Health Officers/ Environmental Health Technicians |
| | Clean Neighbourhoods and Environment Act 2005 Part 2 | Institute legal proceedings under Part 2 | Director of Place and Economy, in consultation with the Director of Corporate and Customer Services |
| Parish Councils – Appointment of Members | Local Government Act 1972 S91(1) | To appoint, following consultation with Ward Member(s), temporary Members to serve on inquorate parish councils in the district | Director of Corporate and Customer Services |
| Parish Councils – Reimbursable Expenditure | | To determine if a parish will not be eligible for reimbursable expenditure where it has three years precept in its balances, or £50,000, whichever is the lower, unless there are exceptional reasons | Director of Resources |

| Subject | Act | Functions Delegated | Officer |
|--|---|---|--|
| Parish Meetings – Trustee | Local Government Act 1972 S1393) | To act, with the Chairman of the Parish Meeting, as a Trustee as the body corporate of the Parish | Director of Corporate and Customer Services |
| Performing Animals | Performing Animals (Regulations) Act 1925 | Authority to enter premises and examine certificates | Director of Place and Economy / Principal Officer – Environmental Health, Environmental Health Officers |
| Pests – Rats and Mice | Prevention of Damage by Pests Act 1949 | Service of Notices on owners or occupiers to secure action to rid premises of pests | All Environmental Health Officers |
| | | Authority to authorise works in default | All Environmental Health Officers |
| Petitions | - | Petitions Officer | Director of Corporate and Customer Services |
| | | Decisions on ordinary petitions | Chief Executive or Directors of Service, following consultation with the relevant Committee Chairman and relevant Ward Member(s) |
| | | Decisions on whether a petition is vexatious, abusive or otherwise inappropriate | Director of Corporate and Customer Services/Chief Executive |
| | | Authority to make minor amendments to the Council's Petitions Policy | Director of Corporate and Customer Services |
| Planning Applications – Land Acquisition | Town and Country Planning Act 1990 | To submit planning applications in relation to the development of Council owned land. | Director of Place and Economy / Director of Community and Environmental Services |

| Subject | Act | Functions Delegated | Officer |
|----------------------------------|---|---|---|
| Pollution Prevention and Control | Environment Act 1995 | Powers to enter premises | Director of Place and Economy / Principal Officer – Environmental Health/ Environmental Health Officers/ Environmental Health Technicians/ Environmental Health Manager |
| Pollution Prevention and Control | Environmental Permitting (England and Wales) Regulations 2016 | Granting of Permits Variation of Permits Transfer of Permits Determine applications to surrender permits Service of request for information notices Maintain the Public Register Exclude information from the Public Register | Director of Place and Economy /Principal Officer – Environmental Health/ Environmental Health Officers/Environmental Health Manager |
| Pollution Prevention and Control | Environmental Permitting (England and Wales) Regulations 2016 | Refusal of Permits Revocation of Permits Service of enforcement notices Service of suspension notices Exercise power to prevent or remedy pollution | Director of Place and Economy /Principal Officer – Environmental Health/Environmental Health Officers/Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|----------------------------------|---|--|--|
| Pollution Prevention and Control | Environmental Permitting (England and Wales) Regulations 2016 | Institute Proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services. |
| Pollution Prevention and Control | Environmental Protection Act 1990 – section 13 | Service of enforcement notices | Environmental Health Officers |
| Pollution Prevention and Control | Environmental Protection Act 1990 – Section 14 | Service of prohibition notices | Environmental Health Officers |
| Pollution Prevention and Control | Environmental Protection Act 1990 – section 117 | Power to deal with cause of imminent danger of damage to the environment | Environmental Health Officers |
| Private Sector Housing | Housing Act 1985 | Institute proceedings. | Director of Place and Economy in consultation with the Director of Corporate and Customer Services |
| | Housing Act 1985 | Authority to authorise works in default. | Director of Place and Economy in conjunction with Director of Resources |
| Private Sector Housing | Housing Act 1985 and Housing Act 2004 | Services of Demolition Orders, Overcrowding Notices | Principal Environmental Officer/ Environmental Health Manager/ Environmental Health Officers |
| | Housing Act 1985 | Powers to enter premises for the purpose of survey and examination. | Environmental Health Officers/Environmental Health Technicians |
| | Housing Act 2004, Sections 11 & 12 | Service of improvement notices. | All Environmental Health Officers |
| | Housing Act 2004, Section 14 | Suspension of improvement notices. | Principal Officer – Environmental Health /Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|------------------------|------------------------------------|--|--|
| | Housing Act 2004, Section 16 | Revocation and variation of improvement notices. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 17 | Review of suspended improvement notices. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Sections 20 & 21 | Making of prohibition orders. | All Environmental Health Officers |
| | Housing Act 2004, Section 23 | Suspension of prohibition orders. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 67 | Imposition of conditions on licences. | Principal Officer – Environmental Health /Environmental Health Manager |
| Private Sector Housing | Housing Act 2004, Section 69 | Variation of licences. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 70 | Revocation of licences. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004 | Institute legal proceedings under Part II. | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| | Housing Act 2004, Section 73 | Application for rent repayment order. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 88 | Grant and refusal of licence. | Principal Officer – Environmental Health /Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|------------------------|-------------------------------|--|--|
| | Housing Act 2004, Section 90 | Imposition of conditions on licences. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 92 | Variation of licences. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 93 | Revocation of licences | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| Private Sector Housing | Housing Act 2004 | Institute legal proceedings under Part III. | Director of Place and Economy in consultation with Director of Corporate and Customer Services /Environmental Health Manager |
| | Housing Act 2004, Section 96 | Application for rent repayment order. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| | Housing Act 2004, Section 102 | Application for Interim Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| | Housing Act 2004, Section 103 | Application for special Interim Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| | Housing Act 2004, Section 111 | Variation of Interim Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|------------------------|-------------------------------|--|---|
| | Housing Act 2004, Section 112 | Revocation of Interim Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| | Housing Act 2004, Section 113 | Making of Final Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| | Housing Act 2004, Section 121 | Variation of Final Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| Private Sector Housing | Housing Act 2004, Section 122 | Revocation of Final Management Orders. | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |
| | Housing Act 2004, Section 131 | Power of entry to carry out works. | All Environmental Health Officers and Environmental Health Technicians |
| | Housing Act 2004, Section 133 | Application for Interim Empty Dwelling Management Order. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 136 | Making of Final Empty Dwelling Management Order. | Director of Place and Economy and Environmental Health Manger |
| | Housing Act 2004, Section 139 | Service of overcrowding notices. | All Environmental Health Officers |
| | Housing Act 2004, Section 144 | Revocation and variation of overcrowding notices. | Principal Officer – Environmental Health /Environmental Health Manager |
| | Housing Act 2004, Section 235 | Power to require information | All Environmental Health Officers |

| Subject | Act | Functions Delegated | Officer |
|-------------------------|--|--|---|
| | Housing Act 2004, Section 239 | Power of entry | All Environmental Health Officers and Environmental Health Technicians |
| | Housing Act 2004, Section 240 | Application for warrant. | All Environmental Health Officers |
| | Housing Act 2004, Section 241 | Institution of legal proceedings for obstruction. | Director of Place and Economy in consultation with the Director of Corporate and Customer Services |
| Procurement | - | To approve the procurement of goods and services in accordance with Contract Standing Orders and Financial Regulations | Chief Executive, Directors of Service and members of Senior Management Team |
| Protection of Buildings | Local Government (Misc Provisions) Act 1982 | Powers to enter premises. | Principal Environmental Health Officer/ Environmental Health Manager / Environmental Health Officers / Environmental Health Technicians |
| Protection of Buildings | Local Government (Misc Provisions) Act 1982 Sections 29-32 | Service of Notices, authority to authorise works in default. | Principal Officer- Environmental Health/All Environmental Health Officers/Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|--|--|--|--|
| Protection of Trees | Town & Country Planning Act 1990 | To make and sign provisional Tree Preservation Orders and to confirm or vary unopposed orders. To approve or refuse applications to lop or fell trees protected by a Tree Preservation Order. To respond to notifications relating to the felling or pruning of trees in Conservation Areas. | Planning Policy Manager/ Development Manager/Planning Policy Officer |
| Provision of sanitary conveniences at places of entertainment etc. | Local Government (Miscellaneous Provisions) Act 1976 | Authority to appoint authorised officer | Director of Place and Economy |
| | | To act as Authorised Officers | All Environmental Health Officers/ Environmental Health Technicians |
| | | To serve occasional or continuous notice | Principal Environmental Officer/ Environmental Officer |
| | | To institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Public Health – Filthy and Verminous premises and articles | Public Health Act 1936 Sections 84 and 85 | Authority to appoint a proper officer To exercise the powers under Sections 84 and 85 of the Act as amended by an enactment. | Chief Executive/Director of Corporate and Customer Services/ Director of Place and Economy All Environmental Health Officers and Environmental Health Technicians |
| Public Health – Disinfestations of verminous articles offered for sale | Public Health Act 1961 Section 37 | Authority to appoint a proper officer. | Chief Executive/Director of Corporate and Customer Services/ Director of Place and Economy |

| Subject | Act | Functions Delegated | Officer |
|--------------------------------|--|---|--|
| Public Health Inspector | Any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 | Proper Officer – role of Public Health Inspector | Director of Place and Economy in conjunction with Environmental Health Manager |
| Public Space Protection Orders | Anti-social Behaviour, Crime and Policing Act 2014 | To authorise Officers to undertake associated enforcement duties. | Director of Community & Environmental Services |
| Register of Members Interests | Localism Act S29 and 30 | To establish and maintain a Register of Members' Interests | Monitoring Officer |
| Re-possession and Rent Arrears | - | To initiate proceedings for re-possession of properties and the recovery of rent arrears, following consultation with the Chairman and Vice-Chairman of the appropriate Committee | Director of Corporate and Customer Services/ Legal Services Manager |
| Reserves | - | Approval of supplementary estimates (revenue or capital) and use of the general reserve or strategic to deal with emergencies or unforeseen events up to the limit set in Financial Regulations | Director of Resources |
| Review Procedure | Housing Act 1996 | To carry out requests for reviews either from people who have applied for Council accommodation or appeals against homelessness decisions | Director of Housing/ Housing Strategy Officer |

| Subject | Act | Functions Delegated | Officer |
|-----------------------------------|---|---|--|
| Rights of Way | Town and Country Planning Act 1990 S259 Highways Act 1980 S118 & 119 | To promote and confirm Orders to create, divert or close footpaths following consultation with Ward Members | Director of Corporate and Customer Services/ Legal Senior Manager |
| RIPA | Regulation of Investigatory Powers Act 2000 | To be designated persons for the granting of authorisations | Director of Community and Environmental Services/ Director of Corporate and Customer Services/ Director of Housing/ Director of Place and Economy |
| | | To act as RIPA Monitoring Officer | Legal Services Manager |
| | | To suspend authority to grant authorisations if training not undertaken | Legal Services Manager |
| | | Authority to appear in the Magistrates Court on behalf of the Council to apply for judicial approval for authorisation to obtain or disclose communications data, to use a covert intelligence source or to conduct directed surveillance | Senior Investigations Officer Investigations Officer |
| Road Closures | Town Police Clauses Act 1847 | To take appropriate steps to temporarily close roads, following consultation with emergency services, Derbyshire County Council and Ward Member | Director of Corporate and Customer Services in consultation with relevant service directors |
| Ruinous and Dilapidated Buildings | Building Act 1984 S79 | Service of notices, authority to authorise works in default | Principal Environmental Health Officer and Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|------------------------|--|--|--|
| Sealing of Documents | | Proper Officer responsible for the recording and signing documents under the Council's Common Seal | Director of Corporate and Customer Services/ Legal Services Manager / Chief Executive |
| Smoke Free Regulations | Health Act 2006 S10 | To act as authorised officers | All Environmental Health Officers/ Principal Officer – Environmental Health/ Environmental Health Technicians/ Licensing Manager/ Environmental Health Manager |
| | Health Act 2006 S9 | Issue of penalty notices under Sections 6(5) and 7(2) | All Environmental Health Officers/ Principal Officer – Environmental Health/ Environmental Health Technicians/ Licensing Manager/ Environmental Health Manager |
| | Health Act 2006 | Institute legal proceedings for offences under Part 1 of the Health Act 2006 | Director of Place and Economy in consultation with Director of Corporate and Customer services |
| Stall Markets | Local Government (Miscellaneous Provisions) Act 1982 | To approve Stall Market Licences | Director of Community and Environmental Services / Events Manager |
| Statutory Nuisances | Environmental Protection Act 1990 Part III | Power to enter premises | All Environmental Health Officers/ Environmental Health Technicians |
| | | To serve Abatement Notices | All Environmental Health Officers |
| | Environmental Protection Act 1990 Part III | To authorise works in default, serve notices of intention to recover | Director of Place and Economy or Environmental Health Manager in consultation with Director of Resources |

| Subject | Act | Functions Delegated | Officer |
|---------------------------|--|---|--|
| | Environmental Protection Act 1990 Part III | Institute proceedings | Director Regulatory Services in consultation with Director of Corporate and Customer Services |
| Stray Dogs | Environmental Protection Act 1990 S149 | Authorised officer with powers to seize and detain stray dogs | Neighbourhood Service Manager or Director of Community and Environmental Services |
| | Environmental Protection Act 1990 S149 | To approve an increase in kennelling fees where | Director of Community and Environmental Services |
| Street Naming & Numbering | Public Health Act 1925 S17 and S18 | To name or rename streets and impose numbering schemes in consultation with Ward Members | Director of Corporate and Customer Services, Legal Services Manager or Business Support Manager |
| Street Trading | Local Government (Miscellaneous Provisions) Act 1982 | Authority to approve trading on Consent Streets | Legal Services Manager/ Licensing Manager |
| Street Trading Orders | | To authorise prosecutions for contraventions of Orders following an unheeded warning letter | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Sunday Trading | Sunday Trading Act 1994 | To institute legal proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| Sunday Trading | Sunday Trading Act 1994 | To designate area "a loading control area" | Director of Place and Economy / Principal Officer – Environmental Health/ Environmental Health Manager |
| | | Authority to appoint inspectors as detailed in schedule 2-part 1 paragraph 2 | Chief Executive/ Director of Place and Economy |

| Subject | Act | Functions Delegated | Officer |
|---|---|--|--|
| Surveyor/ Engineer | Any enactment passed before or during the 1971/72 session of Parliament, other than the Local Government Act 1972 | Proper Officer – role of Surveyor or Engineer | Estates and Facilities Manager |
| Temporary Road Closures for Events on the Highway | Town Police Clauses Act 1847 | To make Road Closure Orders | Director of Corporate and Customer Services |
| Transportation of Waste | Control of Pollution (Amendment) Act 1989 S5 | Authority to stop, search and seize vehicles | Principal Officer – Environmental Health/ Environmental Health Manager |
| | | Power to require the name and address of driver and vehicle owner | Principal Officer – Environmental Health/ Environmental Health Manager |
| | | Issue of fixed penalty notices for offences under this section | Principal Officer – Environmental Health/ Environmental Health Manager |
| | | Institute proceedings | Director of Place and Economy, in consultation with Director of Corporate and Customer Services |
| Travellers/ Unauthorised Campers | Criminal Justice & Public Order Act 1994 S77, 78 &79 | Serving of Notices ordering the removal of persons and vehicles from land. | Director of Place and Economy, Director of Corporate and Customer Services or Environmental Health Manager in consultation with Legal Services |
| | Civil Procedures Rules Part 55 | Applications for Possession Orders | Director of Place and Economy in consultation with the Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|----------------------------------|--|--|--|
| Treasurer | Any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 | Proper Officer – role of Treasurer | Chief Financial Officer |
| Valuation Office Agency Hearings | Local Government Finance Act 1992 | Authority to represent the Council in hearings at the Valuation Office Agency | Revenues & Benefits Manager/ Benefits Technical Officer/ Business Rates Technical Officer/ Council Tax Technical Officer/ (All Chesterfield BC) |
| Valuation Tribunal Hearings | Local Government Finance Act 1992 | Authority to represent the Council at hearings of the Valuation Tribunal Service | Revenues & Benefits Manager/ Benefits Technical Officer/ Business Rates Technical Officer/ Council Tax Technical Officer/ (All Chesterfield BC) |
| Waste – Commercial | Environmental Protection Act 1990 Section 34A | Issue of fixed penalty notices for offences under Sections 34 & 34A | Director of Community & Environmental Services / Waste & Recycling Manager/ Waste & Recycling Officer |
| Waste - Deposit and Disposal | Environmental Protection Act 1990 Section 34A | Issue of fixed penalty notices for offences under this section | All Environmental Health Officers |
| | Environmental Protection Act 1990 Section 34B | Authority to stop, search and seize vehicles | Principal Officer – Environmental Health/ Environmental Health Officers/Environmental Health Manager |
| | | Power to require the name and address of a person whose vehicle has been stopped | Principal Officer – Environmental Health/ Environmental Health Officers/Environmental/ Environmental Health Manager / Environmental Health Technicians |

| Subject | Act | Functions Delegated | Officer |
|------------------|---|--|---|
| | | Institute proceedings | Director of Community & Environmental Services t in consultation with Director of Corporate and Customer Services |
| Waste and Litter | Environment Act 1995 | Power to enter premises | Principal Officer – Environmental Health/Environmental Health Officers/ Environmental Health Technicians/Environmental Health Manager |
| Waste and Litter | Environmental Protection Act 1990, Section 59 | Service of notices, authorisation of works in default, emergency removal of waste | Principal Officer – Environmental Health/Environmental Health Officers/Environmental Health Manager |
| Waste and Litter | Control of Pollution (Amendment) Act 1989 | Powers to stop and search vehicles | Principal Officer – Environmental Health/ Environmental Health Officers/Environmental Health Manager |
| Waste Contract | - | Authority to appoint consultancy support in procurement of waste contract | Director of Community & Environmental Services in consultation with S151 Officer/Chair & Vice Chair Community & Environment Committee |
| Water Supplies | Public Health Act 1936 | Authority to apply for Court Orders to close a water supply and to implement the Order | Principal Officer – Environmental Health/Environmental Health Manager |
| | Water Industry Act 1991 Section 77 and 78 | To exercise the local authority's duties in relation to public water supplies | Director of Place and Economy / Principal Officer – Environmental Health/Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|----------------|---|--|---|
| Water Supplies | Water Industry Act 1991 section 84 | Powers to enter premises, to carry out such inspections, measurements and tests as appropriate | Principal Officer – Environmental Health/Environmental Health Officers/ Environmental Health Technicians/Environmental Health Manager |
| | Water Industry Act 1991 section 80 | Service of notices requiring the improvement of private water supplies | Principal Officer – Environmental Health/ Environmental Health Officers/ Environmental Health Technicians/Environmental Health Manager |
| | Water Industry Act 1991 section 82 | Authorisation of works in default | Director of Place and Economy / Director of Resources |
| | Water Industry Act 1991 section 85 | Service of notices requiring the provision of information | Director of Place and Economy/Principal Officer – Environmental Health/Environmental Health Officers/ Environmental Health Technicians/Environmental Health Manager |
| | Private Water Supplies (England) Regulations 2016 | Granting of authorisations if different standards | Principal Officer – Environmental Health/Environmental Health Manager |
| | Private Water Supplies (England) Regulations 2016 | Service of notices in respect of supplies that constitute a potential risk to human health | Principal Officer – Environmental Health/Environmental Health Officers/ Environmental Health Technicians/Environmental Health Manager |
| Water Supplies | Private Water Supplies (England) Regulations 2016 | Institute proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|-----------------|------------|--|-----------------------|
| Write off Debts | | Write off debts of up to the limit set in Financial Regulations after due consideration of the circumstances, unless the debt is due to officer error, in which case there shall be no limit | Director of Resources |

LOCAL PLAN SUB-COMMITTEE

Terms of Reference

1. To undertake work on policies and proposals as part of the Local Plan Review and to prepare options for the Community and Environment to consider according to the following principles:
 - (i) To enable and strengthen flourishing communities within Derbyshire Dales.
 - (ii) To ensure that the housing need in the Local Plan arises from the geographic area it covers, and that the proposed number and type of new housing units reflects a careful consideration of the actual likely needs of local people.
 - (iii) To provide social and affordable housing where it is needed.
 - (iv) To accommodate the requirements of a revised Economic Plan.
 - (v) To ensure a continued improvement in the biodiversity and natural capital of Derbyshire Dales.
 - (vi) To ensure rapid progress towards net zero emissions in the Derbyshire Dales within the scope of the Local Plan.
 - (vii) To ensure the Derbyshire Dales character in its landscape and townscapes is protected.
 - (viii) To ensure the necessary infrastructures (grey, green and blue) and services are available for planned development.
 - (ix) To ensure that the Plan will enable all residents to understand how their communities will change during the period of the Plan.

2. The Local Plan Sub-Committee will comprise 10 members, with the support of such officers as required.

BIODIVERSITY WORKING GROUP

Terms of Reference

1. To undertake work on policies and proposals in respect of biodiversity and meeting the public sector biodiversity duty and to prepare options for the Community and Environment to consider
2. The Biodiversity Working Group will comprise 6 members, with the support of such officers as required

TERMS OF REFERENCE – SCRUTINY COMMITTEE

A requirement of the Localism Act 2011 (Schedule 2, Chapter 5) is to include a statement to say whether the authority had resolved to have a Scrutiny Committee. Where the authority has so resolved, the Scrutiny Committee must have the powers set out in the 2012 Local Authorities (Committee system) (England) Regulations.

“Committee” means the Scrutiny Committee and “Sub-committee” means a sub-committee of the Committee.

1. Purpose of the Scrutiny Committee

1.1 The purpose of the Committee is to carry out the Council’s responsibilities for scrutiny as stated in the Police and Justice Act 2006, the Local Government Act 2000 as amended, the Localism Act 2011 and the subsequent Local Authority (Committee System) (England) Regulations 2012. In particular, its primary purpose is:

- a) To provide an independent review of Council decisions either before or after they have been made;
- b) To provide an independent review of decisions made by certain partner authorities;
- c) To make recommendations regarding the decisions made

1.2 The Scrutiny Committee is not an alternative or additional mechanism to appeals procedures in respect of the decisions of the Council’s regulatory committees.

2. Powers

The Committee has the following powers:

2.1 Under the 2012 Local Authorities (Committee System) (England) Regulations:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions of the Council;
- (b) to make reports or recommendations to:
 - (i) the Council itself;
 - (ii) any committee or sub-committee of the Council;
 - (iii) any officer of the Council; or
 - (iv) any joint committee on which the Council is represented or any sub-committee of such a committee, with respect to the discharge of any functions of the Council; and
- (c) on matters which affect the Council’s area or the inhabitants of that area, to make reports or recommendations to:
 - (i) the Council;
 - (ii) any committee or sub-committee of the Council;
 - (iii) any officer of the Council; or
 - (iv) any joint committee on which the local authority is represented or any sub-committee of such a committee, on matters which affect the authority’s area or the inhabitants of that area.
- (d) on decisions made but not yet implemented by the Council:
 - (i) to recommend that the decision is reconsidered by the person who has made it,

- (ii) to arrange for its function under (a) above to be undertaken by Council
- (iii) to carry out the actions under (b) above.

2.2 Under the Police and Justice Act 2006 - to carry out the crime and disorder function contained in the Police and Justice Act 2006, the Scrutiny Committee has the following powers:

- (a) to review or scrutinise decisions made or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; (This means that the Council has the power to scrutinise the activities of those responsible for crime and disorder strategies namely the Council and the police)
- (b) to carry out scrutiny reviews on behalf of Standing and Local Committees, the priorities for review to be agreed by the Scrutiny Committee following an annual meeting between the Scrutiny Committee and Policy Committee Chairs and other key partners. Committees will also be able to refer matters for review and investigation to the Scrutiny Committee during the year, which will be considered as resources allow.
- (c) to make reports or recommendations to the local authority with respect to the discharge of those functions.

3. Powers in relation to relevant partner authorities

3.1 A report or recommendations may relate to the functions of a relevant partner authority so far as is exercisable in relation to:

- (a) the authority's area; or
- (b) inhabitants of that area.

3.2 The Committee may, by notice in writing, require that relevant partner authority to have regard to the report or recommendations in the exercise of its functions. The notice must be accompanied by a copy of the report or recommendations. A relevant partner authority must provide to the Committee such information as that Committee may reasonably require to discharge its functions.

3.3 A relevant partner authority may not provide to the Committee:

- (a) information that was obtained by the authority from any other person where the provision of that information to the Committee by the authority would constitute a breach of confidence actionable by any person;
- (b) information the disclosure of which would, or would be likely to, prejudice the exercise of the functions of the authority or the legitimate interests of any person (including the authority holding it);
- (c) personal information within the meaning of the Data Protection Act 1998(9), unless the disclosure is permitted by or under that Act; or
- (d) other information the disclosure of which is prohibited by or under any enactment.

3.4 Where, the disclosure of information would be prohibited by the above, the relevant partner authority must:

- (a) revise it so that the individual concerned cannot be identified; and
- (b) if satisfied that disclosure of the information in that revised form is permitted by or under the Data Protection Act 1998, and is not otherwise prohibited, disclose it.

4. Duties

- 4.1 The Committee will issue reports and recommendations concerning the matters referred to it in accordance with a reasonable timescale.
- 4.2 The Committee will respond to requests for reports on the progress in reviewing or scrutinising matters referred to it.
- 4.3 If the committee decides not to exercise its powers in relation to a matter referred to it by a member of the Council, it must notify the member of its decision and the reasons for it
- 4.4 If the Committee decides to exercise its powers in relation to a matter referred to it by a member of the Council, the committee must provide the member with a copy of any report or recommendations which it makes.
- 4.5 The Committee will produce an annual report to Council on its work and outcomes during the year.

5. Scope of matters relevant to the Committee

- 5.1 The following matters are excluded matters not to be reviewed or scrutinised by the Committee:
- (a) a local crime and disorder matter within the meaning of section 19 of the 2006 Act;
or
 - (b) any matter excluded by guidance issued by the Secretary of State ¹that is current at the time or
 - (c) Planning matters or
 - (d) Licensing and Appeals matters

6. Reference of matters to the Committee

- 6.1 Reference of a matter to the Committee or a Sub-committee, means that the matter is included in the agenda for, and discussed at, a meeting of the Committee or the Sub-committee.
- 6.2 The following may refer a matter to the Committee or a Sub-committee:
- (a) any member of the Committee may refer any matter which is relevant to the functions of the Committee;
 - (b) any member of a Sub-committee may refer any matter which is relevant to the functions of the Sub-committee; and
 - (c) any member of the Council who is not a member of the Committee may refer any matter which is relevant to the functions of the Committee and is not an excluded matter.
- 6.3 When a matter is referred under (c) above, the Committee may have regard to:

¹ Issued under section 9FC of the Local Government Act 2000

- (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the 2007 Act (exercise of functions by local councillors in England); and
- (b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers in relation to the matter.

7. Form and Composition

- 7.1 Full Council will appoint at its Annual Meeting a Scrutiny Committee, which will comply with the political proportionality requirements of the Housing and Local Government Act (1989).
- 7.2 Full Council will also appoint at its Annual Meeting a Chair of the Scrutiny Committee.
- 7.3 The Scrutiny Committee will comprise at least one Member and one substitute member from each Group, subject to political balance and seat entitlement requirements.
- 7.4 A member may not sit as a member of the Scrutiny Committee where that Committee is due to consider, or is likely to consider, something that has been determined by a committee of which the Councillor is a member.
- 7.5 The Committee may appoint persons to the Committee or a Sub-committee who are not members of the Council but such co-opted members are not entitled to vote at any meeting of the Committee or Sub-committee.
- 7.6 Procedure Rules for meetings of the Scrutiny Committee are set out in Section 4 of the Constitution.
- 7.7 The Committee may appoint one or more Sub-committees and may arrange for the discharge of any of its functions by any such Sub-committee.

8. Voting rights

- 8.1 Each member, other than a co-opted member, is entitled to vote on matters brought before the Committee or a sub-committee under xxx of the Constitution.

9. Attendance

- 9.1 The Scrutiny Committee may require Council members and officers and other persons to attend meetings of the Committee as reasonably required. It is a duty of any Council member or officer to comply with such a request.
- 9.2 A person is not obliged to answer any question which that person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

10. Duty of local authority to respond to overview and scrutiny committee

- 10.1 The Committee may publish a report or recommendations regarding a matter referred to it.

- 10.2 The Committee must by notice in writing require the Council:
- (a) to consider the report or recommendations;
 - (b) to respond to the Committee indicating what (if any) action the Council proposes to take; and
 - (c) if the Committee has published a report or recommendations, to publish the response.

10.3 The notice served on the Council must require compliance within two months beginning with the date on which the Council received the report or recommendations or (if later) the notice. It is the duty of the Council to comply with the requirements specified in the notice.

11. Confidential and exempt information

11.1 The Committee has obligations regarding confidential and exempt information which are specified in the Annex.

12. Annex: Confidential and Exempt Information

12.1 This annex applies to the publication a report or recommendations of the Committee and any response of a local authority to such a report or recommendations; and the provision of a copy of such a document to a member of the Council; or to a relevant partner authority by the Committee or a local authority.

12.2 The Committee or the Council, in publishing the document or providing a copy of the document to a relevant partner authority:

- (a) must exclude any confidential information; and
- (b) may exclude any relevant exempt information.

12.3 The Committee or the Council, in providing a copy of a document to a member of the Council, may exclude any confidential information or relevant exempt information.

12.4 Where information is excluded, the Committee or the Council, in publishing, or providing a copy of, the document:

- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information; and
- (b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.

12.5 “confidential information” has the meaning given by section 100A(3) of the 1972 Act (6)(admission to meetings of principal councils); “exempt information” has the meaning given by section 100I of that Act(7); and “relevant exempt information” means:

- (a) in relation to a report or recommendations of the Committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the 1972 Act which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered; and
- (b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings,

or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered.

JOINT CONSULTATIVE GROUP

Terms of Reference:

1. To provide a forum for consultation and negotiation on matters relating to the workforce that are not reserved for negotiation at national, provincial or other agreed local levels in accordance with the Group's Constitution.
2. To consider reports and recommendations of the Employee Group
3. To consider the findings of the biannual employee survey and resulting draft action plan
4. To have an overview of the make-up of the Council's workforce in terms of its demographics in relation to the Council's duty as an equal opportunities employer.
5. To report to the Governance and Resources Committee

PLANNING COMMITTEE

The Planning Committee implements planning policy, the development of which is carried out by the Council. It does this through dealing with regulatory business i.e. determining all planning applications.

Meetings are held every four weeks in order to meet the Council's targets for determinations within a set timetable.

1. To act on behalf of the District Council as the Local Planning Authority as prescribed in statute.
2. To determine applications for planning permission and other consents unless delegated to an appropriate officer.
3. To determine applications where development would be a departure from the agreed Local Plan or Local Development Framework.
4. To determine applications where the application is to be referred to the Secretary of State on direction.
5. To determine applications for major development where the District Council is the applicant.
6. To determine applications where the applicant is an employee of the District Council or a member of their household.
7. To determine applications where the applicant is an Elected Member or a member of their household.
8. To comment on planning applications submitted to or by other local Planning Authorities and statutory undertakers.
9. To evoke or modify planning permissions.
10. To designate and amend Conservation Areas.
11. To declare areas of Special Advertisement Control.
12. To authorise agreements under S. 106 of the Town and Country Planning Act 1990.
13. To receive reports relating to action instigated by the local Planning Authority in relation to enforcement action.

OFFICER DELEGATIONS - PLANNING

Routine business is delegated to officers as shown on the following table.

Local Members are reminded that they will be able to override the power of delegation should they wish a particular planning application (with the exception of prior approval applications as required by the Town and Country Planning (General Permitted Development) Order 1995) or a particular application for a variation to or the recession of an existing planning obligation deed or unilateral undertaking, to go to the Planning Committee for determination.

Notification to the Development Manager, or Case Officer should be made in writing (including email) within 21 days of the relevant weekly list of applications. Such notification should include the reason for the call in. No response by the relevant Ward Member within that 21 day period will constitute agreement to delegation.

The following scheme of delegation is based on the principle that all applications are delegated for approval or refusal by officers with the exception of the following:

- Any application which receives 5 or more unresolved objections.
- Any Environmental Impact Assessment application made under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- The provision of dwelling houses where
 - (a) The number of dwelling houses to be provided is 10 or more in the settlements of Matlock, Ashbourne, Wirksworth and Darley Dale
 - (b) The number of dwelling houses to be provided is 3 or more in all other locations
 - (c) The development is to be carried out on a site having an area of 0.5 hectares or more and it is known whether the development falls within the above bullet)
- The provision of a building or buildings where the floor space to be created by the development is 1000sq metres or more other than buildings provided for agricultural purposes where the decision is delegated to officers
- Development carried out on a site having an area or 1 hectare or more
- Any application which is recommended for approval but amounts to a departure from the development plan
- Any application that the Development Manager considers sensitive and requires Committee consideration
- Any application submitted by or on behalf of the Council for its own development

- Any application (but excluding prior approval applications/notifications as required by the Town and Country Planning (General Permitted Development) Order 1995) which is known to be made by or on behalf of a District Councillor or officer of the Council or a member of their immediate family.

| Subject | Act | Functions Delegated | Officer |
|---------------------|---|--|---|
| Advertisements | Town and Country Planning Act 1990 S. 224 and 225 | To remove, obliterate or discontinue the display of advertisements displayed in contravention of the Town and Country Planning (Control of Advertisements) Regulations 2007 To initiate proceedings up to and including prosecution | Development Manager/ Principal Planner Development Manager in consultation with Ward Member |
| Dangerous Trees | Local Gov (Misc Provisions) Act 1976 S23(3) | To serve notice requiring owners or occupiers of land on which there is a dangerous tree to make it safe in cases of imminent danger to carry out remedial works and to recover reasonable costs. | Development Manager/ Principal Planner |
| Development Control | Town & Country Planning Act 1990 Planning (Listed Buildings and Conservation Areas) Act 1990 | To determine applications of the following types: <ul style="list-style-type: none"> ■ Full and Outline planning applications. ■ Applications for Approval of Reserved Matters ■ Advertisement Consent Applications. ■ Listed Building Applications. ■ Certificates of Lawful Proposed use or Development. ■ Certificate of Lawful Existing Use or Development Prior to Approval ■ Agricultural prior | Development Manager/ Director of Place and Economy / Principal Planner/ Senior Planning Officer |

| Subject | Act | Functions Delegated | Officer |
|---------------------|----------------------------------|---|---|
| | | <p>Notifications.</p> <ul style="list-style-type: none"> ■ Circular 18/84 Notifications (development by Government Departments). ■ Notifications Under the Electricity Act 1989 (Overhead Lines). ■ Hedgerow Notifications. ■ Applications for Hazardous Substance Consent. ■ Discharge of Condition applications. ■ Certificates of Appropriate Alternative Development. ■ Ecclesiastical Notifications ■ Minor Material Amendments (S.73) ■ Extension of Time Limits. ■ Where an application has been previously refused and the reasons for refusal have not been satisfactory addressed ■ Agricultural Buildings ■ Any minor variation or revision to an approved application | |
| Development Control | Town & Country Planning Act 1990 | <p>In consultation with the appropriate Ward Member(s), to respond to consultations on all types of applications determined by other Planning Authorities.</p> <p>Power to decline to determine applications</p> | Development Manager/ Director of Regulatory Services/Principal Planner |

| Subject | Act | Functions Delegated | Officer |
|---------------------|--|--|---|
| Development Control | Town and Country Planning (General Permitted Development) (England) Order 2015, Part 5 Town and Country Planning Act 1990 | To respond to consultations from exempted organisations relating to the use of land as a caravan site. | Development Manager/ Director of Place and Economy/Principal Planner |
| | Town and Country Planning Act 1990 | Power to decline to determine applications | Development Manager/ Director of Place and Economy/Principal Planner/ Senior Planning Officer |
| Development Control | Town and Country Planning Act 1990 | Demolition Notifications Prior | Development Manager/ Director of Place and Economy/Principal Planning Officer/ Senior Planning Officer |
| Enforcement | Town & Country Planning Act 1990 | To determine applications for non-material amendments (S. 96A) and/or additional details in respect of proposals previously granted planning permission. To lodge objections to the granting of Vehicle Operators' Licences. To remove or obliterate illegally displayed advertisement material. To issue Planning Contravention Notices. To withdraw Planning Contravention Notices. To issue Breach of Condition Notices. To issue Stop Notices. To withdraw Breach of Condition Notices. | Development Manager/ Director of Place and Economy/Principal Planning Officer / Enforcement Team Leader / Senior Planning Officer |

| Subject | Act | Functions Delegated | Officer |
|-------------|--|--|--|
| | | <p>To withdraw Stop Notices.</p> <p>To issue Enforcement Notices</p> <p>To withdraw Enforcement Notices</p> | |
| Enforcement | S.215 | <p>To act as appointed Officer for receiving offers to carry out measures under a Planning Contraventions Notice.</p> <p>To serve Notices requiring the proper maintenance of land.</p> <p>To withdraw Notices requiring the proper maintenance of land.</p> | Development Manager |
| | Town and Country Planning Act 1990 And Planning and Compulsory Purchase Act 2004 | <p>To issue Temporary Stop Notices</p> <p>To withdraw Temporary Stop Notices</p> | Development Manager |
| | Town & Country Planning Act 1990 Planning (Listed Building and Conservation Areas) Act 1990 | To initiate proceedings up to and including prosecution | Director of Place and Economy in consultation with Legal Services Manager/Development Manager/ Principal Planner |
| | Section 196A and 196B Town & Country Planning Act 1990 | To authorise persons to enter any land. | Development Manager/Principal Planner |
| | Section 196A and 196B Town and Country Planning Act 1990 | To authorise persons to enter land. | Director of Corporate and Customer Services / Legal Services Manager /Solicitor |

| Subject | Act | Functions Delegated | Officer |
|--------------------------|---|---|--|
| Enforcement | Town & Country Planning Act 1990 and associated legislation | To authorise any person to exercise powers granted under the Town & Country Planning Act 1990 and associated legislation where such powers are necessary in order to give effect to a decision of the Authority or ensure compliance with the legislation. | Development Manager in consultation with the Director of Corporate and Customer Services |
| Environmental Statements | Town & Country Planning Act 1990 | To determine the need for an environmental statement in respect of any planning application to which Schedule 2 of the Town & Country Planning (Environmental Impact, etc) Regulations 1999 applies. | Development Manager |
| Historic Buildings | Local Gov Act 1972 Schedule 16(28) | Proper Officer to receive lists of buildings of special architectural or historic interest. | Director of Place and Economy |
| Legal Proceedings | All relevant | To institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Planning Committees or in any case where the Director of Corporate and Customer Services considers that such action is necessary to protect the Council's interests. | Director of Place and Economy/Director of Corporate and Customer Services |
| Planning | Any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972. | Proper Officer - any reference to the Chief Officer responsible for the Council's function as local planning authority which may be construed as a reference to "the Proper Officer". | Development Manager |

| Subject | Act | Functions Delegated | Officer |
|------------------------------|--|---|--|
| | Town and Country Planning Acts and subordinate legislation | Proper Officer to issue decision/ enforcement Notices | Development Manager/ Director of Place and Economy/Principal Planner |
| Section 106 Obligations | Town & Country Planning Act 1990 S.106A | To determine requests/applications for the modification or discharge of planning obligations. | Development Manager/ Principal Planner |
| Section 52 Agreements | Town & Country Planning Act 1971 and 1990 S 106A | To determine requests for the modification or discharge of Planning Agreements | Development Manager/ Principal Planner |
| Self & Custom Build Register | Self-Build & Custom House Building Regulations 2016 | To make decisions for applications for the Self & Custom Build Register. | Director of Regeneration & Policy/Policy Manager |
| | Self-Build & Custom House Building Regulations 2016 | To make decisions for appeal applications for the Self & Custom Build Register. | Director of Corporate and Customer Services |
| | Self-Build & Custom House Building Regulations 2016 | To prepare and publish detailed assessment criteria for the financial resources test on the District Council's website. | Director of Regeneration & Policy |

LICENSING AND APPEALS COMMITTEE

Service Areas within the Committee's remit:

- Animal Welfare Licensing
- Taxi and Private Hire Licensing
- Regulated activities under the Licensing Act 2003 and the Gambling Act 2005
- Determination of quasi-judicial matters in relation to the Committee's wide remit as a service provider and licensing authority.
- Determination of quasi-judicial matters in relation to the Council's role as employer.
- Miscellaneous Licenses and Registrations
- Tree Preservation Orders
- Street Cafes
- Appeals in respect of decisions made under the Derbyshire Clause Policy and Procedure

Terms of Reference

1. To monitor and review the effectiveness of the Council's Licensing Policies and procedures.
2. To consider applications for licences, and registration covering persons, vehicles, businesses, activities and gambling.
3. To determine whether to revoke, suspend or refuse to renew any licence or registration in accordance with the appropriate statutory provisions.
4. To consider and determine objections made against Tree Preservation orders where it has not been possible to reach agreement between an objector and/or objectors and the authority.
5. To conduct hearings to determine quasi-judicial matters in relation to the Council's role as employer in connection with a dismissal, request for re-grading or complaint under the Council's Grievance Procedure.
6. To determine appeals for National Non Domestic Rates discretionary relief.
7. In relation to Discretionary Housing Payments and in accordance with the provisions of the appropriate statutes, to hear appeals against determinations made by the local authority, and to adjudicate thereon.
8. To determine applications for revocation of certificates of lawful use or development.
9. In terms of the Licensing Act 2003 and the Gambling Act 2005.
 - To determine all applications in the following categories where representations have been received, or where objections from the Police/Commission have been made:

- Personal Licence
 - Premises Licence/Club Premises Certificate
 - Provisional Statement
 - Variation of designated personal licence holder
 - Transfer of Premises Licence
 - Application for interim authority
 - Variation of a Premises Licence
- To determine all matters in the following categories:
 - Personal Licence with unspent convictions
 - Review Premises Licence/Club Premises Certificate
 - Decision to object when Local Authority is a consultee and not the relevant Authority considering the application
 - Police or Environmental Health objection to a temporary event notice
 - Cancellation of club gaming/club machine permits
 - Counter notice to a temporary use notice

OFFICER DELEGATIONS – LICENSING & APPEALS

| Subject | Act | Functions Delegated | Officer |
|-------------------------|---------------------------------|---|--|
| Animal Welfare Licences | Dangerous Wild Animals Act 1976 | To authorise Officers, Technicians and other competent persons. To institute legal proceedings. | Chief Executive/ Director of Place & Economy |
| | Dangerous Wild Animals Act 1976 | To issue or refuse licences. | Licensing Manager/ Director of Place and Economy |
| | | To seize, restrain, destroy or dispose of any dangerous wild animal which is being kept without the benefit of a licence. | Director of Place & Economy/ Licensing Manager/ Principal Officer – Environmental Health |
| | Zoo Licensing Act 1981 | To institute legal proceedings. | Director of Corporate and Customer Services Services in consultation with Director of Place & Economy |
| | | To issue, refuse, renew, transfer, and alter licences. | Director of Place & Economy Services/ Licensing Manager |
| | | Power to enter premises | Director of Place & Economy/ Environmental Health Officers/ Environmental Health Technicians |

| Subject | Act | Functions Delegated | Officer |
|--|--|--|---|
| Animal Welfare Licences The Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Sections 23, 25, 26, 27, 53 and Schedule 2 Animal Welfare Act 2006 | Powers of entry | Licensing Manager/Principal Environmental Health Officer/ Environmental Health Officers/ Environmental Health Technicians/ Licensing Manager |
| Animal Welfare Licences The Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Regulation 4(2)(a) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Authorised officers to inspect establishments | Licensing Manager/Principal Environmental Health Officer/ Environmental Health Officers/ Environmental Health Technicians |
| | Regulation 4(2)(b) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Grant of licences | Director of Place & Economy /Licensing Manager |
| | Regulation 4(4), 4(5) and 8 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Authority to authorise veterinary surgeons to inspect establishments | Director of Place & Economy/Licensing Manager/ Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|--|---|---|--|
| Animal Welfare Licences The Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Regulation 4(8) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Refusal of licences | Director of Place & Economy/Licensing Manager |
| | Regulation 5 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Authority to determine licence period | Director of Place & Economy/Licensing Manager Environmental Health Manager |
| | Regulation 5 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Determine appeals against licence period and/or star rating | Chief Executive/Director of Place & Economy |
| | Regulation 6 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Take samples | Director of Place and Economy/ Licensing Manager, Principal Environmental Health Officer/ Environmental Health Officers/ Environmental Health Technicians/ Environmental Health Manager |

| Subject | Act | Functions Delegated | Officer |
|--|--|---|---|
| Animal Welfare Licences The Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Regulation 9 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Vary licences | Director of Place & Economy/Licensing Manager |
| | Regulation 12 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Extend licence period | Director of Place & Economy/Licensing Manager |
| | Regulation 15 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Suspend, vary and revoke licences | Director of Place & Economy/Licensing Manager |
| | Regulation 16 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Consider and determine representations in respect of suspensions and variations | Chief Executive/Director of Place & Economy |

| Subject | Act | Functions Delegated | Officer |
|--|---|--|--|
| Animal Welfare Licences The Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Regulation 16(11) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Reinstate, vary and reinstate, revoke licences | Chief Executive/Director of Place & Economy |
| | Regulation 17 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Reinstate licences | Chief Executive/Director of Place & Economy |
| | Regulation 20 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Institute proceedings | Director of Place and Economy in consultation with Director of Corporate and Customer Services |
| | Schedule 1 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 | Determine whether an operator meets the 'business test' | Director of Place & Economy/Licensing Manager |
| Appeals Committees | | To select Members to serve on Sub-Committees to determine matters within the Committee's remit | Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|---|--|---|---|
| Application for a Provisional Statement | Gambling Act 2005 | Where no representations received/representations have been withdrawn | Director of Place & Economy/ Licensing Manager |
| Application for club gaming/club machine permits | Gambling Act 2005 | Where no objections have been made/objections have been withdrawn | Director of Place & Economy/ Licensing Manager |
| Application for other Permits | Gambling Act 2005 | To determine applications for other permits under the Gambling Act 2005 | Director of Place & Economy/ Licensing Manager |
| Application for Interim Authority | Licensing Act 2003, Sections 47, 48 and 49 | Determine application if no police objections are raised | Director of Place & Economy/ Licensing Manager |
| Application for Personal Licence | Licensing Act 2003, Section 120 | Determine application if no police objections are raised | Director of Place & Economy/ Licensing Manager |
| Application for Premises Licence/Club Premises Certificate | Licensing Act 2003, Sections 18 and 72 | Determine application if no relevant representations made. | Director of Place & Economy/ Licensing Manager |
| Application for Provisional Statement | Licensing Act 2003, Section 31 | Determine application if no relevant representations made. | Director of Place & Economy/ Licensing Manager |
| Application for transfer of Premises Licence | Licensing Act 2003, Section 44 | Determine application if no police objections are raised | Director of Place & Economy/ Licensing Manager |
| Application to be removed as Designated "Premises Supervisor" | Licensing Act 2003, Section 41 | Determine application | Director of Place & Economy/ Licensing Manager |
| Application to transfer a Premises Licence | Gambling Act 2005 | Where no representations have been received from the Commission | Director of Place & Economy/ Licensing Manager |
| Application to vary a Premises Licence | Gambling Act 2005 | Where no representations received/representations have been withdrawn | Director of Place & Economy/ Licensing Manager |

| Subject | Act | Functions Delegated | Officer |
|--|---|--|--|
| Application to vary Designated Personal Licence Holder | Licensing Act 2003, Section 39 | Determine application if no police objections are raised | Director of Place & Economy/ Licensing Manager |
| Application to vary Premises Licence/Club Premises Certificate | Licensing Act 2003, Sections 35 and 85 | Determine application if no relevant representations made. | Director of Place & Economy/ Licensing Manager |
| Applications for Premises Licences | Gambling Act 2005 | Where no representations received/representations have been withdrawn | Director of Place & Economy/ Licensing Manager |
| Cancellation of licensed premises gaming machine permits | Gambling Act 2005 | Cancellation of licensed premises gaming machine permits | Director of Place & Economy/ Licensing Manager |
| Representation | Licensing Act 2003, Sections 18, 52, 72 and 88 | Determine whether a representation is irrelevant, frivolous, vexatious or repetitious | Director of Place & Economy/ Licensing Manager |
| Caravan Site Licences | Caravan Sites and Control of Development Act 1960 as amended by Local Government (Miscellaneous Provisions) Act 1982 | To instigate legal proceedings To authorise Officers and Technicians To issue or refuse licences | Director of Corporate and Customer Services in consultation with Director of Place and Economy Director of Place & Economy Licensing Manager/ Director of Place & Economy |
| Camp Site Licence | Public Health Act 1936 Section 269 (as amended by the Caravan Sites and Control of Development Act 1960) | To issue or refuse licences with or without conditions To institute legal proceedings | Licensing Manager /Director of Place & Economy Director of Corporate and Customer Services in consultation with Director of Place & Economy |

| Subject | Act | Functions Delegated | Officer |
|---|--|--|--|
| Closure of Licensed Premises | Anti-Social Behaviour, Crime and Policing Act 2014 Pt.4 Ch.3 | Institute proceedings | Director of Place & Economy in consultation with Director of Corporate and Customer Services |
| Consideration of temporary use notice | Gambling Act 2005 | Consideration of temporary use notice | Licensing Manager / Director of Place & Economy |
| Game | Game Act 1980 | To issue licences and to initiate enforcement procedures | Director of Place & Economy/ Licensing Manager |
| Game | Game Act 1831 S.41 | To authorise proceedings for illegal gaming on Council owned land. | Director of Place & Economy in consultation with Director of Corporate and Customer Services |
| Gaming Machine Licences | Gambling Act 2005 | Issue of licences for maximum of two machines per establishment | Licensing Manager/ Director of Place & Economy |
| Horse Drawn Vehicles | Town Police Clauses Act 1847 | To issue and renew licences. The right to refuse, suspend or revoke being reserved to the Licensing and Appeals Sub-Committee. | Licensing Manager / Director of Place & Economy |
| House to House Collections | House to House Collection Act. 1939 | To approve applications for house to house collections. | Director of Place & Economy/Licensing Manager |
| Initiation of a Review by the Licensing Authority | Gambling Act 2005 (section 200) | To initiate a review of a premises licence under the Gambling Act 2005. | Licensing Manager / Director of Place & Economy |
| Legal Proceedings | All relevant | To authorise the institution, defence or participation in any legal proceedings in any case where such action is necessary to give effect to decisions of the Licensing and Appeals Committee where such action is necessary to protect the Council's interests. | Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|---|---------------------------------|--|--|
| Licensing | Licensing Act 2003 | Institute proceedings | Director of Place & Economy in consultation with Director of Corporate and Customer Services |
| Making application for reviews of Club Premises Certificates | Licensing Act 2003 Section 5 | To act as Responsible Authority on behalf of the Licensing Authority. | Director of Place & Economy Services/Licensing Manager |
| Making application for reviews of Premises Licences | Licensing Act 2003 Section 51 | To act as Responsible Authority on behalf of the Licensing Authority. | Director of Place & Economy/ Licensing Manager |
| Making representations in respect of Club Premises Certificates | Licensing Act 2003 Section 69 | To act as Responsible Authority on behalf of the Licensing Authority. | Director of Place & Economy/ Licensing Manager |
| Making representations in respect of Premises Licences | Licensing Act 2003 Section 13 | To act as Responsible Authority on behalf of the Licensing Authority. | Director of Place & Economy/ Licensing Manager |
| Making representation on behalf of Licensing Authority | Gambling Act 2005 (section 161) | To determine whether the Licensing Authority should make a representation, and the content of it, under the Gambling Act 2005. | Director of Place & Economy/ Licensing Manager |
| Minor variation to Club Premises Certificates | Licensing Act 2003 Section 86B | To determine applications for minor variations. | Director of Place & Economy/ Licensing Manager |
| Minor variation to Premises Licences | Licensing Act 2003 Section 41B | To determine applications for minor variations. | Director of Place & Economy/ Licensing Manager |

| Subject | Act | Functions Delegated | Officer |
|----------------------------------|---|---|---|
| Pleasure Boats | Public Health Acts Amendment Act 1907 | To approve and issue licences to operate Pleasure Boats and Vessel Licences with or without variations to standard conditions where no objections have been received. | Licensing Manager/ Director of Place & Economy |
| Private Hire & Hackney Carriages | Local Government (Miscellaneous Provisions) Act 1976, as amended, all relevant sections. | To suspend a driver or operator licence | Licensing Manager/Director of Place and Economy |
| Private Hire & Hackney Carriages | Local Government (Miscellaneous Provisions) Act 1976, all relevant sections. | To suspend vehicle licences forthwith if the vehicle is unfit for use | Licensing Manager/Clean & Green Manager/Director of Place & Economy |
| Private Hire & Hackney Carriages | Town Police Clauses Act 1847, sections 37 & 46, and Local Government (Miscellaneous Provisions) Act 1976, as amended, all relevant sections | To issue and renew licences in accordance with the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy. The right to refuse being reserved to the Licensing and Appeals Sub-Committee | Licensing Manager / Director of Place & Economy |
| Private Hire & Hackney Carriages | Town Police Clauses Act 1847, sections 37 & 46, and Local Government | To authorise the institution of proceedings for breach of licence conditions. | Director of Place & Economy in consultation with the Director of Corporate and Customer Services. |

| Subject | Act | Functions Delegated | Officer |
|---|--|---|--|
| Private Hire & Hackney Carriages | Town Police Clauses Act 1847, Local Government Miscellaneous Provisions) Act 1976, as amended, all relevant sections | To enforce, and authorise others to enforce, under any of the relevant provisions of both Acts. | Director of Place & Economy/Licensing Manager |
| Application for Site or Collector's Licence | Scrap Metal Dealers Act 2013 | Approval, Renewal and/or Variation | Director of Place & Economy/ Licensing Manager |
| Application for Site or Collector's Licence | Scrap Metal Dealers Act 2013 | Refusal to grant where applicant has not made representation | Director of Place & Economy/ Licensing Manager |
| Application for Site or Collector's Licence | Scrap Metal Dealers Act 2013 | Refusal (where applicant has made representation) revocation and/or imposition of conditions | Licensing & Appeals Sub-Committee |
| Powers of Entry and Inspection | Scrap Metal Dealers Act 2013 | Powers to enter and inspect premises under Section 16 of the Act | Licensing Manager /All Environmental Health Officers / Environmental Health Technicians |
| Closure of Unlicensed Sites | Scrap Metal Dealers Act 2013 | Service of Closure Notice Section 9 and Schedule 2 | Licensing Manager / Director of Place & Economy/ Principal Officer – Environmental Health, Environmental Health Manager |
| Closure of Unlicensed Sites | Scrap Metal Dealers Act 2013 | Application to Magistrates' Court for Closure Order | Licensing Manager / Director of Place & Economy/ Principal Officer – Environmental Health /Environmental Health Manager/ Director of Corporate and Customer Services |

| Subject | Act | Functions Delegated | Officer |
|---|--|--|--|
| Closure of Unlicensed Sites | Scrap Metal Dealers Act 2013 | Issue Certificate to terminate Closure Order | Licensing Manager / Director of Place & Economy/ Principal Officer – Environmental Health |
| Institute Proceedings | Scrap Metal Dealers Act 2013 | Institute proceedings of Offences under the Act | Director of Place & Economy/ Director of Corporate and Customer Services. |
| Sex Establishments, Acupuncture, Tattooing, Semi Permanent Skin Colouring, Cosmetic Piercing and Electrolysis | Local Government (Miscellaneous Provisions) Act 1982 as amended by the Local Government Act 2003 Section 17 and Schedule 3, Paragraph 25 of the Act | Determination of non-contentious applications for licences or registration Power to enter premises with a Magistrates Court warrant | Licensing Manager/Director of Place & Economy Director of Place & Economy /Environmental Health Officers/ Licensing Manager |
| Small Society Lotteries | Gambling Act 2005 (sch 11 pt 5) | Authority to grant/cancel registration of a small society lottery. (refusal/revocations – Licensing and Appeals Sub-Committee) | Director of Place & Economy/Licensing Manager |
| Street Collections | Police, Factories and Miscellaneous Provisions Act 1916 | Issue of permit in accordance with recommendations of Parish Councils | Director of Place & Economy/Licensing Manager |
| Suspension of Club Premises Certificates | Licensing Act 2003 Section 92A | To suspend Club Premises Certificates for failing to pay annual fee | Director of Place & Economy/Licensing Manager |
| Suspension of Premises Licences | Licensing Act 2003 Section 55A | To suspend Premises Licence for failing to pay annual fee | Director of Place & Economy/ Licensing Manager |
| Temporary Use Notice – issue of counter notice | Gambling Act 2005 (Section 218) | Issue of counter notice when criteria for Temporary Use Notice not met | Director of Place & Economy/ Licensing Manager |

| Subject | Act | Functions Delegated | Officer |
|---|------------------------------------|---|---|
| To decide whether a representation is irrelevant, or falls within the categories defined within the Act – eg frivolous, vexatious etc | Gambling Act 2005 | To decide whether a representation is irrelevant, or falls within the categories defined within the Act – eg frivolous, vexatious etc | Licensing Manager / Director of Place & Economy |
| To determine whether a change in premises is | Licensing Act 2003, Section 36 (6) | To determine whether a change in premises is substantial | Director of Place & Economy/ Licensing Manager |
| To determine whether a late relevant representation should be allowed to be heard by a Sub-Committee | No specific authority | To determine whether a late relevant representation should be allowed to be heard by a Sub-Committee | Director of Place & Economy/ Licensing Manager |
| To determine whether a person is likely to be affected by a licensing application. | Licensing Act 2003, Section 13 (3) | To determine whether a person is likely to be affected by a licensing application. | Director of Place & Economy/ Licensing Manager |
| Variation of Premises Licences for Village Halls/Community premises. | Licensing Act 2003, Section 41D | To determine applications for the removal of the requirement for a Designated Premises Supervisor. | Director of Place & Economy/ Licensing Manager |

LICENSING AND APPEALS SUB-COMMITTEE

Terms of Reference

1. In Terms of the Licensing Act 2003 and the Gambling Act 2005 to determine all applications in the following categories where representations have been received, or where objections from the Police/Commission have been made:
 - Personal Licence
 - Premises Licence/Club Premises Certificate
 - Provisional Statement
 - Variation of designated personal licence holder
 - Transfer of Premises Licence
 - Application for interim authority
 - Variation of a Premises Licence
2. To determine all matters in the following categories
 - Personal Licence with unspent convictions
 - Review Premises Licence/Club Premises Certificate
 - Decision to object when Local Authority is a consultee and not the relevant Authority considering the application
 - Police or Environmental Health objection to a temporary event notice
 - Cancellation of club gaming/club machine permits
 - Counter notice to a temporary use notice
3. Employment Appeals
 - To consider appeals against dismissal and as the Final Stage in the District Council's Grievance Policy.
 - To consider initial reports concerning allegations against a Statutory Chief Officer brought on the designated Receiving Officer
 - To agree having received the initial report of the Receiving Officer whether suspension, working from home and some other arrangement is appropriate
 - To agree other appropriate action in relation to the matters raised by the Receiving Officer to include mediation, reconciliation or mutual termination of conduct – subject to Council's satisfaction.
4. TPO and Miscellaneous Appeals
 - Determination of Appeals.
5. Council Tax Discounts
 - Determination of Appeal against decisions of the Director of Resources made in accordance with the Council Tax Discounts Policy
6. Non-Domestic Rates Policy
 - Determination of Appeal against decisions of the Director of Resources made in accordance with the Council Tax Discounts Policy

CHIEF OFFICER SELECTION PANEL

Terms of Reference

To make recommendations to the Council on to appointment of the Head of Paid Service and Chief Officer positions within the Chief Officer Salary grade.

CONSTITUTION WORKING GROUP

Terms of Reference

1. Role and Function

- 1.1 The Constitution Working Group provides a mechanism by which Council can carry out focused cross-party reviews of the Constitution, of both a general and specific nature to ensure the constitution remains fit for purpose. It will undertake this role by:
- a) Considering any constitutional or procedural matter concerning the Council;
 - b) Undertaking health checks of the Constitution to ensure that the detail of the text remains fit for purpose and put forward appropriate changes;
 - c) Reviewing areas in the Constitution to ensure that it is kept in line with current legislation, local decisions made by the Council and best practice;
 - d) Recommending any proposed changes to the Constitution arising from the above to Council for approval.
- 1.2 The following may request that the Constitution Working Group considers a particular item of work:
- a) Council
 - b) Governance and Resources Committee
 - c) Monitoring Officer
- 1.3 The Group will have no decision making powers other than in advising in relation to the Monitoring Officer's delegated powers in relation to minor or consequential amendments. The group will report to the Council for approval of changes to the Constitution.

2. Composition and Membership

- 2.1 The Constitution Working Group shall comprise of 11 Members with cross party representation on a proportional basis.
- 2.2 Members will be appointed to the Constitution Review Working Group at the Annual Council Meeting.
- 2.3 The Chairman of the Constitution Working Group will be elected by the Members of the Group
- 2.4 Meetings will be supported by the Monitoring Officer, Democratic and Electoral Services Manager and any other officer as required.

CLIMATE CHANGE WORKING GROUP

Terms of Reference

To make recommendations to Council addressing the issue of climate change, with the aim of addressing the climate change actions set out in the Corporate Plan 2020-24.

ERNEST BAILEY CHARITY COMMITTEE

Terms of Reference

To discharge on behalf of the Council, its function as Trustee of the Ernest Bailey Charity, Council and the Governing Body.

JOINT ICT COMMITTEE

Terms of Reference

1. To oversee the management and future development of the Shared Service initiative between the Service Host and Client authorities.
2. To receive periodic reports of the Shared Service Joint Management Team.
3. To undertake dispute resolution between the constituent authorities in accordance with the Partnership Agreement.
4. To agree the cost structure and manage the financial resources of the shared service(s).
5. To consider any requests to increase funding for the Joint Committee in response to any unforeseen increase in costs.
6. To explore any associated development of joint working between the constituent authorities to other areas of work/service delivery.
7. To consider and formally approve any amendments to the Service Level Agreement and Partnership Agreement.
8. To oversee the management of the joint contracting relationship of the shared service partnership.

THE DERBY AND DERBYSHIRE STRATEGIC LEADERSHIP BOARD

[Draft] TERMS OF REFERENCE

ARTICLES

1. Introduction and Context

- 1.1 The **Derby and Derbyshire Strategic Leadership Board** (D2 SLB) brings together the County's ten local authorities in what is a **joint committee** with a refreshed and fully inclusive approach to collaborative working across existing and new partnership activity. D2 SLB will:
- Provide collective leadership for Derby and Derbyshire, ensuring our authorities are heard to speak with a single, shared voice at the county, regional and national level;
 - Collaborate as partners to develop joined-up approaches to the complex, connected and sometimes challenging agendas where our councils share common interests; and additionally
 - Progress shared ambitions for the area, co-ordinating resources better and more sustainably.
- 1.2 With the creation of the East Midlands Mayoral Combined County Authority bringing new opportunities to improve outcomes for people and places throughout Derby and Derbyshire, it makes sense for D2 councils to come together to manage their interface with this new authority as well as co-ordinating City, District, Borough and County agendas which are envisaged as becoming the remit of D2 SLB including economic development, skills, health and wellbeing, transport and the environment and potentially wider agendas where there is common recognition in the value of tackling challenges together.
- 1.3 Accordingly, the D2 SLB will:
- Achieve joined up approaches within and between a variety of **shared policy agendas and service delivery agendas**, including but not restricted to place and economic development;
 - Rationalise and **simplify existing partnership and governance arrangements** related to these areas (with agreement that the work of existing County level committees (including the Vision Derbyshire Committee, the D2 Economic Policy Committee together with the Growth Board will be superseded by a single Derby and Derbyshire-wide partnership arrangement); and
 - Provide the lead forum for collaborative activity between councils in Derbyshire on matters relating to the new **Combined County Authority** primarily to secure collective influence, especially concerning investment and growth.
- 1.4 In this context, the overall ambition of D2 SLB is to mature into a truly authoritative and representative partnership of all Derby and Derbyshire councils while duly acknowledging the sovereignty of participating Councils and recognising that each

will have separate as well as shared interests in partnership working, including a choice about whether or not to participate in this new venture.

Guiding Principles for the D2 SLB

- 1.5 The joint committee will provide:
- Strong collective leadership and seek to deliver better local outcomes and more joined-up public services.
 - Clear, transparent and accountable decision-making which will ensure best value for taxpayers' money and maintain strong ethical standards.
 - An inclusive model of governance across an appropriate geographical footprint in Derby and Derbyshire.
 - Flexibility to work across organisational boundaries to deal with strategic and emergent challenges whilst maintaining local control.
- 1.6 It is envisaged that collaboration and decision making based on these principles will enable Derby and Derbyshire's local authorities to tackle challenges at regional, county and local place levels more effectively.
- 1.7 The D2 SLB will act as the responsible decision-making body for functions delegated to it by participating Councils within Derby and Derbyshire and, accordingly, membership of the D2 SLB will comprise councillors appointed by those participating authorities. Councils may choose to appoint members to the D2 SLB while not delegating decision-making responsibilities for functions. However, all participating authorities, whether or not agreeing to delegate functions, will be required to contribute towards the costs of funding the D2 SLB.
- 1.8 Councils participating in the D2 SLB are committed to the provision of improved services. It is considered that this will, in certain instances, be best achieved by the joint provision of services, joint working and/or the development of common standards and protocols. All proposals for the setting up of any new services or the discharge of functions are in the first instance to be subject to an investigation into the suitability of providing such services or discharging such functions, as a joint service for all participating Councils.

2. Membership of the D2 SLB

- 2.1 All local authorities within the Derby and Derbyshire are invited to join the D2 SLB as constituent members (subject to agreement by respective councils) namely:
- Derbyshire County Council
 - Derby City Council
 - Amber Valley Borough Council
 - Bolsover District Council
 - Chesterfield Borough Council
 - Derbyshire Dales District Council
 - Erewash Borough Council
 - High Peak Borough Council
 - North-East Derbyshire District Council
 - South Derbyshire District Council

- 2.2 All participating councils within Derby and Derbyshire will be permitted to appoint one elected member to the D2 SLB and to nominate one elected member as a substitute, whether or not they are delegating functions to the D2 SLB.
- 2.3 A Substitute Member will have the same rights to receive meeting papers and to access information as the Member for whom s/he is a substitute.
- 2.4 All appointments as Members or Substitute Members of the D2 SLB shall be for a term of one year from the Annual Meeting, but an individual may be re-appointed to serve as a Member or Substitute Member any number of times.
- 2.5 All councils shall be entitled at any time to terminate the appointment of a Member or Substitute Member appointed by it and to appoint another of its Elected Members in that person's place. Where a Council exercises this power it shall give written notice of the new appointment and the termination of the previous appointment to the Monitoring Officer responsible for the D2 SLB and the new appointment shall take effect from the point specified in the written notice.
- 2.6 Should a change of political control occur at a participating local authority, usually arising from local elections, it will be for that local authority to confirm any changes in appointments to the D2 SLB's membership in accordance with the constitutional arrangements of that Council. A Member or Substitute Member of the D2 SLB who ceases (for whatever reason) to be an Elected Member of the Council that appointed them shall immediately cease to be a Member or Substitute Member of the D2 SLB, and the relevant Council shall as soon as practicable give written notice of this to the Monitoring Officer responsible for the D2 SLB and appoint another of its Elected Members in that person's place.
- 2.7 A person may resign as a Member or Substitute Member of the D2 SLB by written notice served on the Proper Officer of the Council that appointed them and the resignation shall take effect on receipt of the notice by the Proper Officer. The relevant Council shall as soon as practicable give written notice of this to the Monitoring Officer responsible for the D2 SLB and appoint another of its Elected Members in that person's place.
- 2.8 Where an appointing Council operates executive arrangements (within the meaning of the Local Government Act 2000), the appointment, removal and replacement of Members and Substitute Members of the D2 SLB shall be decided in accordance with the constitutional requirements of that Council, but it is anticipated that all Members and Substitute Members appointed by it shall be Members of its executive and will include its executive leader or elected mayor.
- 2.9 All appointments, removals and replacements of Members and Substitute Members of the D2 SLB by Councils shall be made by notice in writing addressed to the Monitoring Officer responsible for the D2 SLB. Any such notice shall be deemed to have been given when received by the Monitoring Officer.
- 2.10 Any individual council that does not operate executive arrangements and that wishes to co-opt an additional member or members can only do so following consultation with and a majority vote of all voting members of the Joint Committee and shall have no voting rights. An individual's co-option shall terminate as soon as

her/his involvement with the organisation that gave rise to the co-option ceases; and such co-option shall be endorsed annually by the Joint Committee and subsequently confirmed formally by the appointing authority.

- 2.11 All Members of the D2 SLB (including any Substitute Members acting in place of Members of the D2 SLB) will:
- a) (subject to the D2 SLB's voting arrangements) collectively be the ultimate policy makers of the D2 SLB;
 - b) bring views of their Councils into the D2 SLB's decision-making process; and
 - c) maintain the highest standards of conduct and ethics.
- 2.12 Members will at all times observe the Code of Conduct for Members in force in their own Council and any breaches will be reported to the Monitoring Officer of their own Council.
- 2.13 No remuneration shall be payable to D2 SLB Members other than allowances for travel and subsistence in accordance with the Members' Allowances Schemes in operation at participating Councils. (It is acknowledged that a participating Council may, in accordance with its own procedures, pay a special responsibility allowance to any Elected Member appointed by it to the D2 SLB in respect of duties and responsibilities undertaken as a Member or Substitute Member of the D2 SLB.)

3. Chairing the D2 SLB

- 3.1 The Chair of the D2 SLB will be appointed by the D2 SLB.
- 3.2 In the event that there are more than two Members nominated for the role of Chair, and there is not a clear majority of votes in favour of one Member, then the name of the Member with the least number of votes will be eliminated and that process will continue until a Chair is elected with a majority of votes.
- 3.3 The D2 SLB will appoint a Vice-Chair to deputise for the Chair when the latter is not present or available.
- 3.4 In the event that there are more than two Members nominated for the role of Vice-Chair, and there is not a clear majority of votes in favour of one Member, then the name of the Member with the least number of votes will be eliminated and that process will continue until a Vice-Chair is elected with a majority of votes.
- 3.5 The Chair or Vice-Chair of the D2 SLB will cease to hold such office when they cease to be a Member of the D2 SLB, in accordance with the provisions set out at paragraphs 2.6 to 3.7 above.

4. Procedural Arrangements

- 4.1 The D2 SLB shall meet in accordance with its agreed calendar of meetings throughout a municipal year, but additional meetings may take place should the need arise.
- 4.2 While a guiding principle of D2 SLB will be decision making by consensus, which will lead the Board to coalesce around agendas where there is a shared view about

how to proceed, should there be circumstances where a vote is required each Member of the D2 SLB shall have one vote, other than in the following circumstances:

- a) where matters reserved to upper tier authorities are to be discharged, eg. public transport functions that are reserved to county and unitary authorities;
- b) where matters reserved to lower tier authorities are to be discharged, eg. housing functions that are reserved to borough, district and unitary authorities;
- c) where matters reserved to specific geographies are to be discharged, eg. local planning functions that are reserved to Derbyshire councils only
- d) where matters reserved in a combination of the above are to be discharged, eg. shared services arrangements involving specific councils not others.

4.3 In such circumstances Members from authorities that have no formal remit will not be entitled to vote. No authority represented on the Board will be empowered to vote on or to discharge a function belonging to another for which it has no responsibility in law. No authority will be entitled to vote on a matter to which they have not formally delegated to the D2 SLB.

4.4 The proceedings of the D2 SLB shall not be invalidated by any vacancy among its Members or Substitute Members or by any defect in the appointment or qualifications of any Member or Substitute Member.

5. Records of Proceedings

5.1 The D2 SLB shall make arrangements for the names of Members and Substitute Members present at any meeting to be recorded.

5.2 Minutes of the proceedings of a meeting of the D2 SLB, or any sub-committee, shall be kept in such form as the D2 SLB may determine.

5.3 Any such minutes are to be agreed as a true record and signed at the same or next suitable meeting of the D2 SLB or sub-committee by the Member chairing that meeting.

5.4 A Member of the D2 SLB, or any sub-committee, has the right to have their vote on any matter recorded in the minutes of the meeting at which the vote was cast.

5.5 Minutes of all minutes will be published on the websites of all participating Councils.

6. Sub-Committee

6.1 The D2 SLB may establish such sub-committees as it thinks fit to discharge its functions.

7. Officers

7.1 The Section 151 Officer (appointed under Section 73 of the Local Government Act 1975) and Monitoring Officer (appointed under section 5 of the Local Government and Housing Act 1989) of the host authority for the D2 SLB will serve as the statutory officers in support of the D2 SLB.

- 7.2 The D2 SLB may call upon any officer of any of the local authorities who have members on the D2 SLB for advice and assistance, as it considers necessary to carry out its functions.

8. Scrutiny of decisions

- 8.1 Each constituent authority which operates executive arrangements will be able to scrutinise the decisions of the D2 SLB in accordance with that constituent authority's overview and scrutiny arrangements. Any authority that operates a committee system model of governance will have the discretion to scrutinise decisions of the D2 SLB according to its own specific governance arrangements.

9. Winding up of the D2 SLB and Cessation of Membership

- 9.1 The D2 SLB may be wound up immediately by a unanimous vote of all constituent authorities.
- 9.2 Where an authority determines through its own governance arrangements that it no longer wishes to be a member of the D2 SLB, that authority may cease its membership with effect from the date of its decision. However, authorities will remain liable for any previously agreed financial contributions until the end of the financial year for which those contributions have been agreed regardless of any decision to cease membership. Where long term liabilities, such as any Pension Fund shortfall, exists they will be calculated at the point membership ceases and any council exiting the arrangement will pay the host authority an amount to cover their share of that liability.

FUNCTIONS AND RESPONSIBILITIES

- a. The D2 SLB is established pursuant to Section 101(5) of the Local Government Act 1972, which permits local authorities to make arrangements for two or more authorities to discharge functions jointly, so long as it is a function that the law reserves to a specified committee. The D2 SLB is established for the following purposes:
- Provide collective strategic leadership for local government in Derby and Derbyshire
 - Drive forward shared ambition and collective priorities for local government across Derby and Derbyshire
 - Improve joint working across local government in Derby and Derbyshire
 - Form a collective view on matters impacting Derby and Derbyshire
 - Enable agile, timely and effective decision making.
- b. The D2 SLB, on behalf of the participating authorities, will be responsible for improving the delivery of functions already within the remit of local authorities through statute or through specific collaborative work to improve the economic, environmental or social wellbeing of the areas within Derby and Derbyshire from the following broad definitions:
- Incorporating existing partnership arrangements
 - Areas for collaborative system changes across authorities

- Specific thematic projects and priorities
- c. Within those broad definitions, the D2 SLB will:
- i) Provide a forum for consideration of opportunities for joint working across Derby and Derbyshire
 - ii) Provide or assume democratic oversight for existing joint committee and partnership arrangements
 - iii) Inform and support the work of the East Midlands Mayoral Combined County Authority, in particular feeding into the EMCCA led Investment Strategy for the region
 - iv) Determine the prioritisation of issues affecting Derby and Derbyshire to influence commissioning at a regional level
 - v) Determine commissioning arrangements on matters for which funding is provided on a sub-regional basis
 - vi) In particular, act as the local public sector decision-making body for strategic economic development across Derby and Derbyshire (including potential alignment of resources, commissioning, and performance / contract management) in respect of
 - (a) Skills and training
 - (b) Inward Investment
 - (c) Investor Development
 - (d) Sector Development
 - (e) Regeneration Delivery
 - (f) Climate Change and Low carbon
 - (g) Supporting debates on Land Use policy
 - vii) Own, monitor and review the Derbyshire Growth Plans and associated investment plans
 - viii) Act as the accountable body for decision making on funding streams allocated to the D2 SLB by other bodies
 - ix) Oversee the planning, alignment and performance of delivery partners and organisations to achieve more effective and efficient commissioning, monitoring and implementation, and ultimately better outcomes
 - x) Engage and maintain an active, ongoing dialogue with the Derby and Derbyshire business community through relevant economic advisory boards

- xi) Hold to account relevant bodies whose work impacts on the economic well-being of Derbyshire
 - xii) Determine the programme of projects and work streams, how those will be managed and communicated to stakeholders and the public
 - xiii) Monitor and review performance in respect of services delivered in partnership through the D2 SLB and authorise the publication of an annual report of performance and outcomes
 - xiv) Commission strategic outline and full business cases for individual councils to consider opportunities for more collaborative working
 - xv) Determine requests from individual authorities or groups of authorities to work collaboratively on specific projects or work streams
 - xvi) Provide a forum for councils and their representatives to provide challenge to each other with the aim of increasing collaboration to deliver efficient, effective and economic services, which equally improve the offer and outcomes to residents and businesses
 - xvii) Delegate functions and responsibilities to sub-committees or officers as the D2 SLB deems appropriate and keep any governance arrangements associated with the D2 SLB under review.
- d. In the above context, it will be for the Board to establish any sub committees it chooses to in order to provide support with specific tasks within the Board's work programme and for the Board to determine the membership of such sub committees. Any sub committees will report into the full Board.
- e. The D2 SLB will exercise all its powers and duties in accordance with the law and these terms of reference and procedure rules.
- f. The authorities appointing to the D2 SLB are:
- Derbyshire County Council
 - Derby City Council
 - Amber Valley Borough Council
 - Bolsover District Council
 - Chesterfield Borough Council
 - Derbyshire Dales District Council
 - Erewash Borough Council
 - High Peak Borough Council
 - North-East Derbyshire District Council
 - South Derbyshire District Council

[MEMBERSHIP TO BE AGREED BY RESPECTIVE AUTHORITIES]

- g. It is for individual Councils participating in the D2 SLB to determine which functions and responsibilities they are willing to delegate to the D2 SLB in accordance with their own decision-making arrangements. Conversely, the D2 SLB in determining its

agenda, priorities and forward programme will wish to take a view on whether or not to accept such responsibilities.

- h. No authority represented on the D2 SLB may participate in voting upon or discharging a function for which it has no responsibility.

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Part 4

RULES OF PROCEDURE

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RULES OF PROCEDURE

MEETINGS OF COUNCIL AND COMMITTEES

Notes

The following Rules of Procedure apply to all meetings of the Council. Those rules set out in italics also apply to Committees and Sub-Committees unless specifically excluded.

The term 'Chair' refers to the Chair of the Council. All other positions of authority are referred to by their full title.

1. DATES OF MEETINGS

The day for holding the annual meeting and any ordinary meetings of the Council, shall be fixed by the Council at the previous annual meeting at which the Council shall approve the Programme of Meetings of the Council.

2. PLACE AND TIME OF MEETINGS

All meetings of the Council shall commence at 6.00 p.m. at the Town Hall, Matlock or at such other time and place as the Chair shall consider necessary for the satisfactory transaction of business.

3. THE ANNUAL MEETING

At its Annual Meeting, the Council will:

- Elect a Chair to preside at all future meetings of the Council
- Appoint a Vice-Chair to deputise in the Chair's absence
- Elect a Civic Chair of the Derbyshire Dales to act as the Council's civic and ceremonial representative
- Appoint a Deputy Civic Chair to deputise in the Civic Chair's absence
- Elect a Leader of the Council and Deputy Leader(s) of the Council
- Receive the announcements of the Leader of the Council
- Approve the Minutes of the last meeting as a correct record
- Establish the structure of Committees and Sub-Committees and review the allocation of seats on Committees with regard to the rules of political proportionality to deal with matters set out in Part 3 of this Constitution
- Appoint Councillors and Substitutes, where appropriate, to Committees
- Elect Councillors to the positions of Chair and Vice-Chair of Committees
- Approve a programme of ordinary meetings of the Council and Committees for the year
- Receive and decide upon nominations of councillors to serve on outside bodies
- Such other business that may be specified in the summons

3.1 **Term of Appointment**

All appointments to Committees and positions of authority, including the offices of Leader of the Council and Deputy Leader of the Council, made at the Annual Meeting will be for a term of one year.

3.2 **Allocation of seats on Committees**

In addition to allocating seats on Committees and Sub-Committees according to political balance (in accordance with the Local Government and Housing Act 1989) the Council shall also allocate seats in the same manner for Substitute Councillors, where applicable.

For each Committee or Sub Committee, the Council will appoint substitutes equal to the number of ordinary seats that a Group holds on Committee or Sub Committee with a minimum of three Substitutes per Group.

3.3 **Substitution**

The rules of substitute Members apply to the Council's committees, other than the Licensing and Appeal Committee. Substitutes may attend meetings, to which this rule applies, in that capacity only:

- a) To take the place of the ordinary Councillor for whom they are the designated substitute;
- b) After notifying the Director of Corporate and Customer Services,
 - (i) In the case of a Policy Committee, by no later than 4.00pm on the day of the meeting, the name of the absent Councillor and the name of the intended Substitute Councillor
 - (ii) In the case of Planning Committee, by 12noon, two working days prior to the day of the meeting, the name of the absent Councillor and the name of the intended Substitute Councillor
- c) Absence and substitution shall be the whole duration of the whole meeting

Substitute Councillors will have all the powers and duties of any ordinary Councillor of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

3.4 **Election of Leader and Deputy Leader(s)**

At the Annual Meeting, the Chair will ask for nominations to the position of Leader of the Council for the ensuing municipal year. Once proposed and seconded, the Chair will call for votes on the nominees.

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

The same process will be followed for election of a Deputy Leader(s) of the Council.

At the conclusion of this process, the Leader of the Council will address the Annual Meeting.

If the Council fails to elect the Leader at the relevant Annual Meeting, the Leader is to be elected at a subsequent meeting.

Where there is a vacancy in the office of Leader, a/the Deputy Leader will assume the responsibilities of the Leader until a new Leader is appointed at an ordinary meeting of the Council. Where both the Leader and Deputy Leader(s) cease to hold office at the same time, the Chair shall call a meeting of the Council as soon as possible, to appoint a new Leader and Deputy Leader(s).

4. BUDGET MEETING

A meeting of the Council will be held annually to deal solely with items relating to the Council's budget i.e. the Council's Revenue Spending Plans, the Capital Programme and Corporate Plan. The Order of business will be to:

- choose a person to preside if the Chair and Vice-Chair are absent
- Allow public participation in the form of Public Participation, as detailed in Rule of Procedure 14, on the subject matter(s) identified in the summons.
- receive the minutes of the last meeting as a correct record
- deal with any outstanding business from the last meeting of the Council
- Consider any other business specified in the summons of the meeting that relate to the setting of the forthcoming year's budget and associated corporate plan.

5. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with the Programme of Meetings decided at the Annual Meeting. The order of business will be to:

- a. choose a person to preside if the Chair and Vice-Chair are absent
- b. deal with any business required by statute to be done before any other business of the Council
- c. Allow public participation in the form of Public Participation as detailed in paragraph 14.
- d. Consider petitions received
- e. receive the minutes of the last meeting as a correct record
- f. Members to declare any interests relating to the business to be conducted.
- g. receive the announcements of the Leader of the Council
- h. receive any announcements from the Civic Chair of the Derbyshire Dales
- i. deal with any outstanding business from the last meeting of the Council
- j. receive and consider reports and recommendations of the Council's Committees (where recommendations are made by committees, the minutes of the relevant meeting detailing the recommendation(s) will be submitted along with the original report; the matter will be proposed and seconded and subject to the Rules of Debate before the Council votes on the recommendations from the Committee)
- k. receive questions asked by Councillors under paragraph 15.2

- l. Consider and debate propositions posed by Councillors under paragraph 16
- m. Consider any other business specified in the summons of the meeting

6. **VARIATION IN ORDER OF BUSINESS**

The order of business at any meeting of the Council (other than business falling at paragraphs 5 a, b and c above) may be varied either at the discretion of the Chair or by a resolution.

7. **EXTRAORDINARY MEETINGS**

In addition to Ordinary meetings of the Council, those listed below may request the Director of Corporate & Customer Services to call a meeting of the Council:

- (a) The Council by resolution
- (b) The Chair of the Council
- (c) The Monitoring Officer
- (d) Any five Councillors if they have signed a requisition. The requisition must specify the reasons for calling a meeting.

The summons to the Extraordinary Meeting shall set out the business to be considered and no other business, other than set out in the summons, shall be considered at that meeting, other than Question Time on any item on that agenda.

8. **SPECIAL MEETINGS OF COMMITTEES**

In addition to Ordinary meetings of Committees those listed below may request the Director of Corporate & Customer Services to call a Special Meeting:

- The Chair of a Committee
- Any three Councillors if they have signed a requisition. The requisition must specify the reasons for calling a meeting

The summons to the Special Meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

9. **NOTICE AND SUMMONS TO MEETINGS**

The Director of Corporate and Customer Services will send a signed summons to every Councillor, at least five clear days before a meeting. 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. A notice to inform the public of the time, date, place and business of each meeting will be placed on the notice board at the Town Hall, Matlock and on the Council's website (www.derbyshiredales.gov.uk) within a similar timescale.

10. **CHAIR OF THE COUNCIL**

The role of the Chair (or Vice-Chair in his/her absence) will be to:

10.1 In meetings

- (i) preserve order at Council meetings
- (ii) take care that the proceedings are conducted in a proper manner
- (iii) Have the discretion to exercise a casting vote in the case of an equality of votes at the Council meeting.
- (iv) 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

10.2 Generally

- (i) uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- (ii) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors are able to hold the policy committees and committee Chairs to account
- (iii) promote public involvement in the Council's activities
- (iv) be the conscience of the Council

11. CIVIC CHAIR OF THE DERBYSHIRE DALES

The role of the Civic Chair of the Derbyshire Dales:

- (i) As a symbol of the authority
- (ii) To be the Council's 'ambassador' and to represent the Council at civic functions
- (iii) As a symbol of open society
- (iv) To promote inclusiveness and equality
- (v) As an expression of social cohesion
- (vi) To act as a link between the Council and the various community bodies and organisations

The Civic Chair (or his/her Deputy) will act in accordance with the Protocol on the Management of the Civic Office.

12. QUORUM

12.1 At meetings of the Council

The quorum of a meeting of the Council will be one quarter of the whole number of Councillors. If, during any meeting the Chair counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If no date is fixed, then the remaining business will be considered at the next ordinary meeting.

12.2 At meetings of Committees and Sub-Committees

Except where authorised by Statute, no business shall be transacted at a meeting of any Committee or Sub-Committee unless at least one third of the whole Councillorship, including co-opted Councillors, are present. In no case shall the

quorum of a Committee be less than four Councillors, except for Committees and Sub-Committees with a Membership of 5 or less where the quorum shall be two Councillors.

13. **DURATION OF MEETINGS**

Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for 2½ hours will adjourn immediately. The meeting will continue for a further 30 minutes, (and be extended at the Chair's discretion) to enable business to conclude and avoid any suspension in debate on a particular item. Any outstanding matters will be adjourned to a future meeting.

This provision does not extend to meetings of the Council when acting in a quasi-judicial capacity.

14. **PUBLIC PARTICIPATION**

Public Participation is an initiative which gives members of the public the opportunity to express their views, ask questions or submit petitions at meetings of the Council and its Committees.

For a petition to be presented to a Council or Committee Meeting, it must:

- (a) Bear the signatures and addresses of at least 10 petitioners, resident in the Derbyshire Dales.
- (b) Relate to a topic that is relevant to the Derbyshire Dales.
- (c) Comply with the detailed rules set out in Article 3 of the Constitution

14.1 **At meetings of the Council**

Members of the public may make a statement, petition or ask questions of the Leader or Chairs of Committees (except Planning) on any of the Council's services or issues affecting the District of Derbyshire Dales. Each presentation will be limited to three minutes.

14.2 **At Committee Meetings except Planning Committee**

Members of the public may make a statement which will be limited to three minutes, present a petition or ask questions of the Committee Chair on any matter within that Committee's remit of responsibility.

14.3 **At Planning Committees**

Members of the public may make a statement, petition or ask questions relating to planning applications or other agenda items in the non-exempt section of an agenda at meetings where those matters are to be considered, and where the Council is the Local Planning Authority.

14.4 Procedure

At meetings of the Council and its Committees

A member of the public may participate and ask a question or make a statement if notice has been given by electronic means, telephone or in writing to the Democratic Services Team, no later than Midday on the working day prior to the meeting date. Each question or statement must give the name and address of the questioner, the subject matter to which it relates and the identity of the Councillor to whom it is to be put.

At any one meeting no person may submit more than 3 questions and no more than 1 such question may be asked on behalf of one organisation.

Scope of Questions

The Director of Corporate and Customer Services may reject a question if it:

- is defamatory, frivolous or offensive; or
- requires the disclosure of confidential or exempt information; or
- relates to an individual/group business or the questioner's own particular circumstances; or
- relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a tribunal or to a Government Minister or an investigation by the Local Government and Social Care Ombudsman or Monitoring Officer; or
- relates to the personal circumstances or conduct of any officer and Councillor or conditions of service of employees; or
- relates to the activities and aims of a political party or organisation; or
- relates to individual planning applications.

Petitions may be considered by an appropriate Committee in accordance with the Council's Scheme set out in Article 3 of the Constitution.

At Planning Committee

- a) Where it has been decided by the Council that a planning application will be dealt with by the Planning Committee, the applicant (or agent) and anyone who has made representations will be notified of the time and date of the Committee meeting.
- b) An agenda listing the items to be discussed at meetings of the Planning Committee will be posted on the District Council's web site and at the offices of the Town Hall, Matlock, five clear days before the meeting.
- c) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised by the Committee Chair (in consultation) in advance of the meeting. Online information points will make that clear in advance of registration to speak.
- d) Anyone wishing to make representations at a meeting must notify the Democratic Services Team before Midday on the working day prior to the relevant meeting. At this time, they will be asked to indicate to which item of business their representation relates, whether they are supporting or opposing

the proposal and whether they are representing a town or parish council, a local resident or interested party.

- e) Those who indicate that they wish to make representations will be advised of the time that they need to arrive at the meeting venue so that Democratic Services can organise the representations and explain the procedure.
- f) Where more than 2 people are making similar representations, Democratic Services will seek to minimise duplication, for instance, by establishing if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.
- g) Representations will only be allowed in respect of applications or items which are scheduled for debate at the relevant Committee meeting,
- h) Those making representations will be invited to do so in the following order, after the case officer has introduced any new information received following publication of the agenda and immediately before the relevant item of business is discussed. The following time limits will apply:

| | |
|--------------------------|-----------|
| Town and Parish Councils | 3 minutes |
| Objectors | 3 minutes |
| Ward Members | 5 minutes |
| Supporters | 3 minutes |
| Agent or Applicant | 5 minutes |

- i) At the Chair's discretion, the time limits above in point h) may be reduced to keep within the limited one hour per meeting for Public Participation.
- j) After the presentation it will be for the Chair to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers
- k) The relevant Committee Chair shall exercise discretion during the meeting to rule out immediately any comments by participants that are not directed to genuine planning considerations.
- l) Those making representations are not allowed to circulate any photos or written material to the Committee.

15. **QUESTIONS BY COUNCILLORS**

15.1 **On Reports of the Policy Committees**

A Councillor may ask the Leader or Chair of a Committee any question without notice upon an item contained in the report of a Committee, when that item is being received or under consideration by the Council.

The Councillor, to whom a question has been put, may refer an answer to a question to the Vice-Chair of the suitable policy committee where appropriate.

15.2 Questions on notice

A Councillor may only ask a question if either:

- (a) They have given notice in writing or by electronic mail to the Director of Corporate and Customer Services no later than 12 Noon on the third working day prior to the meeting. (For example questions for a meeting falling on a Thursday would need to be submitted no later than 12 Noon on the Monday of that week.), or*
- (b) The question relates to urgent business of which notice has not been given but the contents of any such question should be conveyed to the Director of Corporate and Customer Services no later than 10.00 a.m. on the day of the meeting.*

At any one meeting no Councillor may submit more than three questions.

15.3 Questions on notice at full Council

Subject to Rule 15.2 above, a Councillor may ask a question on any matter in relation to which the Council has powers or duties on which affects the District to:

- the Chair/the Leader, or
- the Chair of any Committee or
- The Council's representative on significant partnerships as identified in the schedule of outside bodies.

15.4 Questions on notice at Committee Meetings

Subject to Rule 15.2 above, a question may be asked of the Chair of a Committee, on any matter in relation to that Committee.

15.5 Response

An answer in relation to 15.3 and 15.4 above may take the form of:

- (a) A direct oral answer;
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) Where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Provided that the Councillor to whom a question has been put under 15.3 and 15.4 above:

- may decline to answer; or
- may refer an answer to the Vice-Chair of the suitable policy committee where appropriate

15.6 **Record of Questions**

The Director of Corporate and Customer Services will enter each question in a book open to public inspection. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

15.7 **Supplementary Question**

A Councillor may under rule 15.3 and 15.4 ask one supplementary question of the Councillor to whom the first question was addressed. The supplementary question must arise directly out of the original question or the reply.

16. **PROPOSALS ON NOTICE AT MEETINGS OF THE COUNCIL**

Notice of every proposal (other than a proposal, which, under Order 17 may be moved without notice) shall be given in writing or by electronic mail and signed by the Councillor or Councillors giving the notice, and delivered at least 10 working days before the next meeting of the Council, at the offices of the Director of Corporate and Customer Services.

It shall be dated, numbered in the order in which it was received, and entered into a book which shall be open to public inspection.

16.1 **Proposal set out in Summons**

The Director of Corporate and Customer Services shall set out in the summons for every meeting of the Council all proposals of which notice has been duly given in the order of which they have been received, unless the Councillor giving such a notice intimated in writing when giving it, that he/she proposed to move it at some later meeting or has since withdrawn it in writing.

16.2 **Proposals not Moved**

If a proposal that is set out in the summons is not moved, either by a Councillor who gave notice thereof, or, by some other Councillor on his/her behalf, shall, unless postponed by consent of the Council, (which shall be signified without discussion), be treated as withdrawn and shall not be moved without fresh notice.

16.3 **Scope of Proposals**

Every proposal shall be relevant to some matter in relation to which the Council has powers or duties, or which affects the District.

The Chair, having regard to the advice of the Director of Corporate and Customer Services may reject a motion if it:

- (a) is defamatory, frivolous or offensive;
- (b) requires the disclosure of confidential or exempt information;
- (c) would, if carried, commit the Council to a course or courses of action contrary to agreed processes or outside its authority to act; or
- (d) relates to a planning or licensing application which has yet to be determined.

16.4 **Alteration of Motion**

A Member may, with the consent of the Council signified without discussion:-

- (a) Alter a motion of which s/he has given notice; or
- (b) With the further consent of the seconder alter a motion which s/he has moved if (in either case) the alteration is one which could be made as an amendment thereto

17. **PROPOSALS WHICH MAY BE MOVED WITHOUT NOTICE**

The following proposals may be moved without notice.

- *election of the Chair of the meeting at which the proposal is made;*
- *proposal in relation to the accuracy of the Minutes;*
- *that an item of business specified in the summons has precedence;*
- *reference to a Committee;*
- *appointment of a Committee or Councillor thereof occasioned by an item mentioned in the summons to the meeting;*
- *receipt of reports or adoption of recommendations of Committees or officers and any consequent resolutions;*
- *leave be given to withdraw a proposal;*
- *amendment to proposals;*
- *“that the Council proceed to next business”;*
- *“that the question be now put”;*
- *“that the debate be now adjourned”;*
- *“that the Council do now adjourn”;*
- *the suspension of a particular council procedure*
- *proposal under Section 100A of the Local Government Act 1972 to exclude the public (and press);*
- *that a Councillor named under Order 16 be not further heard or do leave the meeting;*
- *to give consent of the Council where the consent of the Council is required by this Constitution*
- *That the meeting continue beyond 2½ hours in duration.*

18. **RULES OF DEBATE**

18.1 **No speeches until proposal has been seconded**

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

The Chair may require that the proposal is put into writing and handed to the Chair before it is further discussed or put to the meeting.

18.2 Secunder's Speech

A Councillor when seconding a proposal, or an amendment may reserve his/her speech until a later period of the debate.

18.3 Only One Councillor to Speak

A Councillor when speaking shall address the Chair. If two or more Councillors wish to speak, the Chair shall call on one to speak, the other or others shall wait until duly called by the Chair. While a Councillor is speaking the other Councillors shall remain silent unless rising to a point of order or in personal explanation.

18.4 Content and Length of Speeches at Council

Speeches must be directed to the question under discussion or to a personal explanation or point of order.

The opening speech by the mover of a proposal or amendment may not exceed seven minutes, except with the consent of the Chair.

No speech by any other Councillor or by the mover of the proposal winding up the debate shall exceed five minutes except with the consent of the Chair.

18.5 Content and Length of Speeches at Policy Committees

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Members may also ask questions and receive a response to their questions from either the Chair of the Committee or officers.

Members will not be restricted by these rules in the number of times that they may participate in a debate at a Committee Meeting, other than the discretion of the Chair of the Committee in seeking to secure the efficient management of debate on matters under consideration.

18.6 When a Councillor may speak again

A Councillor who has spoken on any proposal shall not speak again whilst it is the subject of debate, except:

- (a) To speak once on an amendment proposed by another Councillor*
- (b) If the proposal has been amended since he/she last spoke, to move a further amendment to the amended proposal*
- (c) If his/her first speech was on an amendment moved by another councillor to speak on the main issue, whether or not the amendment on which he/she spoke was carried*
- (d) In exercise of the right of reply*
- (e) On a point of Order*
- (f) On a point of Information*
- (g) By way of personal explanation, that is to say, an explanation of some material part of a speech which appears in the course of the debate to have been misunderstood.*

18.7 **Amendments**

An amendment should be relevant to the proposal, and shall be either

- (a) To refer the matter to the appropriate body for consideration or reconsideration*
- (b) To leave out words*
- (c) To leave out words and to insert or add others*
- (d) To insert or add words*

Provisos

- *the negative of a proposal before the council may not be moved by way of an amendment:-*
- *any amendment must be pertinent and relevant to the original motion*

The Chair may request the mover and seconder of the original motion to indicate whether they are prepared to accept the amendment through its incorporation into their motion. If they are willing to do so, the original motion shall stand altered accordingly, the amendment shall be deemed withdrawn and debate proceed on the original motion, as altered. If they are not willing to do so, consideration of the amendment shall proceed in accordance with the normal rules of debate

Only one amendment may be discussed at any one time and no further amendment shall be moved until discussion upon the amendment is concluded.

If an amendment is lost, other amendments may be moved to the original proposal. If an amendment is carried, the proposal as amended shall take the place of the original proposal and shall become the substantive proposal to which any further amendments shall be moved.

After an amendment has been carried the Chair shall read out the amended proposal before accepting a further amendment or (if none) putting the substantive proposal to the vote.

18.8 **Alteration of Proposal**

A Councillor may, with the consent of the meeting, signified without discussion

- (a) Alter a proposal of which he/she has given notice; or*
- (b) With the further consent of the seconder alter a proposal which he/she has moved*
- (c) Only alterations which could be made as an amendment may be made*

18.9 **Withdrawal of Proposal**

A proposal or an amendment may be withdrawn by the mover with the consent of the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the proposal after the mover has asked permission to withdraw it unless such permission shall have been refused.

18.10 **Right of Reply**

- (a) *The mover of a proposal has a right to reply at the end of the debate on the proposal, immediately before it is put to the vote*
- (b) *If an amendment is moved, the mover of the original proposal has the right to reply at the close of the debate on the amendment but shall not otherwise speak on the amendment.*
- (c) *The mover of the amendment has no right of reply to the debate on his/her amendment.*

18.11 **Proposals which may be moved during debate**

When a proposal is under debate, no other proposal may be moved except the following procedural proposals:

- *to amend a proposal*
- *to adjourn a meeting*
- *to adjourn debate*
- *to proceed with the next business*
- *that the question be now put*
- *that a Councillor be not further heard*
- *by the Chair that a Councillor do leave the meeting*
- *a proposal under Section 100A of the Local Government Act 1972, to exclude the public*
- *a proposal that the meeting continue beyond 2 ½ hours in duration*
- *during discussion on a planning application that the debate be adjourned for a site visit and if such a proposal is duly carried then any other proposal under debate shall be deemed to have been withdrawn*

18.12 **Closure Proposals**

A Councillor may move without comment, at the conclusion of a speech of another Councillor:

- (a) *That the Council proceed to the next business*
- (b) *That the question be now put*
- (c) *That the debate be now adjourned or*
- (d) *That the Council do now adjourn*

on the seconding of which the Chair shall proceed as follows:

- (a) *If a proposal to proceed to the next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original proposal a right of reply and then put the procedural proposal to the vote*
- (b) *If a proposal that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.*
- (c) *If a proposal to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot*

reasonable be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original proposition the right of reply.

18.13 Point of Order

A Councillor may raise a point of order at any time and be heard immediately. A point of order may only relate to an alleged breach of the Council's Rules of Procedure or the law. The Councillor must indicate the rule of law which he/she considers has been broken. The ruling of the Chair on the matter will be final.

18.14 Point of Information

A point of information may only be made where a Member is aware that the Council has incorrect information before it on a material point. A Member may ask to raise a point of information at any time by standing and stating, "Point of Information", but shall be permitted to speak only at the Chair's discretion. The Member who raises the point of information must be able to cite evidence to support their statement. The point of information may be raised whilst another Member is speaking but only if that Member is willing to give way. The ruling of the Chair on the admissibility of a point of information shall be final.

18.15 Personal Explanation

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

19. VOTING

The Chair shall take the votes in one of the following ways:

- (a) By show of hand, or*
- (b) By ballot, or*
- (c) Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the Minutes to show whether they voted for or against the proposal, or abstained from voting.*
- (d) If two Councillors present at a meeting demand it, the names for and against a proposal or amendment or abstaining from voting will be taken down in writing and entered in the Minutes. A demand for a recorded vote will override a demand for a ballot.*
- (e) The names for and against a proposal, or amendment or abstaining from voting will be taken down in writing and entered in the Minutes whenever the Council makes a decision to agree the budget, sets the Council tax and precepts*

19.1 Majority

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

19.2 **Chair's casting vote**

If there are equal numbers of votes for and against, the Chair may exercise a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote, save that if no second or casting vote is made, the proposal will automatically fail.

19.3 **Exception**

In the event of an equality of votes for the election of Chair at the Annual Meeting the person presiding must exercise a casting vote.

19.4 **Voting on Appointments**

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

20. **MINUTES**

20.1 **Form**

- *All proposals and amendments in the exact form and order that were put by the Chair shall be recorded in the Minutes of that meeting.*
- *The Minutes will record the nature of all declarations of interests made by Members.*

20.2 **Approval**

The Chair will propose that the Minutes of the previous meeting be approved as a correct record. No discussion shall take place on the Minutes except for their accuracy. Any question of their accuracy shall be raised by way of a proposal. If no such question is raised, or if it is raised, then as soon as it is disposed of, the Chair will sign the Minutes.

20.3 **Record of attendance**

The names of all Councillors present during the whole or part of a meeting will be included in the Minutes of that meeting.

21. **EXCLUSION OF THE PUBLIC AND PRESS**

Members of the public and press may only be excluded either in accordance with Rule 10 of the Access to Information Rules in, Part 4 of this Constitution, or paragraph 23 of Part 4 of this Constitution.

22. **COUNCILLORS' CONDUCT**

22.1 **Disclosable Pecuniary Interests**

A Member who has, or has disclosed, a Disclosable pecuniary interest, must leave the room during the relevant item of business

22.2 **Speaking**

When a Councillor speaks they must address the meeting through the Chair.

22.3 **Councillor not to be heard further**

If a Councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may propose that the Councillor be not heard further. If seconded, the motion will be voted upon without discussion.

22.4 **Councillor to leave the meeting**

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

22.5 **General Disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary. An adjournment in these circumstances shall not require a motion to be passed.

23. **DISTURBANCE BY THE PUBLIC**

23.1 **Removal of a member of the public**

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

24. **RESCISSION OF PRECEDING DECISION**

A decision of the Council shall not be subject of a proposal for reversal within six months of the Council meeting at which it was made.

Provided that:

- (1) This Order shall not apply where notice of a proposal to reverse the preceding resolution within the period bears the names of at least ten Councillors of the Council.

- (2) When any proposal under proviso (1) above has been disposed of by the Council it shall not be open to any Councillor to propose a similar proposal within a further period of six months.

25. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

25.1 **Suspension**

All of these Council Rules of Procedure, except those made mandatory, by Regulation, may be suspended by motion on notice or without notice, if at least one half of the whole number of councillors on the Council are present. Suspension can only be for the duration of the meeting.

25.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

26. **RECORDING, FILMING, BROADCASTING AND REPORTING OF COUNCIL AND COMMITTEE MEETINGS**

26.1 **Public Rights**

- (a) With the knowledge of all persons present at a meeting, the public have the right to record, film, broadcast and report meetings of the Council that are open to the public, which includes the use of digital and social media recording tools such as Twitter, blogging etc.
- (b) Members of the public are recommended to give prior notice to film or audio record meetings so that necessary arrangements can be made to reduce disruption and possible prohibition at the commencement of the meeting.
- (c) The Chair of the meeting will have absolute discretion to terminate or suspend any activity if, in their opinion, continuing to do so would prejudice proceedings at the meeting or cause disruption to officers, Councillors or other members of the public present.
- (d) While those attending Council and Committee meetings are deemed to have consented to the filming, recording or broadcasting of meetings, those exercising the rights to film, record and broadcast must respect the rights of other people attending under the Data Protection Act 1998.
- (e) Any person or organisation choosing to film, record or broadcast any meeting of the Council is responsible for any claims or other liability from them so doing.

26.2 **Council**

- (a) Where technology facilities allow, the Council will live-stream and/or video all formal Council meetings held in the Council Chamber. All recordings / video footage will be made available on the Council's website as soon as possible and within one week of each meeting. The recording and/or video of an item of

business (or part of an item of business) which is considered in private in accordance with the Access to Information Rules contained within Part 4 of this Constitution will not be made publicly available.

SCRUTINY PROCEDURE RULES

1. Proceedings

- 1.1 The following procedures apply to the Scrutiny Committee.
- 1.2 The Scrutiny Committee meeting will comply with the relevant sections of Part 4 of the Constitution – Rules of Procedure – as well as the following procedure rules.
- 1.3 The Scrutiny Committee is not a decision-making committee but may make recommendations to Policy Committees, Full Council or any other relevant authority.

2. Quorum

- 2.1 The quorum for Scrutiny Committee meetings is one third of the total membership, but not less than three councillors.

3. Membership

- 3.1 Substitute members are permitted on the Scrutiny Committee.
- 3.2 Where a Member is unable to consider a call-in because of a conflict of interest arising from their participation in the decision making of the matter being scrutinised, political groups should nominate a substitute Member to attend the meeting. Where a political group does not have sufficient Members for a substitution, the Monitoring Officer will be authorised to have the discretion to provide a dispensation to avoid upsetting the political balance of the Scrutiny Committee.

4. Non-Councillor Representatives

- 4.1 Advisory, non-councillor representatives may be members of the Scrutiny Committee. Such members may participate at meetings but may not vote, unless they have statutory authority to do so.
- 4.2 The Scrutiny Committee can request individuals from outside organisations to attend meetings but cannot compel them to do so.

5. Interests and Participation

- 5.1 A councillor may speak at a Scrutiny Committee meeting where a specific decision or proposal of a Committee of which s/he is a Member is being scrutinised, but must then leave the meeting for the remainder of the debate on that item.
- 5.2 Where a Scrutiny Committee is reviewing policy generally, Members should declare any interest before the relevant agenda item is reached.
- 5.3 Scrutiny Committee members may not scrutinise decisions they have made as a member of a Policy Committee. In this case, they should declare an interest and leave the meeting room. If a Member feels that there is a particular reason why he

or she should participate, a dispensation must be sought from the Monitoring Officer.

6. Business at Meetings

- 6.1 The business at each meeting of the Scrutiny Committee will be conducted as set out on the agenda for the meeting, subject to the Chair having discretion to change the order of the items to be discussed.
- 6.2 Any member of the Scrutiny Committee is entitled to give notice to the Proper Officer that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda.
- 6.3 To fulfil its role of holding other Committees to account through an agreed programme of Chairs' Question and Answer sessions or such other mechanism as shall be determined by the Scrutiny Committee each year)

7. Ways of Working

- 7.1 The Scrutiny Committee in carrying out the scrutiny function and establishing any Task and Finish Groups is not constrained by traditional working practices. There is wide scope for it to adopt innovative ways of doing things and its ability to do so is fundamental to its success. It may operate more like a Parliamentary select committee, taking evidence through oral witness hearings or in writing.
- 7.2 In carrying out reviews, the Scrutiny Committee will be able to set up informal cross-party Task and Finish Groups, which may include members from other committees, as well as advisory, non-voting, non-councillor members. Task and Finish Groups will make recommendations to the Scrutiny Committee, which will determine whether to adopt the recommendations for referral to the relevant Committee for decision.
- 7.3 The Scrutiny Committee may adopt innovative ways of working. It will operate more like select committees, taking oral evidence through select committee style witness hearings.
- 7.4 The Scrutiny Committee can require members and officers to attend their meetings and answer questions. This power does not relate only to scrutiny of decisions but can also be used to ask a Councillor or Officer about forthcoming issues.
- 7.5 When officers attend to answer questions, their evidence will be confined to questions of fact and explanation relating to policies and decisions. They may also be asked to explain and justify decisions they themselves have taken under the Scheme of Delegation where they fall within the terms of the matter under review.

8. Notice of Meetings

- 8.1 The agenda for the Scrutiny Committee will be sent out five clear days before the meeting.

9. Call-in

9.1 Publication of Policy Committee decisions

- 9.1.1 A decision of a Policy Committee will be published online, ordinarily within three working days of the decision being made.
- 9.1.2 A notice of such decisions and the date on which they were made will be published and state that any decision specified in the notice will come into force on the expiry of 7 working days after its publication (“the notification period”), and may then be implemented, unless the decision is called-in. Decisions that may be called-in
- 9.1.3 Any decision of a Policy Committee may be called-in unless it is:
- (a) in the form of a recommendation to the Council;
 - (b) an urgent decision (as defined by rule 14 (2)) and the reason for urgency is recorded in the body of the decision;
 - (c) concerned with procedural matters; or
- 9.1.4 Where a Policy Committee decision takes the form of an approval of details only, the principle having been established by an earlier Policy Committee decision, then call-in shall be confined to those details.

9.2 Call-in of decision for scrutiny

- 9.2.1 During the notification period –
- (a) a member of the Council who is supported by at least three other members may request to call-in a decision for scrutiny by the Scrutiny Committee;
 - (b) The Members seeking to call-in a decision for scrutiny should complete and submit a “call-in form” to the Monitoring Officer setting out:
 - (i) the decision to which the call-in relates;
 - (ii) the names of the Member requesting call-in of the decision;
 - (iii) the reason for the call-in
 - (iv) the proposed alternative decision
- 9.2.2 The Monitoring Officer will determine whether the request to call-in a decision is procedurally compliant with the provisions of Scrutiny Procedure Rule 9.2.1(b). Where the Monitoring Officer has a conflict of interest, the validation of a call-in request will be undertaken by a Deputy Monitoring Officer.
- 9.2.3 The Monitoring Officer will notify the Chair of the relevant Policy Committee and the relevant Service Director of the call-in request and advise them that implementation of the decision be delayed until conclusion of the call-in process.
- 9.2.4 Where appropriate, and after consulting the chair of the Scrutiny Committee, the Monitoring Officer will add the call-in request to the agenda for the next following meeting of the committee.

9.3 Consideration of Call-In

- 9.3.1 The procedure for considering a called-in decision at a meeting of the Scrutiny Committee shall be:
- (a) Presentation of reasons for call-in and alternative proposals by lead call-in Member – up to ten minutes
 - (b) Questions to Lead Call-in Member by Scrutiny Committee
 - (c) Explanation of original decision by the Chair of the Policy Committee, supported by the Service Director
 - (d) Questions to the Chair of the Policy Committee and Service Director by the Scrutiny Committee Members
 - (e) Scrutiny Committee to evaluate the reasons for call-in and alternative proposal
 - (f) Debate and decision
- 9.3.2 If the Scrutiny Committee does not object to the decision called-in, it will come into force and take effect immediately.
- 9.3.3 If having considered the decision the Scrutiny Committee is still concerned about it, the committee may refer it back to the relevant Policy Committee for reconsideration with reasons.
- 9.3.4 A meeting of the Policy Committee that made the called-in decision will be convened within ten working days of the Scrutiny Committee's request to reconsider it.

9.4 Call-in and urgency

- 9.4.1 The call-in procedure shall not apply where the decision being taken by a Policy Committee is urgent.
- 9.4.2 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.
- 9.4.3 The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision-maker, the decision is an urgent one and therefore not subject to call-in.
- 9.4.4 The Chair of the Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The leader of the main opposition group shall be consulted on any decision to designate a Policy Committee decision as urgent.
- 9.4.5 In the absence of the Chair, the Vice Chair's consent must be obtained and in the absence of both, the Chief Executive's consent, or their nominee's consent in their absence, must be obtained.
- 9.4.6 Where the Chair of the Scrutiny Committee, Vice Chair or Chief Executive consents to exempting a decision from call-in on grounds of urgency, the Monitoring Officer will be informed as soon as possible after the decision is made.

- 9.4.7 Decisions taken as a matter of urgency must be reported to a meeting of the Council, together with the reasons for urgency.
- 9.4.8 The operation of the procedures relating to scrutiny, call-in and urgency will be monitored annually, and a report submitted to the Council with proposals, if necessary, for review of the procedures.

10. Officer Support

- 10.1 Officer support to the function will be provided to advise members in discharging their functions of monitoring, reviewing and scrutinising decisions and contributing to policy formulation.

References:

[The Local Authorities \(Committee System\) \(England\) Regulations 2012](#)

[Local Government Act 2000 9F to 9FI Oversight and Scrutiny Committee](#)

[Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#)

Access to Information Procedure Rules

1. EXEMPT INFORMATION AND REPORT WRITING

1.1 Introduction

The Council is committed to striking the proper balance between openness and individual legal rights to privacy, and will:

- Promote transparency in its work
- Be proactive in making available information which is public in nature or interest
- Be open and accountable
- Maintain individual privacy and confidentiality in an appropriate manner
- Share information in accordance with information sharing protocols.

1.2 Changes to Access to Information legislation

On 1 March 2006, Schedule 12A of the Local Government Act 1972 (the Act) is amended. These regulations have been brought in to take account of the impact of the Freedom of Information Act 2000. There are seven categories of information that can be exempt and three additional ones that are applicable to Standards Committees and Sub-Committees only. **All of them require consideration of the public interest before deciding whether to withhold the information.**

1.3 The presumption of open governance

The approach is based on open governance with disclosure of as much information as possible about decision making. Only in the limited circumstances allowed by statute may information be withheld.

1.4 Preliminary considerations

Start from the point that the report will be a report open to the public.

If there is information that you think should be withheld, establish if any one of the exemption categories applies. If any do, then consider the public interest test.

1.5 What are the exemption categories?

Schedule 12A is in three parts:

Part 1 - Descriptions of Exempt Information

Part 2 – Qualification

Part 3 – Interpretation

The descriptions, qualifications and notes on the interpretation are to be found in paragraph 11.4 of part 4 of the Constitution.

1.6 Background Papers

The rules on background papers require that if they are stated in the report as such then they must be made available to the Public for 4 years after the date of the report. Should the background papers that you wish to use contain exempt information then you should seek advice from the Head of Corporate Services at the earliest opportunity. **Once again you must start from the position that the information should be made available to the public.** You must go through the same process as outlined below. In a case where an exemption is applicable to background papers then these should not be quoted on the report.

1.7 What is the public interest test?

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

1.8 What is the public interest?

There is no legal definition of what the public interest is however the following are relevant considerations to weigh up and balance the public interest in disclosure as against non-disclosure:

- The information in question would assist public understanding of an issue that is subject to current national debate
- The issue has generated public or parliamentary debate
- Proper debate cannot take place without wide availability of all the relevant information
- The issue affects a wide range of individuals or companies
- The public interest in sufficient information being available for local interests to be represented effectively
- Facts and analysis behind major policy decisions
- Knowing reasons for decisions
- Accountability for proceeds of sale of assets in public ownership
- Openness and accountability for tender processes and prices
- Public interest in public bodies obtaining value for money
- Public health
- Damage to the environment
- Contingency plans in an emergency

1.9 What considerations are there for the report writer of a potentially exempt report?

Once the report writer has formed the opinion that the report or background papers contains potentially exempt information that falls within one or more exemption categories, the following steps should be taken:

1. Establish which of the Exemption paragraphs in schedule 12A you believe apply
2. Apply the public interest test.

3. Seek any necessary advice from the Head of Corporate Services at an early stage.
4. You will need to fill in the sections of the main report marking the report “NOT FOR PUBLICATION – Exempt information as described in paragraph X (complete as relevant) of Schedule 12A of the Local Government Act 1972”
5. You will then need to ensure that the reasons for the use of any and all exemptions you seek to apply are in the public interest is documented in the “Public Interest Test” section of the report. (Some examples are included in the main guidance in order to provide illustrations and make clear how rigorously this test should be applied.
6. Get the approval of the appropriate Proper Officer

1.10 Who decides whether something is exempt or not?

Only the Chief Executive, Corporate Director and Directors (Proper Officers) may authorise a report to be marked ‘Not for Publication’.

The Committee will consider whether to treat the information contained in the report as exempt or not. If it accepts the Officer considerations on exemption, as detailed in the Officer’s report, it will resolve to exclude the public from the meeting for the consideration of the exempt information.

1.11 There is a separate class of information called 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.

Seek guidance from the Director of Corporate and Customer Services if you consider any information falls within this class of information. Such circumstances are extremely rare.

2. SCOPE

These rules apply to all meetings of the Council, Area Community Forums, Policy and other Committees (together called meetings).

3. ADDITIONAL RIGHTS TO INFORMATION

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

4. RIGHTS TO ATTEND MEETINGS

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

5. NOTICES OF MEETINGS

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Matlock and on the Council's Website (address www.derbyshiredales.gov.uk)

6. 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 Town Hall, Matlock at least five 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 designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item is added to the agenda.

7. 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 of Corporate and Customer Services thinks fit, copies of any other documents supplied to Councillors in connection with an item

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

The information will be made available free of charge in alternative formats on request.

8. ACCESS TO MINUTES ETC AFTER THE MEETING

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

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

9. BACKGROUND PAPERS

9.1 List of Background Papers

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) Which have been relied on to a material extent in preparing the report.

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11).

9.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

10. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the Town Hall, Matlock.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

11.1 Confidential information – requirement to exclude public

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

11.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that information not in the public's interest 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

Revised Schedule 12A from 1st March 2006

| Description of exempt information | Qualification | Notes |
|--|--|--|
| | 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 | Applies to all categories of otherwise exempt information |
| 1. Information relating to any individual | Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information | Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities. |
| 2. Information which is likely to reveal the identity of an individual | Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information | Names, addresses or telephone numbers can identify individuals. Also consider the Council's Data Protection Act responsibilities. |
| 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information) | 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 Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993 | The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined. Financial or business affairs includes contemplated, as well as past or current activities Registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act) |

| Description of exempt information | Qualification | Notes |
|--|---|--|
| <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</p> | <p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> | <p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p> <p>Employee means a person employed under a contract of service</p> <p>Labour relations matter means :-</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above (applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p> |
| <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p> | <p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> | <p>Privilege lies with the "client" which broadly is the council. Seek the view of the relevant Corporate Director whether they wish to waive privilege.</p> |

| Description of exempt information | Qualification | Notes |
|---|---|--|
| <p>6. Information which reveals that the authority proposes -</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment</p> | <p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> | <p>The authority is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined (etc)</p> |
| <p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p> | <p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the</p> | |
| <p>7a. Information which is subject to any obligation of confidentiality.</p> | <p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the</p> | <p>This will not apply to all the papers before a Standards Committee but is likely to need careful consideration in the circumstances of a Local Investigation or Determination.</p> |
| <p>Description for Standards Committee ONLY (in addition to paras 1 – 7 above)</p> | <p>Qualification</p> | <p>Notes</p> |
| <p>7b. Information which relates in any way to matters concerning national security.</p> | <p>Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> | |

| Description of exempt information | Qualification | Notes |
|--|---|---|
| <p>7c. The deliberation of a standards committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.</p> | <p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> | <p>This will apply in relation to Local Determinations whether the original report came from an Ethical Standards Officer or from a Local Investigator.</p> |

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication". The Agenda will identify the reason(s) why the information could not be disclosed and the report will consider the public's interest in the matter to be considered and the reason for exemption.

Budget and Policy Framework Procedure Rules

1. The framework for decision making

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Council and Policy Committees to implement it.

2. Process for developing the framework

The process by which the Budget and Policy Framework shall be developed is: In each year the Council will publish a programme for establishing the Budget and Policy Framework for the following year.

3. In-Year changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Policy Committees, the Regulatory Committees or officers with delegated authority must be in line with it. No changes to any policy and strategy, which make up the Policy Framework, may be made by the Policy Committees, or officers with delegated authority except changes:

- (a) Necessary to ensure compliance with the law, ministerial direction or government guidance.
- (b) Which will result in the closure, discontinuance of a service or part of a service to meet a budgetary constraint.

Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

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

(b) Seeking support for appointment.

- i. Subject to paragraph (ii), 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.

2. Recruitment of Head of Paid Service and Corporate Director

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

- (a) draw up a statement specifying:
 - i. the duties of the officer concerned; and
 - ii. any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. Appointment of Head of Paid Service

The Council will appoint the Head of Paid Service.

4. Appointment of Corporate Director

A committee or sub-committee of the Council will appoint the Corporate Director.

5. Other appointments

- (a) **Officers below Corporate Director.** Appointment of officers below Corporate Director (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors. The designation of an officer as Monitoring Officer or Section 151/Chief Financial Officer is the responsibility of the Council.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. Disciplinary action

Procedure

- (a) In the following paragraphs:
 - (i) “the 2011 Act” means the Localism Act 2011
 - (ii) “Chief Finance Officer, “disciplinary action, “head of paid service” and “Monitoring Officer” have the same meaning as in Regulation 2 of the local Authorities (Standing Orders) (England) Regulations 2001
 - (iii) “Independent Person” means a person appointed under section 29(7) of the 2011 Act
 - (iv) “local government elector” means a person registered as a local government elector in the register of elector in the authority’s area in accordance with the Representation of the People Acts;
 - (v) “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;
 - (vi) “relevant meeting means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - (vii) “Relevant officer” means the Chief Finance Officer, Head of Paid Service or Monitoring Officer, as the case may be.
- (b) A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- (c) The Council must convene a Disciplinary Panel and invite the relevant Independent Persons to be considered for appointment to the Panel with a view to appointing at least two persons to the Panel.
- (d) The Council must appoint to the Panel at least two such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph (a)(iii) in accordance with the following priority order:
 - (i) A relevant Independent Person who has been appointed by the council and who lives in the Council’s area
 - (ii) Any other relevant Independent Person who has been appointed by the Council but who lives outside the authority’s area
 - (iii) A relevant Independent Person who has been appointed by another authority

- (e) The Council must appoint a Panel at least 20 working days before the relevant meeting
- (f) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal (which decision must be made by Council itself), the Council must take into account:
 - (i) Any advice, views or recommendations of the Panel;
 - (ii) The conclusions of any investigations into the proposed dismissal; and
 - (iii) Any representations from the officer subject to the disciplinary proceedings

7. **Dismissal**

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

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CODE OF CONDUCT FOR MEMBERS

Derbyshire Dales District Council's Code of Conduct for Elected Members **(based on the Local Government Association Model)**

Statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

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

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct, and safeguard the public's trust in local government.

Definition

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

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

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

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect

you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The use of support, training and mediation prior to action being taken using the Code is encouraged. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General Principles of Councillor Conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors, and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

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

Principles:

1. **Selflessness:** Holders of public office should act solely in the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or friends.
2. **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
3. **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals or rewards and benefits, holders of public office should make choices on merit.
4. **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5. **Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
6. **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.
7. **Leadership:** Holders of public office should promote and support these principles by leadership and example.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community,

- I do not improperly seek to confer an advantage, or disadvantage, on any person,
- I avoid conflicts of interest,
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with Derbyshire Dales District Council's requirements and in the public interest.

Obligations on Councillors

As a Member of Derbyshire Dales District Council, your conduct should, in particular, address the statutory principles in the Code by:

1. Championing the needs of residents, including the whole community and, in a special way, your constituents, including those who did not vote for you, and putting their interests first.
2. Dealing with representations or enquiries from residents, members of the community and visitors fairly, appropriately, and impartially.
3. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' case work, the interests of Derbyshire Dales District Council or the good governance of Derbyshire Dales District Council in a proper manner.
4. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a Member of Derbyshire Dales District Council.
5. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
6. Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
7. Contributing to making Derbyshire Dales District Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account but restricting access to information when the wider public interest or the law requires it.
8. Respecting the confidentiality of information which you receive as a member by:
 - (a) Not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and
 - (b) Not obstructing third parties' legal rights of access to information.
9. Behaving in accordance with all of Derbyshire Dales District Council's legal obligations, with particular regard to:

- (a) The Data Protection Act 2018.
 - (b) The Freedom of Information Act 2000.
 - (c) The Bribery Act 2010.
 - (d) The Equality Act 2010.
10. Having regard to the principles of Derbyshire Dales District Council's policies, protocols, and procedures, including those relating to the use of Derbyshire Dales District Council's resources (which must not be used improperly for political purposes including party political purposes).
 11. Valuing other Members and officers and engaging with them in an appropriate manner and in a manner which underpins the mutual respect between individuals that is essential to good local government and respecting and not bullying any person.
 12. Always treating people with respect, including the organisations and public you engage with and those you work alongside.
 13. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor.
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements, and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

Standards of Councillor Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions, and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with Derbyshire Dales District Council's Member and Officers' Relationship Protocol.

2. Bullying, Harassment and Discrimination

As a councillor:

2.1 I do not bully any person

2.2 I do not harass any person

2.3 I promote equalities and do not discriminate unlawfully against any person

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying might

be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of Officers of the Council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

3.2 I take advice as necessary from professional officers in reaching decisions and ensure that all relevant information is taken into account to reach an objective decision based on merit, which is lawful and reached as a result of following a transparent process.

Officers work for Derbyshire Dales District Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must take professional advice, including legal advice into account when reaching your decision and you must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity and the lawfulness of the decision or the process.

4. Confidentiality and Access to Information

As a councillor:

4.1 I do not disclose information:

(a) given to me in confidence by anyone,

(b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless;

- (i) I have received the consent of a person authorised to give it;**
- (ii) I am required by law to do so;**
- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
- (iv) the disclosure is:**
 - 1) reasonable and in the public interest; and**
 - 2) made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3) I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

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

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your Derbyshire Dales District Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold Derbyshire Dales District Council and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of Position

As a councillor:

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

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

7. Use of Local Authority Resources and Facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- (a) act in accordance with the local authority's requirements; and**
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:

- office support
- stationery
- equipment such as phones, tablets and computers
- transport
- access and use of local authority buildings and rooms

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

8. Complying with the Code of Conduct

As a councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

Protecting your Reputation and the Reputation of the Local Authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

10. Gifts and Hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence, or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept within 28 days of the offer.

In order to protect your position and the reputation of Derbyshire Dales District Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

DISCLOSABLE PECUNIARY INTERESTS

In accordance with Section 30(3) of the Act a pecuniary interest is a “disclosable pecuniary interest” in relation to a Member, if it is of a description specified below and either

- is an interest of the Member, or
- is an interest of the members spouse or civil partner, as in -
 - a person with whom the member is living as husband and wife, or
 - a person with whom the Member is living as if they were civil partners, and the Member is aware that the other person has the interest.

| Subject | Prescribed description |
|---|---|
| Employment, office, trade, profession or vacation | 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 the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a). |
| 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 – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged. |
| Land | Any beneficial interest in land which is within the area of the relevant authority. |
| Licenses | 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 the Member’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: that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either: the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or 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. |

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PART 6



PART 6

MEMBERS' ALLOWANCES SCHEME FOR DERBYSHIRE DALES DISTRICT COUNCIL

Approved on 26 January 2023
Effective from 25 May 2023
Payment amounts updated 3 Nov 2023
Payment amounts updated 29 Oct 2024

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1. Introduction

- 1.1 The Derbyshire Dales District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following scheme:-
- 1.2 This scheme may be cited as the Derbyshire Dales District Council Members' Allowances Scheme and, except where otherwise mentioned, shall have effect from 25 May 2023, and thereafter for subsequent years commencing on 1 April until the scheme is revoked or amended.
- 1.3 In this scheme:
 - "Councillor" means an elected Member of the Derbyshire Dales District Council
 - "Year" means the twelve months ending with 31 March.

2. Basic Allowance

- 2.1 A basic allowance of £5,484 per annum shall be paid to each Councillor.
- 2.2 The basic allowance is deemed to cover incidental costs, such as personal use home landlines, mobile phones, broadband and IT consumables.
- 2.3 The basic allowance is indexed to the annual percentage salary increase for local government staff set at SCP 43 and is to be applied for the same year that applies to staff.

3. Special Responsibility Allowances

- 3.1 A special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are specified in schedule 1 to this scheme.
- 3.2 The amount of each such allowance per annum shall be the amount specified against that special responsibility in the schedule.
- 3.3 No Councillor shall be entitled to more than one special responsibility allowance.
- 3.4 Where there are two Main Opposition Groups of equal size, the special responsibility allowances for the Leader of the Main Opposition Group (£2,139) and Leader of the Other Opposition Group (£1,069) will be aggregated to £3,208 and divided by two and paid equally to each Main Opposition Group Leader.
- 3.5 Special Responsibility Allowances are indexed to the annual percentage salary increase for local government staff set at SCP 43 and is to be applied for the same year that applies to staff.

4. Civic Allowances

- 4.1 Whilst not covered by the Members Allowances Regulations, the annual civic allowance paid to the Civic Chair of the District is £3,461. The annual civic allowance for the Civic Vice-Chair of the District is £1,012.
- 4.2 The civic allowance is indexed to the annual percentage salary increase for local government staff set at SCP 43 and is to be applied for the same year that applies to staff.

5. Independent Person Remuneration

- 5.1 Whilst not covered by the Members' Allowances Regulations, the annual remuneration paid to the Independent Person(s) appointed to be consulted by the Monitoring Officer in respect of standards and ethical framework matters is set at £320.
- 5.2 The remuneration for the Independent Person(s) is indexed to the annual percentage salary increase for local government staff set at SCP 43 and is to be applied for the same year that applies to staff.

6. Dependants Carers' Allowance

- 6.1 A Councillor may claim, by way of dependants carers' allowance, expenditure actually and necessarily incurred as follows:
- (a) Childcare – the maximum hourly rate at National Living Wage (£10.42 from 1 April 2023)
 - (b) Elderly/disabled care – maximum hourly rate at the median hourly rate charged by Derbyshire County Council Social Services for a Home Care Assistant (£11.18 (7am to 7pm) or (£14.90 (7pm to 7am) From 1 April 2023)
- 6.2 This allowance is to be used in making arrangements for the care of his or her children or dependants whilst he or she is performing any of the duties listed at schedule 2.
- 6.3 Dependants carers' allowance may not be claimed in respect of care provided by a member of the Councillor's family.
- 6.4 The Councillor is to provide such written evidence of the expenditure.

7. Travelling Allowance

- 7.1 For Councillors travelling within and outside the District, regarding the performance of any of the duties listed at schedule 2, the following may be paid –
- 7.2 Public Transport

(a) The actual costs will be reimbursed. Rail travel must always be undertaken in the most cost effective way.

7.3 Mileage

(a) Mileage allowances are based on HMRC rates for the following modes of transport:

- Travel by cars and vans: £0.45 per mile
- Travel by motorcycle: £0.24 per mile
- Travel by bicycle: £0.20 per mile
- Passenger supplement rate: £0.05 per passenger (maximum of 4)

(b) The Passenger Supplement allowance should only be claimed for carrying fellow District Councillors to an approved duty who would also be eligible for claiming the mileage allowance if travelling in their own vehicle

(c) The mileage allowance for travel by cars and vans includes hybrid/electric vehicles for which the HMRC mileage rate of £0.45 per mile is applicable.

(d) The mileage allowance is indexed to the HMRC approval mileage rates for motor, hybrid and electric vehicles, motorcycles and bicycles.

8. Subsistence Allowance

8.1 Councillors may not claim subsistence allowances for attending approved duties within the area of Derbyshire Dales District Council.

8.2 Members shall be entitled to the following subsistence allowance as reimbursement of expenses whilst on Council business outside of the District:

| | |
|---|------------------------------------|
| Breakfast | £5.77 |
| Lunch | £0 |
| Evening meal | £9.78 (excluding alcoholic drinks) |
| Evening Meal in London & Conferences | £15.75 |
| Overnight accommodation | £65 (£90 in London) |

N.B. this is a locally agreed variation to national/ 'green book' terms on travel and subsistence. Expenses will be reimbursed at actual cost subject to the following approval limits.

8.3 Receipts shall be provided for all expenditure on subsistence.

8.4 The Subsistence Allowance is indexed to the same rates that apply to employees of the Derbyshire Dales District Council

9. Elections to Forego Allowance

- 9.1 A Councillor may by notice, in writing given to the Director of Corporate and Customer Services, elect to forego any part of his or her entitlement to an allowance under this scheme.

10. Part-year entitlements

- 10.1 Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, his or her entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his or her term of office as Member subsists, bears to the number of days in that year.
- 10.2 Where a Councillor has for only part of the year, such special responsibilities as entitle him or her to a special responsibility allowance, his or her entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole, the same proportion as the number of days during which he or she has such responsibilities, bears to the number of days in that year.

11. Indexation

- 11.1 In accordance with the Members' Allowances Regulations and the decision of the Council on 26 January 2023, the allowances in this scheme are indexed for a four-year period until 31 March 2027.

12. Claims and Payments

- 12.1 Payments shall be made by the Human Resources Manager as necessary.
- 12.2 However, where a payment of one-twelfth of the amount specified as above would result in the Councillor receiving more than the amount to which he or she is entitled because of the part year entitlement provisions contained within the scheme, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- 12.3 Claims for Dependents Carers' Allowance and travelling and subsistence allowance must be submitted to the Democratic and Electoral Services Manager, not later than three months from the date on which entitlement to any such allowances arises.

James McLaughlin
Director of Corporate and Customer Services (Monitoring Officer)
May 2023

SCHEDULE 1

SUMMARY OF MEMBERS' ALLOWANCES PAYABLE IN 2024-25

| REMUNERATED POSTS | Basic Allowance | Methodology | Nos. Paid | SRA per Post |
|--|------------------------|---|------------------|---------------------|
| All Members | £5,484 | (91 days – 45% PSD) = 50 days X £109.68 p/day | 34 | - |
| Leader of Council | £5,484 | 2.6 X BA | 1 | £14,258 |
| Deputy Leader Council | £5,484 | 45% X Leader's SRA | 1 | £6,416 |
| Chairman of Planning | £5,484 | 40% X Leader's SRA | 1 | £5,703 |
| Vice-Chairman of Planning | £5,484 | 30% X Chair's SRA | 1 | £1,711 |
| Chairman of Community & Environment | £5,484 | 35% X Leader's SRA | 1 | £4,990 |
| Vice Chairman of Community & Environment | £5,484 | 30% X Chair's SRA | 1 | £1,497 |
| Chairman of Governance & Resources | £5,484 | 35% X Leader's SRA | 1 | £4,990 |
| Vice-Chairman of Governance & Resources | £5,484 | 30% X Chair's SRA | 1 | £1,497 |
| Chairman of Council | £5,484 | 35% X Leader's SRA | 1 | £4,990 |
| Vice-Chairman of Council | £5,484 | 30% X Chair's SRA | 1 | £1,497 |
| Chairman of Licensing & Appeals | £5,484 | 20% X Leader's SRA | 1 | £2,852 |
| Vice-Chairman of Licensing & Appeals | £5,484 | 30% X Chair's SRA | 1 | £855 |
| Chairman of Scrutiny | £5,484 | 20% X Leader's SRA | 1 | £2,852 |
| Vice-Chairman of Scrutiny | £5,484 | 30% X Chair's SRA | 1 | £855 |
| Main Opposition Group Leader | £5,484 | 15% X Leader's SRA | 1 | £2,139 |
| Minority Opposition Group Leader | £5,484 | 50% X Main Opposition Group Leader's SRA | 1 | £1,069 |

LIST OF APPROVED DUTIES

These approved duties are in accordance with The Local Authorities (Members' Allowances) (England) Regulations 2003

1. For All Councillors and Co-opted Members of the Council.
 - (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
 - (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that—
 - i. where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or
 - ii. if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
 - (c) the attendance at a meeting of any association of authorities of which the authority is a member;
 - (d) the attendance at a meeting of the executive or a meeting of any of its committees, where the authority is operating executive arrangements;
 - (e) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
 - (f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
 - (g) the performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 of the Education Act 1996 (approval of non-maintained special schools)(1); and
 - (h) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees.
 - (i) Attendance at a Member Workshop or Briefing held in-person at the Town Hall or other asset owned by the Council.
 - (j) Attendance at a Member Training Seminar or Session held in-person at the Town Hall or other asset owned by the Council.
 - (k) Attendance at Conferences/Courses specifically approved by the Council. These cannot include those organised by profit-making or political organisations.

- (l) Attendance at meetings/conferences of outside bodies to which a member has been specifically appointed by the Council.

NOTE

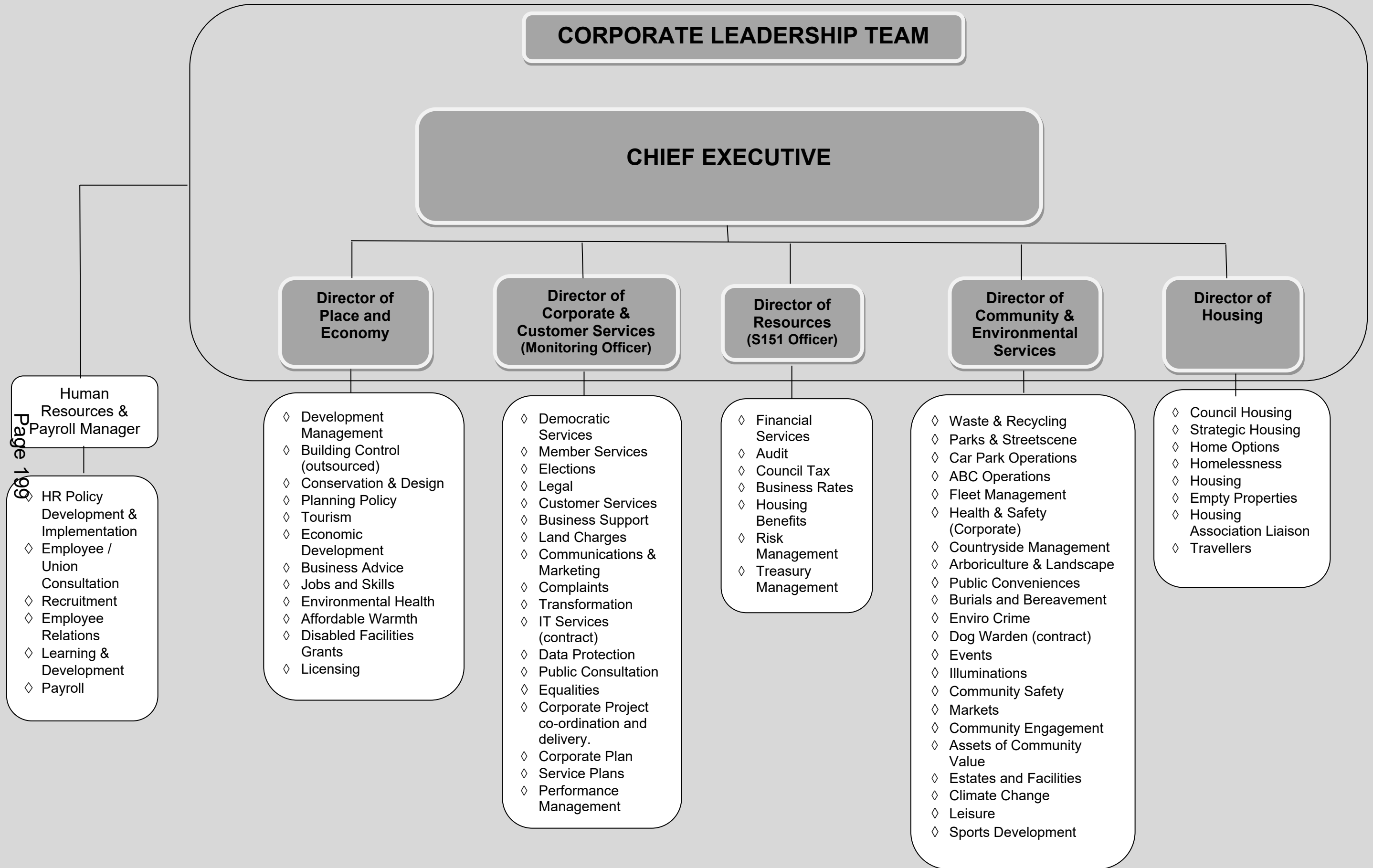
Attendance at Panels and meetings such as Dismissals, Grievances, tenders, visits, etc. are recognised as Council Sub-Committees.

Attending Parish/Town Council meetings for parishes within their ward is an approved duty but Councillors cannot a claim travel allowance for attending duties regarding constituent issues.

Informal discussions, meetings or visits between Members or with Officers or with other organisations are not “approved duties” and claims should not be made. These discussions and meetings form part of the Member constituent duties.

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ONE TEAM, ONE COUNCIL, ONE PURPOSE



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Part 8

CONTRACT STANDING ORDERS

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1. **INTRODUCTION & DEFINITIONS**

- 1.1 The CSO have been issued in accordance with Section 135 of the Local Government Act 1972 and are intended to promote good practice and public accountability and deter corruption. They provide a corporate framework for the procurement of all goods, services and works for the Council.
- 1.2 The CSO are designed to ensure that all procurement activity is conducted with openness, probity and accountability.
- 1.3 All Officers must comply with the statutory requirements of the United Kingdom Government. All Officers must also comply with the CSO along with the Financial Regulations; the Code of Conduct; the Anti-Fraud, Bribery and Corruption Policy and the Procurement Strategy and Policies. Contracting All Officers must ensure that any Agents, Consultants and contractual partners acting on their behalf also comply.
- 1.4 Breach of the CSO will be taken very seriously as they are intended to both protect public money and demonstrate that the Council takes its role as a guardian of public money extremely seriously. Should any Officer be found to be in breach of these rules then it may be treated as gross misconduct and could result ultimately in the dismissal of the Officer. Similarly, anyone having knowledge of a failure to follow these rules must report a breach of the CSO to the Council's statutory Monitoring Officer as soon as possible afterwards. Any failure to report a breach by an Officer may also be treated as gross misconduct and could result in the Officer being dismissed.
- 1.5 At any point that the Monitoring Officer is required to be notified or consulted and the Monitoring Officer is not available, then Officers must contact one of the Deputy Monitoring Officers

1.6 **DEFINITIONS**

| | |
|--------------------------------|--|
| "CSO" | Contract Standing Orders |
| "Monitoring Officer" | Director of Corporate and Customer Service |
| "Officer(s)" | any person employed by the Council |
| "Deputy Monitoring Officer" | An officer designated as a Deputy Monitoring Officer, presently the Democratic & Electoral Services Manager and the Legal Services Manager |
| "Contracting Officers" | Officers of the Council responsible for entering into contracts and procuring goods and services. |
| "Section 151 Officer" | Director of Resources |
| "relevant Director of Service" | The Director with responsibility for the Officers Service. If the relevant Director is unavailable then the relevant Director will be the CEO or Monitoring Officer. |
| "CEO" | Chief Executive Officer and Head of Paid Service |
| "PCR 2015" | The Public Contract Regulations 2015 |
| "Regulations 32 PCT 2015" | Found in full at Appendix 1 of these Contract Standing Orders |

| | |
|---------------------------|---|
| “CSO” | Contract Standing Orders |
| “Regulations 57 PCR 2015” | Found in full at Appendix 2 of these Contract Standing Orders |
| “Regulations 72 PCR 2015” | Found in full at Appendix 3 of these Contract Standing Orders |

2. AUTHORITY

- 2.1 The first stage of procuring any contract is to ensure that the Contracting Officer has sufficient approved funding for the potential procurement of goods or services. Authority for funding must be sought and granted where it is not accounted for within the department’s current budget. Contracting Officers must have regard to the Financial Regulations if the department’s current budget is insufficient.
- 2.2 Once the appropriate authority has been obtained, the Contracting Officer may then place orders within approved budgets and in line with the CSO. If the proposed order exceeds the approved budget, the officer must obtain advice of the Section 151 Officer and a supplementary budget estimate may be required.

3. DECLARATION OF INTEREST

- 3.1 If it comes to the knowledge of a Councillor or Contracting Officer of the Council that a contract in which he/she has a financial, non-financial or personal interest has been or is proposed to be entered into by the Council, he/she shall immediately give written notice to the Monitoring Officer. Failure to do so is a breach of the Employee Code of Conduct and an offence in accordance with section 117 of the Local Government Act 1972. Such failure may result in disciplinary action against the Officer.
- 3.2 A Contracting Officer’s interests shall not conflict with their public duty. Any official position or information acquired in the course of employment should not be used to further personal interests or for the interests of others.
- 3.3 Contracting Officers should declare in writing to the relevant Director of Service any interest which may be in conflict with their public duty. Any such declaration by the Chief Executive or a Director of Service should be made in writing. A copy of any declaration must also be sent to the Monitoring Officer.
- 3.4 Where the Monitoring Officer confirms that the interest declared prevents participation, the Officer or Councillor must not take part in the tender process except to the extent permitted by the Monitoring Officer. If the declaration is made by the Monitoring Officer then he above assessment will be made by the Deputy Monitoring Officer

4. PREVENTION OF CORRUPTION

- 4.1 Officers shall comply with the Employee Code of Conduct and must not invite or accept any gift or hospitality in respect of the award or performance of the contract. Officers will be required to prove that anything received was not received corruptly. High standards of conduct are mandatory. Corrupt behaviour may lead to dismissal and is a crime under the legislation referred to in CSO 4.4 below.

- 4.2 Officers should not accept significant personal gifts from contractors and outside suppliers. Token gifts of a very small value like pens marked with a company name, or calendars, which might be seen as advertisements, are acceptable.
- 4.3 Officers should notify the Monitoring Officer and Director of Service of any gifts received 'out of the blue' other than the token gifts outlined above. The Monitoring Officer should record receipt of the gift and decide whether the gift should be returned or forwarded to a local charity.
- 4.4 The following clause (or suitable alternative drafted by the Council's legal department) shall be put in every Council internally drafted contract:

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

- i. Offer, give or agree to give to anyone, any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
- ii. Commit an offence under the Bribery Act 2010 or Section 117 (2) of the Local Government Act 1972; or
- iii. Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees
- iv. Any clause limiting the Contractor's liability shall not apply to this clause."

5. **PRINCIPLES**

- 5.1 The CSO apply to any arrangement, **of any value**, made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials or services. '**Of any value**' includes where goods and services are provided free of charge under a framework panel agreement, or as a possible inducement to obtain future contracts.
- 5.2 The CSO do not apply to contracts for the acquisition, disposal or transfer of land or of any interest therein, for the lending or borrowing of money, or for a contract of employment which makes an individual a direct employee of the authority. Other Council policies and rules may apply to these types of contract, such as the Financial Regulations and Recruitment Policies. Further guidance should be obtained from Legal Services or the Business Support Manager as appropriate.
- 5.3 The following key principles apply to any procurement:-
- 5.3.1 All procurements must:-
- (a) realise value for money by achieving the best combination of highest quality of outcome and minimum whole life costs;
 - (b) achieve the highest standards of integrity;
 - (c) ensure fair and equal treatment of contractors;
 - (d) operate transparently, subject to any requirement for confidentiality;
 - (e) be in accordance with advice from Legal Services and Business Support Manager and as directed by the Monitoring Officer;
 - (f) comply with all legal requirements, Council priorities and policies; and

- (g) ensure that non-commercial considerations do not influence any contracting decision, except on ethical grounds or in the case of CSO 5.3.2.

5.3.2 For each procurement the Council must:

- (a) consider how the proposed procurement may improve the economic, social and environmental wellbeing of the District and how the Council can secure that improvement in carrying out the process of procurement;
- (b) ensure the contractor complies with relevant health and safety legislation and best practice in relation to the contractor's work force and business;
- (c) when there will be a TUPE transfer of Council staff, take steps to ensure that those staff are expressly given the right to join and participate in a trade union; and
- (d) consider whether to carry out any community consultation on the proposed procurement.

5.3.3 All contracts must be in writing and in accordance with CSO 23.

5.3.4 All contracts must be entered into prior to the commencement of the undertaking or the delivery of the goods or the performance of the services. If for any reason this is not possible the Monitoring Officer must be informed immediately by the Contracting Officer wanting to enter into the contract. The Monitoring Officer may allow the contract to commence before the agreement is signed in the exceptional circumstance where the harm caused by the delay in commencing the contract outweighs any risk in the contract not being completed. The Contracting Officer will need to show why it was not possible to complete the contract prior to commencement and ensure contracts are signed as soon as possible.

5.3.5 It is the Contracting Officer's responsibility to ensure all contracts are entered onto the Council's contract register and must be effectively monitored throughout the contract period. See CSO 24 for further information. All contracts with a specified duration should be recorded on the Contracts Register.

6. WAIVERS

6.1 Contracts made by the Council must comply with the CSO and the Procurement Strategy. However, if the Procurement Process in CSO 12 cannot be completed for an unforeseen reason, the process may be waived. A waiver allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with the requirements to ensure competition.

6.2 Waivers can only be considered in exceptional circumstances, and only if the procurement is under the UK Procurement Threshold. Considering a waiver must be risk based and always a last resort after all other options have been considered.

6.3 Waivers may be considered in, but not limited to, the following circumstances:-

- 6.3.1 Where the purchase of supplies or the execution of works or services involve specialist or unique skills or knowledge which cannot be obtained from other providers;
 - 6.3.2 where the Council require upgrades to existing software packages or require repairs to, or parts for, existing machinery or equipment that are specific to that machinery or equipment;
 - 6.3.3 the purchase of supplies or the works or services to be carried out constitute an extension of an existing contract provided that:-
 - (a) the original contract was procured through a best value exercise; and
 - (b) there is budget approval in place for the extension;
 - 6.3.4 if the Council has already engaged with an organisation for a similar and related procurement provided that the Council will not be exposed to unacceptable risk and there is significant benefit to extending the scope of the contract to cover this additional requirement;
 - 6.3.5 where, after advertising in accordance with the CSO, it has not been possible to obtain competitive prices for works, supplies or services;
 - 6.3.6 In relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
 - 6.3.7 If works, supplies or services are urgently needed for the immediate protection of life or property or to maintain the immediate functioning of a public service that the Council is responsible for, on the basis of an unforeseeable emergency
- 6.4 Unique skills or knowledge under a wavier in CSO 6.3.1 does not include knowledge gained because the contractor has worked for the Council previously. Previous skills or knowledge gained by working for the Council previously can only be used where the contractor is providing additional advice on a same or very similar issue that was not previously contracted for.
- 6.5 A wavier under 6.3.4 cannot be used to renew a contract where there is a continuation of the same product or service. It can only be used to extend a contract for additional products or services with the same provider.
- 6.6 A wavier under CSO 6.3.7 cannot be used to contract for a product or service where there has been a failure to manage the timescale to ensure compliance with the CSO.
- 6.7 In such circumstances Contracting Officers are required to seek advice from the Business Support Manager, namely with regards to Regulations [32](#) and [72](#) of the PCR 2015 and Legal Services in the first instance, and to notify the Section 151 Officer and Monitoring Officer of a potential failure to comply.

- 6.8 In order to request a waiver and for audit purposes the Contracting Officer must complete a waiver report having sought advice from the Business Support Manager. The waiver must address all of the following points:
- 6.8.1 the reasons why the waiver is being requested and reasons why the waiver is being requested;
 - 6.8.2 the process which is intended to be followed instead;
 - 6.8.3 Confirmation of approved budget.
- 6.9 The waiver report is to be sent to Legal Services where a member of the team will review the report and provide advice to confirm if the waiver applies. The waiver report will be completed on the Council's Delegated/Urgent Decision Record Form.
- 6.10 Legal Services will send the waiver report with their advice and recommendation to the Section 151 Officer and Monitoring Officer to confirm the approval or refusal of the waiver.
- 6.11 Once approved the waiver report will be returned to the Contracting Officer and copied to Legal Services.
- 6.12 The Contracting Officer must send a copy of the waiver to the relevant Director of Service and the order, which was the subject of the waiver report may now be placed.

Exceptional Waivers

- 6.13 If unusual circumstances arise that are not listed in CSO 6.3, the Contracting Officer must refer the waiver to their Director of Service who may apply for an exceptional waiver with the agreement of the Section 151 Officer and Monitoring Officer.
- 6.14 If an exceptional waiver is agreed, the Director of Service must prepare a Delegated/Urgent Decision Record setting out full details of the particular circumstances, the reasons for requiring an exceptional waiver of the procurement process and provide a risk assessment. The Delegated/Urgent Decision Record must be sent to the Section 151 Officer and Monitoring Officer and follow the same process set out in CSOs 6.9 to 6.12.
- 6.15 In the case of goods / supplies and works procured by businesses or community organisations seeking grant funding provided by the District Council acting in its role as Lead Local Authority for the UK Shared Prosperity Fund, the upper threshold for purchasing using three quotations shall be £75,000. A copy of the written specification and quotations obtained must be submitted with grant funding applications before such grant funding can be considered for approval. A specific waiver report or record will be required in such circumstances and the purchase will also be recorded in the grant/monitoring information retained as part of the DLUHC claims process
- 6.16 The Business Support Manager will maintain a register of waivers and breaches on behalf of the Monitoring Officer.

7. FRAMEWORK AGREEMENTS

7.1 Before considering calling off from a Framework Agreement, prior advice should be obtained from the Business Support Manager and Legal Services. Once advice is obtained a Business Case is to be submitted for approval by the relevant Director of Service in consultation with the Chief Executive.

7.2 A framework agreement is an agreement between the Council and the supplier or suppliers for the provision of goods, services or works. The framework agreement contains agreed terms for how instructions will be called off from time to time during the life of the framework. Where framework agreements are procured on behalf of or for the benefit of several contracting authorities (including the Council, which must be specifically mentioned or clearly identified by reference to a category in procurement of the framework agreement), the Council may then place orders against the framework if and when required during the framework period. Some frameworks allow for the Council to contract from the framework (to 'call off') either:-

(a) by applying the terms laid down in the framework agreement without reopening competition, provided that the terms laid down in the framework agreement are sufficiently precise as to cover the call off; or

(b) by holding a further competition if the terms in the framework agreement are not precise or complete enough for the particular call off, provided that the Council invite bids from the relevant organisations within the framework. The Council must give an appropriate time period for organisations to respond, taking into account the circumstances and complexity of the contract and must award the contract to the bidder who has submitted the best bid based on the award criteria set out in the framework agreement.

7.3 The Council is part of the EM Lawshare arrangement. This is a consortium of public sector providers who have joined together to procure a framework agreement for the provision of external legal advice. All successful legal firms appointed to the panel have provided fixed hourly rates and provide additional benefits, like free training. Instruction of external solicitors who are part of the panel do not require Legal Services to comply with the provision of CSO 7.1 or obtain 3 written quotes.

7.4 All requests for legal advice whether free or for payment must be obtained through Legal Services. If an officer wishes to request advice on an ongoing matter this request must also be made through Legal Services.

7.5 CSO 7.4 does not apply to legal advice and services provided for insurance claims instructed via the Council's external insurance claims handlers.

8. SPONSORSHIP

8.1 Sponsorship agreements, at their simplest, involves the payment of a sponsorship fee in exchange for publicity related benefits.

8.2 Sponsorship agreements must be entered into in compliance with these CSO and the Council's Sponsorship Policy.

| Contract Type (Risk) | Total Value | Procurement Process | Advertising requirements |
|-----------------------|-------------|--|---|
| Sponsorship Agreement | ALL | Director of Service approval Refer ALL decisions over £25,000 to the relevant Committee | Council's website Other appropriate channels as advised by Director of Service |

9. CONCESSION CONTRACTS

- 9.1 Concession contracts are contracts for a financial interest, where the 'payment' is either that the contractor has the right to exploit (profit from) the contract works/services, or that the contractor has such right together with some payment from the Council. The operating risk which comes from exploiting the works or services must pass to the contractor, and this risk must be more than a slight possibility of loss and involve real exposure to the changes of the market. Contracting Officers must contact Legal Services for assistance if they are unsure whether they are dealing with the procurement of a concession contract.
- 9.2 The CSO and Financial Regulations apply to all concession contracts.
- 9.3 Depending on the contract value, concession contracts may also be subject to the Concession Contract Regulations 2016. The current UK threshold for concession contracts is £5,336,937 inclusive of VAT from 1 January 2022. If a concession contract is valued at under this threshold, further advice must be obtained from the Business Services Manager, who will approve the appropriate procedure to follow. If a concession contract is valued at over this threshold, the procedure set out in the Concession Contract Regulations 2016 must be followed - officers must obtain further Legal and Procurement advice.

| Contract Type (Risk) | Total Value | Procurement Process | Advertising requirements |
|-----------------------------------|--|--|---|
| Concession Contracts (Low/Medium) | 0.01p up to £5,336,937 inclusive of VAT from 1 January 2022. | Invitation to tender (See paragraph 12.4 of CSO) | Council's website Contracts Finder (for projects above the value of £25,000) |
| Concession Contracts (High) | £5,336,937 inclusive of VAT from 1 January 2022. | The UK Threshold Level Procurement Procedure must be followed: See paragraph 12.5 of CSO | Council's website Contracts Finder Find a Tender service |

10. JOINT VENTURES AND PARTNERSHIPS

- 10.1 The CSO apply to any proposal for the Council to become involved in a joint venture, collaboration or partnership with third parties (whether with private or publicly funded providers), including the monitoring of any such arrangement.
- 10.2 Where purchases are proposed using arrangements with another local authority, government department, health authority, primary care trust, statutory undertaker or public service purchasing consortium the Monitoring Officer must be consulted and procurement and legal advice must be obtained.
- 10.3 The risks and resources required to undertake the relevant tasks and roles must be assessed before the project commences.
- 10.4 Both the CSO and the conditions of grant relating to procurement of goods and services must be followed if the procurement exercise is being undertaken and grant funding is being claimed. If there is any conflict between the CSO and the funder's conditions of grant, then the stricter requirement will prevail.
- 10.5 The partnership agreement must be signed in writing setting out the respective roles and responsibilities.
- 10.6 The partnership must remain under review and appropriate accounting and audit arrangements must be put in place.

11. VALUING THE CONTRACT

- 11.1 In estimating relevant contract values, Contracting Officers shall have regard to aggregation rules - this means the whole of the value or estimated value for a single contract, purchase or disposal calculated as follows:-
 - (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period
 - (b) where the purchase involves recurrent transactions in the coming twelve months, by taking the total price which might be paid during that period;
 - (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48
- 11.2 Contracting Officers shall also have regard to a contract whole life cost including any optional extension periods when estimating the contract value. Whole life cost is the value expected to be paid for the contract duration. A three year contract valued at £20,000 per annum would equate to a £60,000 whole life cost. If the Council is entitled to extend the contract for another year then the value of the contract will be £80,000.
- 11.3 Contracting Officers must not enter into separate contracts nor select a method of calculating the total value in order to minimise the application of the CSO.
- 11.4 All contracts must set out that payment will be paid in Great British Pounds (GBP). Payments shall not be made to a contractor in any other currencies.

11.5 From 1 January 2022, Contracting Officers should be aware that the Medium and High value thresholds are inclusive of VAT.

12. THRESHOLDS AND PROCEDURES

12.1 Contracting Officers should consider whether procuring within CSO 7 would be applicable to their particular procurement.

12.2 Where the estimated total value for a contract is within the values in the second column of the table below, as a minimum requirement, the procurement process in the third column must be followed. Contracting Officers should take procurement advice from the Business Support Manager or their appointed advisor (currently Derbyshire County Council).

| Contract Type (Risk) | Total Value | Procurement Process | Advertising requirements |
|--|---|--|--|
| Goods and Services | Up to £2,500 Single Purchase Excluding VAT | Budget Holders Authorisation | None |
| Goods, Services and Works (Low) | £2,501 up to £30,000 excluding VAT | 3 Quotes in writing (Details of the quotations should be provided to the Business Services Manager. Separate instructions should be sent to Legal Services to draft/review the contract to appoint before any order is placed). See paragraph 12.3 of the CSO | Optional Council's website Contracts Finder |
| Services (Medium) | £30,001 but less than £213,477 inclusive of VAT from 1 January 2022. | Invitation to tender (See paragraph 12.4 of CSO) | Council's website Contracts Finder |
| Works (Medium) | £30,001 up to £5,336,937 inclusive of VAT from 1 January 2022. | Invitation to tender (See paragraph 12.4 of CSO) | Council's website Contracts Finder |
| Goods (Medium) | £30,001 but less than £213,477 inclusive of VAT from 1 January 2022. | Invitation to tender (See paragraph 12.4 of CSO) | Council's website Contracts Finder |

| Contract Type (Risk) | Total Value | Procurement Process | Advertising requirements |
|---|---|--|--|
| Supplies and Services (High) | £213,477 and above inclusive of VAT from 1 January 2022). | The UK Threshold Level Procurement Procedure must be followed: See Paragraph 12.5 of the CSO | Council's website Contracts Finder Find a Tender service |
| Works (High) | £5,336,937 inclusive of VAT from 1 January 2022. | The UK Threshold Level Procurement Procedure must be followed: See paragraph 12.5 of CSO | Council's website Contracts Finder Find a Tender service |
| Social and other specific services (High)** | £663,540 Inclusive of VAT from 1 January 2022. | The UK Threshold Level Procurement Procedure must be followed: See Paragraph 12.5 of CSO | Council's website Contracts Finder Find a Tender service |

Prior advice on any medium value procurement **must** be obtained from the Business Support Manager or Legal Services, as appropriate.

** The limit for the Light Touch Procurement Regime where the list of applicable services are contained in Schedule 3 of the CPR 2015

| Risk | Example |
|----------------------------------|--|
| Low Risk - Goods | Purchase of tools, office Equipment |
| Low Risk – Services and Works | Consultant Services |
| Medium Risk - Goods | Larger Purchases – Vehicles, Machinery – any procurement over £30,000 but < £213,477 inclusive of VAT from 1 January 2022. |
| Medium Risk – Services and Works | Building Repair works – Any procurement over £30,000 but < £213,477 inclusive of VAT from 1 January 2022. |
| High Risk | Any procurement over £213,477 inclusive of VAT from 1 January 2022. |

Please note the above 'risks' are for guidance only – if you are unsure please refer your query to either the Business Support Manager or Legal Services

12.3 The Low Value Procurement Procedure

- Refer to the Council's Financial Regulations.

12.3.1 If the contract is uncomplicated and is of low business risk to the Council, three written competitive quotations must be obtained.

12.3.2 A quotation is a written priced offer to undertake a supply or service received in response to an invitation from a Contracting Officer. Quotations are processed routinely, as opposed to the sealed bids defined by the tender route.

12.3.3 Insofar as an officer uses the Council's Official Order, by raising a Purchase Order, for the purchase of low value Goods or Services, on the Council's standard terms and conditions, through the Agresso system, so as to award the Order to the best quote, Legal Services does not have to be consulted.

12.3.4 Insofar as Goods and Services are not purchased on the Council's standard terms and conditions the standard terms and conditions of the supplier or any bespoke terms and conditions agreed between the parties, Legal Services must be consulted before entering into the Order.

12.3.5 The Order is a legally binding contract and must be stored on Agresso, registered on the Contract Register in accordance with CSO 25 and monitored in accordance with CSO 27.

12.3.6 If the contract is of a complex nature or carries a business risk, officers must consider the risk to the Council and document this in writing. In order to assess business risk the Contracting Officer should give consideration to the purpose of the contract and any political sensitivity. For example; a minor works or maintenance contract may be low value but can carry a high business risk. If the works are not carried out correctly the Council's facility may need to be closed to the public whilst this is corrected or if the works are carried out dangerously, the Council could be liable for any personal injury sustained by a member of the public. Each outcome puts the Council at a high financial risk and carries a risk of bringing the Council into disrepute. Carrying out a tender process ensures that contractors are adequately evaluated to demonstrate performance, have suitable insurance and provides best value. Contracting Officers should obtain further advice if they are unsure how to assess risk for a project.

12.3.7 If the contract is of a complex nature or the risk is assessed as high, then the Medium Value Procurement Procedure must be followed; formal contract documents must be put in place to safeguard the Council against those risks. Further advice should be obtained from the Business Services Manager, who will advise on the appropriate procedure to follow.

12.4 The Medium Value Procurement Procedure

- **Refer to the Council's Financial Regulations.**

12.4.1 Prior advice on any medium value procurement **must** be obtained from the Monitoring Officer, or Business Services Manager, as appropriate. Insofar as the relevant contract for the procurement is the Council's standard terms and

conditions, Legal Services does not have to be consulted with respect to the terms of the contract. Insofar as the procurement does not incorporate Council's standard terms and conditions including the standard terms and conditions of the successful bidder or any bespoke terms and conditions agreed between the parties, Legal Services must be consulted before entering into the procurement.

12.4.2 Subject to adequate provision having been made in the approved estimates, the relevant Director of Service has authority to:-

12.4.2.1 invite tenders for the execution of works, including Schedules of Rates and Prices or the supply of goods, materials or services to the Council;

12.4.2.2 invite offers for the execution of works, the supply of goods, materials and services by the Council; and

12.4.2.3 enter into contracts or place orders on the Council's behalf accordingly provided that this authority shall not extend to any tender, contract or order where the original total estimated value exceeds the UK Threshold;

12.4.3 A tender is a response to a written invitation from a Contracting Officer to price for a supply or service, received by a password secured email by a specific date, opened at an agreed time in accordance with the CSO.

12.4.4 The initiation to tender must be advertised in accordance with the "Medium Procurement Advertising" at CSO 13.

12.4.5 The award of a contract is based on a tender, which is the most economically advantageous tender in accordance with the pre-determined evaluation criteria. This can include assessment on the basis of price/cost as well as other methods equivalent to value for money, which can include social and environmental requirements provided they relate to the contract.

12.5 The UK Threshold Value Procurement Procedure

- **The UK Procurement Rules apply therefore the procurement process must comply with both the CSO and with the PCR 2015.**
- **Refer also to the Council's Financial Regulations.**

12.5.1 The Director of Service must have sought prior advice on the UK Procurement Rules, the form of tender, specification and evaluation criteria from the Business Services Manager or the Council's external procurement provider (currently Derbyshire County Council). A brief summary of the types of tender procurement options are noted below.

(a) Contract awards which are estimated to exceed the UK Thresholds in value or amount shall be subject to a suitability assessment. Advice

should be obtained from the Business Services Manager or the Council's external procurement provider.

- (b) Procurement of the supply of services, goods or materials or the execution of work shall be advertised in accordance with UK Procurement Advertising set out in CSO 13 below and as appropriate for the individual procurement, a trade journal or local press may be required to allow the services market to be opened up to competition. Procurement advice must be obtained from the Business Services Manager or the Council's external procurement provider before sending any UK contract notices to the Find a Tender Service.

12.6 Tender Procurement Options

There are five tender procurement options which the Council may use. In summary they are:-

| | |
|---|--|
| Open | All suppliers who request tender documentation will be invited to submit a tender by a set date. Following evaluation the contract will be awarded to the successful bidder. The open tender procedure is normally only used where the known marketplace is limited, and the Council needs to seek out extra interest, or where the timescale does not allow the two stage restricted tender procedure to be followed |
| Restricted | This is a two stage process. The first stage involves a suitability assessment where a short list of a minimum of 5 suppliers is identified. In the second stage suppliers are invited to respond to an Invitation to Tender (ITT). The contracts are awarded to the successful supplier following analysis of the ITT. |
| Competitive Dialogue | This is used for more complex procurements. The first stage involves a pre-qualification assessment, where a shortlist of a minimum of 3 suppliers is identified. The following stages, which allow for the reduction in the number of bidders involved in the process, include a successive series of dialogue sessions and submissions (outline solution, detailed solution, revised solution (optional) and final tender). After final tenders have been submitted limited post tender negotiations with the preferred bidder are permitted (as set out in PCR 2015 30(20) and an award is subsequently made. |
| Competitive Procedure with negotiation | This is multi-stage process. The first stage involves a prequalification assessment, where a shortlist of a minimum of 3 suppliers is identified. In the second stage suppliers are invited to respond to an Invitation to Tender (ITT). The Council may then award based on initial tenders or open negotiations with suppliers to seek improved offers, prior to a further invitation to submit revised and/or final tenders. After the final ITT has been issued no further negotiation is allowed, except discussion to clarify or fine tune the tender. An award is subsequently made. |

| | |
|--|--|
| Open | All suppliers who request tender documentation will be invited to submit a tender by a set date. Following evaluation the contract will be awarded to the successful bidder. The open tender procedure is normally only used where the known marketplace is limited, and the Council needs to seek out extra interest, or where the timescale does not allow the two stage restricted tender procedure to be followed |
| Negotiated Position without prior publication | In certain narrowly defined permitted circumstances the contracting authority may also award a contract using the 'negotiated procedure without prior publication'. The Council approaches one or more suppliers seeking to negotiate the terms of the contract. |
| Innovation Partnership | This provides for a selection to be made of those who respond the advertisement. The Council uses a negotiated approach to invite suppliers to submit ideas to develop innovative products, services or works aimed at meeting a need for which there is no suitable existing products on the market. |

13. ADVERTISING

- 13.1 The contract opportunity should be advertised in accordance with the relevant Tables at CSOs 8, 9 and 12 and be based on the individual circumstances of the procurement and in accordance with the Procurement Strategy. The methods chosen must allow the market to be opened up to competition and the impartiality of the procurement to be reviewed. Advice should be obtained from the Business Support Manager
- 13.2 The advertisement will include details of contracts to be awarded and the award method.
- 13.3 Officers should obtain guidance on the advertisement requirements for any particular procurement from the Business Support Manager via Council's external procurement provider

14. EVALUATION CRITERIA

- 14.1 All evaluation criteria must have been determined in advance of requesting quotes or entering into the tender process. Evaluation criteria must be put into order of importance on the evaluation sheet.
- 14.2 All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.
- 14.3 Weighting between price and non-price elements of the tender will be strongly influenced by the contract type goods or services. All contracts need to use a cost effectiveness approach to weight the importance of the non-price elements against cost to achieve the most economically advantageous balance between quality and price. Non-price elements of the evaluation criteria can include life cycle costing, equalities, business continuity, environmental and sustainability considerations.
- 14.4 The evaluation criteria must be published in the tender pack and the documentation should clearly explain to bidders the basis of how the decision will be made. It should

be made clear how the evaluation criteria specified will be applied, the weightings to be attached to each criteria, how the criteria are divided into any sub-criteria and the weightings attached to each of those sub criteria.

15. OBTAINING QUOTES

- 15.1 All contractors invited to quote must be given an adequate period in which to prepare and submit a proper quotation, consistent with the complexity of the contract requirement (typically at least one week should be allowed for submission of a quote).
- 15.2 All contractors invited to quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 15.3 All invitations to quote shall include:
- (a) the specification detailing the Council's requirements to enable the submission of competitive offers;
 - (b) the Council's terms and conditions;
 - (c) the closing date and time for the receipt of quotation and confirmation that no quotations received after that date and time will be considered
- 15.4 Legal Services must be consulted if the contractor refuses to accept the Council's Standard Terms and Conditions.

16. INVITATION TO TENDER

- 16.1 All contractors invited to tender must be given an adequate period in which to prepare and submit a proper tender, consistent with the complexity of the contract requirement (typically at least four weeks should be allowed for submission of tenders). Where the Public Contract Regulations 2015 apply the Regulations lay down specific minimum time periods for tenders; advice on this can be sought from the Business Support Manager.
- 16.2 All contractors invited to tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 16.3 All invitations to tender shall include:
- (a) the specification detailing the Council's requirements to enable the submission of competitive offers;
 - (b) the Council's terms and conditions of contract that will apply which;
 - (c) a requirement for candidates to complete fully and sign or show acceptance of all tender documents;
 - (d) a requirement for tenderers to declare that the content, price or any other figure or particulars concerning the tender have not been disclosed by the candidate to any other party;
 - (e) a requirement that the tender shall be sent electronically using the Council's approved e-tendering portal;

- (f) a statement that failure to comply with any of the foregoing requirements will render a tender liable to disqualification;
- (g) the closing date and time for the receipt of tenders and confirmation that no tenders received after that date and time will be considered
- (h) a statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; nor shall the Council have to give reasons for the rejection of any tender and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.

16.4 Where the Council encounters a system failure of the e-tendering portal which disadvantages any potential bidder from submitting their bid; the Council has discretion to extend the period of submission for tenders. Where the Council chooses to extend a deadline it is important that all bidders are treated equally and are aware of, and, given the extension. Where a bidder is at fault for failing to comply with a tender deadline the Council is under no obligation to extend the deadline but will consider each case on its merits and seek advice of the legal services department.

16.5 All tenders shall be kept within the secure area of the Council's e-tendering portal until the time appointed for their opening.

16.6 The electronic receipt issued within the Council's e-tendering portal will be accepted as proof of an electronic submission.

17. CLARIFICATION PROCEDURES

17.1 Clarifying an invitation to tender to potential or actual candidates or seeking clarification of a tender whether in writing or by way of a meeting is permitted, provided that any such clarification does not improve the bidding organisation's submission or provide additional information that may improve their score.

17.2 Where the circumstances so warrant a Director of Service following consultation with the Monitoring Officer may postpone, for a reasonable period, the closing time and date for receipt of tenders, provided that all persons from whom tenders have been invited are notified by the same method and that no tenders have been opened.

18. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS

18.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to tenderers.

18.2 Appropriate financial checks should be made for those contractors invited to bid for medium or high value Goods and Services. The Contracting Officer should liaise with the Council's Internal Auditor who will undertake financial and resource appraisals.

18.3 For procurements over the UK Threshold, the evaluation team appointed to evaluate tenders received must act under the main principle of independence. The evaluation team should therefore consist of the Contracting Officers, other officers from independent service areas, the Business Support Manager (or a designated procurement officer from Derbyshire County Council) and a Finance Officer. Any

officer who has any interest in the proposed contract (including any involvement in any product trials, etc.) must not be a member of the evaluation team and declare an interest as contained in CSO 3.

- 18.4 If an error or discrepancy is identified on examining tender submissions, the tenderer is to be given details of such error or discrepancy and afforded an opportunity of confirming or withdrawing their tender. An exception to this may be authorised only by Section 151 Officer following advice from Legal Services and completion of a record of decision.
- 18.5 In accordance with Regulation 57 of the Public Contract Regulations 2015, any company responding to a UK tender shall be excluded from the tender process if it or its directors have been convicted of conspiracy, corruption, bribery, fraud or money laundering, terrorist offences or offences linked to terrorist activities, Money laundering or terrorist financing, Child labour and other forms of trafficking human beings, Non-payment of tax and social security contributions and any other offence within the meaning of Regulation 57. Any instances where a service has information relating to these practices must contact the Section 151 Officer.
- 18.6 Before any notification of award is provided to the bidders the final evaluation sheet must be signed off by the relevant Contracting Officer.
- 18.7 The Council must notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as soon as reasonably possible. The notification of the award decision should advise the tenderer that they are successful without formally committing the Council to an implied form of contract. The notification should contain:-
 - the award criteria
 - the score the tender obtained against those award criteria
 - the score of the winning tender achieved
 - the name of the winning tenderer
 - the relative advantages of the winning Tenderers bid
- 18.8 Tenderers should be offered a debrief, whether successful or not, to assist them in preparing future bids. The relevant officer should also retain a record of all debrief requests and responses.
- 18.9 If a standard form of contract is stipulated in the tender documents this should be prepared and issued as part of the tender documentation, but would need to be completed/populated by Legal Services at this stage.
- 18.10 Works must not commence on site nor should services be provided until the formal contract is executed and all terms and conditions have been agreed between the parties concerned.
- 18.11 Where procurement has been subject to the PCR 2015, there must be a standstill period of 10 days before a contract can be awarded. This is to allow an unsuccessful bidding organisation an opportunity to challenge the proposed decision to award. This period should be included in the procurement timetable before the contract can be awarded.

19. NOMINATED SUB-CONTRACTORS

- 19.1 In the CSO any reference to a contract shall, where appropriate, also be taken to include a sub-contract.
- 19.2 The appropriate Director of Service or person nominated by him/her shall, after advertising the procurement, regardless of the value of the sub-contract, be authorised to nominate to the main contractor the person/organisation whose tender or quotation is, in his/her opinion, the most economically advantageous tender.
- 19.3 The terms of the invitation shall require an undertaking by the tenderer that if he/she is selected he/she will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his/her obligations under the main contract in relation to the work or goods included in the sub-contract.

20. RISK REGISTER

- 20.1 For contracts where risk is evident and for all contracts over the UK Threshold in force from time to time, the Contracting Officer is required to notify the Director of Service for inclusion on the corporate risk register.

21. GUARANTEE BONDS

- 21.1 The Director of Service may as part of a risk assessment decision require the contractor to provide a performance bond. The Section 151 Officer approval must be sought where the bond provision is waived. Such an approval should be in writing and documented on the file.

22. CONTRACT DOCUMENTATION

- 22.1 All contract documentation must be in writing, identify the terms and conditions that apply.
- 22.2 In the first instance, officers should seek to incorporate the Council's standard terms and conditions into the contract the Council is proposing to be a party to. It is recognised that there may be circumstances where incorporating the Council's standard terms and conditions may not be appropriate. This includes, but is not limited to:
- 22.2.1 Entering into licencing agreements wherein the licensor's standard terms and conditions will almost always apply e.g. licence to use Microsoft Software;
- 22.2.2 Contracts called off under a Framework Agreement as the Framework Agreement incorporates its own call-off contract terms;
- 22.2.3 Circumstances where the Council has a weak bargaining position e.g. entering into a contract with a utility provider; and
- 22.2.4 Circumstances where a bespoke form of contract is being entered into.

- 22.3 Legal Services must be consulted where the Council's standard terms and conditions are not to be incorporated into the proposed contract.
- 22.4 Save for the discrete circumstances noted at CSO 22.2 above, all contracts:
- 22.4.1 shall expressly prohibit the contractor from transferring, assigning or sub-letting the whole or any part of the contractor's contractual obligations without the prior written permission of the Council.
- 22.4.2 must specify that payments are to be paid in GBP.
- 22.4.3 include the Council's standard provisions regarding freedom of information and data protection compliance.
- 22.4.4 include the following provision "The Supplier/Contractor must comply with the Council's Safeguarding Children and Vulnerable Adults Policy from time to time in force or, if the Supplier/Contractor has their own policy, this must have been approved as an adequate substitute by the Council".
- 22.5 Every contract which is for the carrying out of works shall require the contractor to indemnify the Council against any claim which may be made in respect of personal injury to any person unless due to the negligence of the Council and against any claim for damage to property of third parties due the negligence of the contractor to the value approved by the Section 151 Officer. The contractor shall upon demand produce satisfactory evidence that he/she is insured against any such claims.
- 22.6 Wherever possible, Contracts shall require goods and materials used in their execution and all workmanship to be in accordance with a specified British Standard. Only if no British Standard exists should a European or other Equivalent Standard be stated.
- 22.7 Every contract which is for the carrying out of works shall specify the work, materials, matters or things to be furnished, had or done, the price to be paid with a statement of discounts or other reductions and the time or times within which the contract is to be performed.
- 22.8 A contract for the supply of goods or materials shall provide that if a contractor fails to deliver part or all of the goods or materials within the time(s) specified the Council may determine the contract either wholly or in part and purchase other goods or materials of the same or similar description to make good such default, or in the event of the contract being wholly determined to acquire goods or materials remaining to be delivered.
- 22.9 The contract shall also provide that the amount by which the cost of purchasing other goods or materials exceeds the corresponding amount which would have been payable to the contractor shall be recoverable from the contractor.
- 22.10 Where appropriate, and as advised by Legal Services, a contract shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed. If advised appropriate, the amount of liquidated damages to be

specified in each such contract shall be determined by the Director of Service following consultation with the Monitoring Officer

22.11 A contract for more than £2,500, to be entered into on a supplier's terms or negotiated terms must not be signed unless reviewed by Legal Services and until the Monitoring Officer has confirmed acceptance of the contract terms.

23. SIGNING THE CONTRACT DOCUMENTATION

23.1 All contracts must be signed by the Council before the contract provisions begin. Refer to CSO 5.3.4.

23.2 Where a contract is to be signed underhand, electronic signatures may not be used where statute imposes a requirement for the document to be in writing with an original signature. Advice should be sought from Legal Services where there is uncertainty. Examples include property transactions, transfer of securities, assignments of copyright etc.

23.3 Where the contract is to be the form of a deed, the contract must be signed under the Council's seal and attested as required by the Constitution.

23.4 A contract must be executed as a Deed where:

- the Council wishes to enforce the contract for more than six years after it ends;
- the Monitoring Officer so directs.

Contract Value Signatory/Execution Requirements

| Contract Type (Risk) | Value | Requirement |
|-----------------------------|----------------------|---|
| Goods & Services | Up to £2,500 | Authorised budget holder |
| Goods, Services and Works | £2,501 up to £30,000 | Formalised by the issue of an award letter (signed by the relevant Director of Service) and the subsequent issuing of a purchase order and the Council's standard Terms and Conditions (where appropriate). |
| Goods, Services and Works | Over £30,001 | Formal contract documentation executed as a Deed |
| Sponsorship Agreements | ALL | Formal contract documentation signed by the Monitoring Officer, the Section 151 Officer or Chief Executive, or any Director of Service reporting to the Chief Executive |
| Concession Contracts | ALL | Formal contract documentation signed by the Monitoring Officer, the Section 151 Officer or Chief Executive or any Director of Service reporting to the Chief Executive |

24. STORAGE OF CONTRACT DOCUMENTATION

24.1 Once the contract documentation has been signed and dated, the Contracting Officer must pass the documentation listed below to Legal Services who will then arrange for the documentation to be stored in the Council's strong room, in accordance with the Council's Document Retention Policy.

- Copy of Contract
- Copy of any waiver
- Copy of 3 written quotes with reasons for the decision to accept the successful quote (if applicable)
- Completion Notice
- Any formal tender documents as detailed in CSO 26

25. CONTRACT REGISTER

25.1 Contracts over £5000 are onto be entered onto the Contracts Register

25.2 Following the distribution of the completion memorandum referred to at CSO 24, the Contracting Officer will liaise with the Business Support Manager to arrange for the contract details to be entered onto the Council's Contract Register.

26. RECORDS

26.1 Contracting authorities are required by PCR 2015 to maintain comprehensive records of procurement activities, including:-

- (a) the rationale for the procurement route taken
- (b) the officer(s) undertaking the procurement process and taking the decisions
- (c) a copy of the business case and risk assessment (where appropriate)
- (d) names of bidding organisations, both successful and unsuccessful along with copies of all tenders and suitability assessment questions
- (e) the selection decision and reasons for selection, criteria, weighting and scores
- (f) copy of the award letter and other notification letters
- (g) the contract details including the value, how this is broken down and calculated
- (h) copy of the final contract
- (i) copy of the contract review and management process including the officer responsible for on-going contract management
- (j) reasons for abandoning a procedure.

27. CONTRACT SUPERVISION, MONITORING AND REVIEW

27.1 The Contracting Officer must ensure that the contract is performed as per the specification. For every contractual relationship the relevant Director of Service shall appoint a suitably qualified, experienced and trained officer to be the contract manager. The contract manager shall be responsible for actions such as:

- (a) Regularly reviewing management information and supplier performance (as detailed in the tender and contract documentation).

- (b) Meeting with the supplier at a frequency appropriate to the contract value (but no less than annually) to discuss contract compliance, performance, service development, innovation etc.
- (c) Dealing with instances of off and non-contract spend within the Council.
- (d) Benchmarking the Contract to ensure it continues to provide Best Value for Money.
- (e) Monitoring any ongoing efficiency savings and reporting these to the Director of Service.
- (f) Monitoring that all outputs and outcomes (including social value commitments) are delivered and take appropriate action where a Supplier fails to perform.
- (g) Make recommendations about options for future procurements / extensions to the Contract

27.2 The relevant Director of Service will be accountable for ensuring the contract performance is supervised, monitored and reviewed. Any failure to follow the terms and conditions of the contract must be reported to the Monitoring Officer.

27.3 If the Council appoint any person (not being an officer of the Council) to supervise a contract, then it shall be a condition of such appointment that in relation to such contract he/she shall comply with the CSO and Financial Regulations as if he/she were a Director of Service of the Council.

28. VARYING THE CONTRACT TERMS

28.1 Any changes to contract terms during the contract period are not permitted without prior approval from Legal Services. A copy of the original contract must be supplied to Legal Services for review. Any variations must comply with the CSO or UK Regulations as applicable. The Decision to vary a contract must be recorded on a Delegated Decision Form signed by the relevant Director of Service unless the decision must be referred to members.

29. EXTENDING THE CONTRACT

29.1 Extensions of the contract beyond the contract period originally awarded or indicated spend are not permitted without prior consultation with Legal Services. A copy of the original contract must be supplied to Legal Services for review. Any extension must comply with the CSO or UK Regulations as applicable. The Decision to extend a contract must be recorded on a Delegated Decision Form signed by the relevant Director of Service unless the decision must be referred to members.

29.2 Following the extension of the contract the Contracting Office must ensure that CSOs 24 and 25 above are completed in relation to the extended contract

30. REVIEW AND AMENDMENT OF THE CSO

30.1 The Monitoring Officer is authorised to make technical amendments from time to time to ensure that these Rules are consistent with legislative requirements, best practice guidance issued from central government and changes in Council policies, procedures and personnel.

30.2 A formal review and update of the CSO Rules will take place at least every two years.

APPENDIX 1

Regulation 32 of PCR 2015

32. - Use of the negotiated procedure without prior publication

(1) In the specific cases and circumstances laid down in this regulation, contracting authorities may award public contracts by a negotiated procedure without prior publication.

(2) *General grounds*

The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:—

a) where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered and that a report is sent to the Cabinet Office if it so requests;

b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—

(i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,

(ii) competition is absent for technical reasons,

(iii) the protection of exclusive rights, including intellectual property rights,

but only, in the case of paragraphs (ii) and (iii), where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;

c) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with.

(3) For the purposes of paragraph (2)(a)—

a) a tender shall be considered not to be suitable where it is irrelevant to the contract, being manifestly incapable, without substantial changes, of meeting the contracting authority's needs and requirements as specified in the procurement documents;

b) a request to participate shall be considered not to be suitable where the economic operator concerned—

(i) is to be or may be excluded under regulation 57, or

(ii) does not meet the selection criteria.

(4) For the purposes of paragraph (2)(c), the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.

(5) *Additional grounds relevant to public supply contracts*

The negotiated procedure without prior publication may be used for public supply contracts—

(a) where the products involved are manufactured purely for the purpose of research, experimentation, study or development, but contracts awarded in reliance on this subparagraph shall not include quantity production to establish commercial viability or to recover research and development costs;

(b) for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;

(c) for supplies quoted and purchased on a commodity market;

(d) for the purchase of supplies or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.

(6) In the case of paragraph (5)(b), the duration of the contract, as well as that of recurrent contracts, shall not, save in exceptional circumstances, exceed 3 years.

(7) *Additional ground relevant to public service contracts that follow a design contest*

The negotiated procedure without prior publication may be used for public service contracts where the contract concerned—

(a) follows a design contest organised in accordance with this Part, and

(b) is to be awarded, under the rules provided for in the design contest, to—

(i) the winner of the design contest, or

(ii) one of the winners of the design contest.

(8) Where paragraph (7)(b)(ii) applies, all winners must be invited to participate in the negotiation.

(9) *Additional ground relevant to new works or services which repeat similar ones*

The negotiated procedure without prior publication may be used for new works and services consisting of the repetition of similar works or services entrusted to the economic operator to which the same contracting authority awarded an original contract, provided that such works or services are in conformity with a basic project for which the original contract was awarded following a procedure in accordance with regulation 26(1) and (2).

- (10) The basic project shall indicate the extent of possible additional works or services and the conditions under which they will be awarded.
- (11) As soon as the first project is put up for tender, the possible use of this procedure shall be disclosed and the total estimated cost of subsequent works or services shall be taken into consideration by the contracting authority when it applies regulation 5.
- (12) This procedure may be used only during the 3 years following the conclusion of the original contract.

APPENDIX 2

REGULATIONS 57 PCR 2015”

57.— Exclusion grounds: Mandatory exclusions

- (1) Contracting authorities shall exclude an economic operator from participation in a procurement procedure where they have established, by verifying in accordance with regulations 59, 60 and 61, or are otherwise aware, that that economic operator has been convicted of any of the following offences:—
 - (a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 19771 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 19832 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime³;
 - (b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 18894 or section 1 of the Prevention of Corruption Act 19064;
 - (c) the common law offence of bribery;
 - (d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010, or section 113 of the Representation of the People Act 19835;[...]⁶
 - (f) any offence listed—
 - (i) in section 41 of the Counter Terrorism Act 2008; or
 - (ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;
 - (g) any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);
 - (h) money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 20027;
 - (i) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 19888 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 19969;
 - (j) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 200410;
 - (k) an offence under section 59A of the Sexual Offences Act 200311;
 - (l) an offence under section 71 of the Coroners and Justice Act 2009;[...]¹²
 - (m) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 199413 ; [...]¹⁴ [(ma) an offence under section 1, 2 or 4 of the Modern Slavery Act 2015; or]¹⁴
 - (n) any other offence within the meaning of [Article 57(1)(a), (b), (d), (e) or (f)]¹⁵ of the Public Contracts Directive—
 - (i) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or
 - (ii) created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.
- (2) The obligation to exclude an economic operator also applies where the person convicted is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control in the economic operator.

(3) *Mandatory and discretionary exclusions for non-payment of taxes etc*

An economic operator shall be excluded from participation in a procurement procedure where—

- (a) the contracting authority is aware that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions; and
- (b) the breach has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any of the jurisdictions of the United Kingdom.

(4) Contracting authorities may exclude an economic operator from participation in a procurement procedure where the contracting authority can demonstrate by any appropriate means that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions.

(5) Paragraphs (3) and (4) cease to apply when the economic operator has fulfilled its obligations by paying, or entering into a binding arrangement with a view to paying, the taxes or social security contributions due, including, where applicable, any interest accrued or fines.

(6) *Exceptions to mandatory exclusion*

A contracting authority may disregard any of the prohibitions imposed by paragraphs (1) to (3), on an exceptional basis, for overriding reasons relating to the public interest such as public health or protection of the environment.

(7) A contracting authority may also disregard the prohibition imposed by paragraph (3) where an exclusion would be clearly disproportionate, in particular—

- (a) where only minor amounts of taxes or social security contributions are unpaid; or
- (b) where the economic operator was informed of the exact amount due following its breach of its obligations relating to the payment of taxes or social security contributions at such time that it did not have the possibility of fulfilling its obligations in a manner described in paragraph (5) before expiration of the deadline for requesting participation or, in open procedures, the deadline for submitting its tender.

(8) *Discretionary exclusions*

Contracting authorities may exclude from participation in a procurement procedure any economic operator in any of the following situations:—

- (a) where the contracting authority can demonstrate by any appropriate means a violation of applicable obligations referred to in regulation 56(2);
- (b) where the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator

or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;

- (c) where the contracting authority can demonstrate by appropriate means that the economic operator is guilty of grave professional misconduct, which renders its integrity questionable;
- (d) where the contracting authority has sufficiently plausible indications to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition;
- (e) where a conflict of interest within the meaning of regulation 24 cannot be effectively remedied by other, less intrusive, measures;
- (f) where a distortion of competition from the prior involvement of the economic operator in the preparation of the procurement procedure, as referred to in regulation 41, cannot be remedied by other, less intrusive, measures;
- (g) where the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;
- (h) where the economic operator—
 - (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or
 - (ii) has withheld such information or is not able to submit supporting documents required under regulation 59; or
- (i) where the economic operator has—
 - (i) undertaken to—
 - (aa) unduly influence the decision-making process of the contracting authority, or
 - (bb) obtain confidential information that may confer upon it undue advantages in the procurement procedure; or
 - (ii) negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

(9) *Exclusion during procedure*

Contracting authorities shall exclude an economic operator where they become aware, at any time during a procurement procedure, that the economic operator is, in

view of acts committed or omitted either before or during the procedure, in one of the situations referred to in paragraphs (1) to (3).

(10) Contracting authorities may exclude an economic operator where they become aware, at any time during a procurement procedure, that the economic operator is, in view of acts committed or omitted either before or during the procedure, in one of the situations referred to in paragraphs (4) or (8).

(11) *Duration of exclusion*

In the cases referred to in [paragraphs (1) and (2)]¹⁶, the period during which the economic operator shall (subject to paragraphs (6), (7) and (14)) be excluded is 5 years from the date of the conviction.

(12) In the [situations referred to in paragraph (8)]¹⁷, the period during which the economic operator may (subject to paragraph (14)) be excluded is 3 years from the date of the relevant event.

(13) *Self-cleaning*

Any economic operator that is in one of the situations referred to in paragraph (1) or (8) may provide evidence to the effect that measures taken by the economic operator are sufficient to demonstrate its reliability despite the existence of a relevant ground for exclusion.

(14) If the contracting authority considers such evidence to be sufficient, the economic operator concerned shall not be excluded from the procurement procedure.

(15) For that purpose, the economic operator shall prove that it has—

- (a) paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- (b) clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
- (c) taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

(16) The measures taken by the economic operator shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct.

(17) Where the contracting authority considers such measures to be insufficient, the contracting authority shall give the economic operator a statement of the reasons for that decision.

APPENDIX 3

Regulations 72 PCR 2015”

72.— Modification of contracts during their term

- (1) Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:—
 - (a) where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses—
 - (i) state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
 - (ii) do not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;
 - (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—
 - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and
 - (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority,provided that any increase in price does not exceed 50% of the value of the original contract;
 - (c) where all of the following conditions are fulfilled:—
 - (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
 - (ii) the modification does not alter the overall nature of the contract
 - (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.
 - (d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of—
 - (i) an unequivocal review clause or option in conformity with sub-paragraph (a),
or

- (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Part;
 - (e) where the modifications, irrespective of their value, are not substantial within the meaning of paragraph (8); or
 - (f) where paragraph (5) applies.
- (2) Where several successive modifications are made:—
- (a) the limitations imposed by the proviso at the end of paragraph (1)(b) and by paragraph (c)(iii) shall apply to the value of each modification; and
 - (b) such successive modifications shall not be aimed at circumventing this Part.
- (3) Contracting authorities which have modified a contract in either of the cases described in paragraph (1)(b) and (c) shall [submit]² a notice to that effect, in accordance with regulation 51, for publication.
- (4) Such a notice shall contain the information set out in part G of Annex 5 to the Public Contracts Directive , but as if—
- (a) paragraph 9 (financing by EU funds) were omitted;
 - (b) in paragraph 11, "in the Official Journal of the European Union" read "on the UK e-notification service (within the meaning of the Public Contracts Regulations 2015)"; and
 - (c) in paragraph 12, "*date of dispatch*" were a reference to the date on which the notice is submitted to the UK e-notification service for the purposes of these Regulations.
- (5) This paragraph applies where the value of the modification is below both of the following values:—
- (a) the relevant threshold mentioned in regulation 5, and
 - (b) 10% of the initial contract value for service and supply contracts and 15% of the initial contract value for works contracts,
- provided that the modification does not alter the overall nature of the contract or framework agreement.
- (6) For the purposes of paragraph (5), where several successive modifications are made, the value shall be the net cumulative value of the successive modifications.
- (7) For the purpose of the calculation of—

- (a) the price mentioned in paragraph (1)(b) and (c), and
- (b) the values mentioned in paragraph (5)(b),

the updated figure shall be the reference figure when the contract includes an indexation clause.

- (8) A modification of a contract or a framework agreement during its term shall be considered substantial for the purposes of paragraph (1)(e) where one or more of the following conditions is met:—
 - (a) the modification renders the contract or the framework agreement materially different in character from the one initially concluded;
 - (b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have—
 - (i) allowed for the admission of other candidates than those initially selected,
 - (ii) allowed for the acceptance of a tender other than that originally accepted, or
 - (iii) attracted additional participants in the procurement procedure;
 - (c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;
 - (d) the modification extends the scope of the contract or framework agreement considerably;
 - (e) a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in paragraph (1)(d).
- (9) A new procurement procedure in accordance with this Part shall be required for modifications of the provisions of a public contract or a framework agreement during its term other than those provided for in this regulation.



Financial Regulations Effective from 1 October 2023

Approved by Full Council on 28 September 2023

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1 INTRODUCTION

1.1 Background

- 1.1.1. Section 151 of the Local Government Act 1972 requires the Council to make arrangements for the proper administration of its financial affairs. It is required to conduct its business efficiently and to ensure that it has sound financial management policies in place and that they are strictly adhered to. Financial regulations, which set out the financial policies of the Council, are the means by which the Council meets that requirement.
- 1.1.2. Financial regulations set out a clear regulatory framework and define those accountable for the use of the Council's resources. They state not only what has to be done, but who is responsible for it. They apply to every Member and employee of the Council and anyone acting on its behalf, including partnerships which are subject to formal partnership arrangements.
- 1.1.3. These Financial Regulations are based upon CIPFA guidance with amendments to reflect the Council's requirements and arrangements.
- 1.1.4. Readers of these financial regulations should link them to other internal regulatory frameworks which form part of the Council's constitution - for example – contract standing orders, schemes of delegation, Responsibility for Functions, and Employees' and Councillors' Codes of Conduct, which include specific issues such as hospitality and gifts. Consideration should also be given to the Council's policies relating to Anti-Fraud, Bribery and Corruption, Anti-Money Laundering, Confidential Reporting (Whistleblowing), Procurement and Employment.

1.2 Status of financial regulations

- 1.2.1. Financial Regulations apply to every Member and employee of the Council and anyone acting on its behalf.
- 1.2.2. Financial Regulations provide the framework for managing the Council's financial affairs. They also form an important element in the Council's overall Corporate Governance Framework.
- 1.2.3. Financial Regulations are to be used in conjunction with the Constitution, Contract Standing Orders and Scheme of Delegation. The Director of Resources, in consultation with the Monitoring Officer, shall determine any matter on which conflict may arise.
- 1.2.4. Financial Regulations are approved by the Council and are usually reviewed at each annual meeting.

1.2.5. The Financial Regulations set out the responsibilities and expectations of:

- Full Council, Committees and Members (Councillors)
- The Chief Financial Officer (CFO)*
- The Monitoring Officer (Director of Corporate & Customer Services)
- The Head of Paid Service (Chief Executive)
- The Corporate Leadership Team
- Designated budget holders and Senior Managers
- All other employees
- Organisations acting on behalf of the Council.

*Reference to the 'CFO' in this document means the Officer appointed to act as Section 151 Officer i.e. the Director of Resources.

1.2.6. All Members and employees have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised and provides value for money.

1.2.7. The Director of Resources shall be the responsible financial officer for the proper administration of the financial affairs of the Council in accordance with Section 151 of the Local Government Act 1972 and all accounting procedures, systems and records of the Council and its officers shall be determined by the Director of Resources. The Director of Corporate and Customer Services as Monitoring Officer has responsibilities for legal compliance.

1.2.8. The Director of Resources is also the responsible officer under Section 114 of the Local Government Finance Act 1988 for reporting to Council if the authority:

- (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority,
- (c) is about to enter an item of account the entry of which is unlawful.

In addition, the Director of Resources is under a duty to report to Council if it appears that the expenditure of the authority incurs (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

1.2.9. The Director of Resources is responsible for:

- maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to full Council for approval;
- reporting, where appropriate, breaches of the Financial Regulations to the Council and any other appropriate committees;

- issuing advice and guidance to underpin the Financial Regulations that Members, employees and others acting on behalf of the Council are required to follow.
- 1.2.10. No item shall be placed before the Council or its Committees without obtaining the Director of Resources' assessment of its financial implications and financial risk. Any report containing new proposals shall include a financial risk assessment by the Director of Resources.
- 1.2.11. The Director of Resources shall support these Financial Regulations with the issue of more detailed instructions to Directors from time to time, including the issue of formal Financial Procedures.
- 1.2.12. The Director of Resources is responsible for maintaining a continuous review of Financial Regulations. Any changes to Financial Regulations shall be subject to approval of the full Council.
- 1.2.13. The Chief Executive and Directors are responsible for ensuring that all employees within their respective service areas are aware of the existence and content of, and comply with, the Council's Financial Regulations, Contract Standing Orders and any other financial instructions the Director of Resources might issue from time to time. Copies of these Financial Regulations are available on the Council's intranet.
- 1.2.14. Any disagreement arising over the interpretation, intention or application of the Financial Regulations shall be determined by the Director of Resources.
- 1.2.15. It may be considered a disciplinary offence if any employee fails to comply with these Financial Regulations.
- 1.2.16. Employees have a duty to report apparent breaches of Financial Regulations to an appropriate senior manager. The senior manager should report breaches of the Regulations to the Director of Resources and the Monitoring Officer who will decide what, if any, further action needs to be taken. The Director of Resources or Monitoring Officer may report any breach of Financial Regulations to the Governance and Resources Committee.
- 1.2.17. If an employee is in any doubt about the appropriate action required, they should consult their senior manager in the first instance. If there remains any doubt, advice should be sought from the Director of Resources before proceeding.
- 1.2.18. In these Financial Regulations all references to authorisation or signatures apply to those on hard copy (paper) and electronic records. A digital signature authorisation carries no less weight and imposes no less responsibility on the authorising officer than a handwritten signature. Designated authorising officers must ensure that they maintain the security of their personal user identity and password details as these identifiers will be taken as the equivalent of a personal, handwritten signature for the purposes of authorisation.

2 FINANCIAL MANAGEMENT

2.1 The Full Council

2.1.1. The Council is responsible for:

- the approval of these Financial Regulations;
- approving and adopting the policy framework and strategies, including those relating to financial affairs such as the Medium Term Financial Strategy and the Investment Strategy;
- approving the revenue budget capital programme, supplementary estimates and revised revenue budget, setting the council tax and authorising the treatment of reserves and balances;
- approving or adopting a plan or strategy for the control of borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision;
- confirming the appointment or dismissal of the Head of Paid Service, Corporate Director, Monitoring Officer or Chief Financial Officer;
- considering reports of statutory Officers i.e. from the Chief Financial Officer or Monitoring Officer;
- considering the reports of the Head of Paid Service in relation to organisational review and resources;
- providing the Council's Director of Resources with the resources necessary to carry out their statutory duties.

2.1.2. The Council must ensure that it has a sound system of internal control which

- facilitates the effective exercise of its functions and the achievement of its aims and objectives;
- ensures that the financial and operational management of the authority is effective;
- includes effective arrangements for the management of risk.

2.2 The Governance and Resources Committee

2.2.1. The Governance and Resources Committee takes the statutory role of an "Audit Committee" and provides independent review, challenge and assurance of the adequacy of the risk management framework and the associated control environment.

2.2.2. This Committee will consider specific issues or aspects of policy, procedure or service relating to:

- Asset Management
- Financial Governance
- Internal and External Audit
- Human Resources
- Legal and Corporate Governance

- Procurement and Contract Management
- Revenues and Benefits.

2.2.3. Here are some of the key tasks that the Council has delegated to this Committee:

- To have an overview of the Governance framework and to develop and review supporting policies and procedures;
- To approve and review the Council's Code of Corporate Governance and other supporting material;
- To approve the Annual Governance Statement and the Annual Statement of Accounts;
- To consider the External Auditor's reports on issues arising from the Audit of Accounts, the External Audit Plan, the Annual Audit Completion Report etc.
- To approve and review the internal audit plan, consider major findings of internal audit investigations and management's response, and promote co-ordination between the internal and external auditors;
- To keep under review the effectiveness of internal control systems, to receive the External Audit Management Letter on behalf of the Council and any representations and refer any issues requiring attention to the relevant committee and/or officer;
- To consider the appointment of the external auditor, the audit fee, the provision of any non-audit services by the external auditor and any questions of resignation or dismissal of the external auditor;
- To approve the Council's Risk Management Policy and Strategy and consider the annual monitoring report as part of considering the effectiveness of Risk Management, including the risks of bribery, fraud and Corruption.
- To be responsible for the effective management of the Council's land, buildings and property holdings;
- To act as the main "financial committee" to regulate and control the finances of the Council as defined in the Local Government Act 1972;
- To determine policy in relation to the Council's duties and responsibilities as an "employer" and in relation to human resources, employee training and development and industrial relations issues;
- To determine policy and oversee arrangements in relation to the Council's duties and responsibilities under the Data Protection Act;
- To undertake the role of the standards committee.

2.3 The Scrutiny Committee

2.3.1. The primary purpose of the Scrutiny Committee is

- To provide an independent review of Council decisions either before or after they have been made;
- To provide an independent review of decisions made by certain partner authorities;
- To make recommendations regarding the decisions made.

2.4 The Head of Paid Service

- 2.4.1. The Head of Paid Service is one of the three statutory officers. At Derbyshire Dales District Council the Chief Executive is nominated as the Head of Paid Service and is responsible for the corporate and overall strategic management of the Council as a whole. They must report to and provide information for the Full Council and Committees. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

2.5 The Monitoring Officer

- 2.5.1. The Monitoring Officer is one of the three statutory officers. The Director of Corporate and Customer Services is the Council's appointed Monitoring Officer. The Monitoring Officer is responsible for the legal governance arrangements for the Council and reviews the Constitution, oversees the ethical framework, and has a personal duty to report to the Council any breaches in the rule of law. They are also responsible for promoting and maintaining high standards of conduct and for reporting any actual or potential breaches of the law or maladministration and for ensuring that the procedures for recording and reporting key decisions are operating effectively.
- 2.5.2. The Monitoring Officer is responsible for advising all Members and officers about who has the authority to take a particular decision and whether a decision is likely to be considered contrary to the policy framework. The Monitoring Officer and the Director of Resources are also responsible for advising the Full Council if a decision could be considered contrary to the budget.

2.6 The Chief Financial Officer

- 2.6.1. The Chief Financial Officer (CFO) is one of the three statutory officers. The responsibilities of the CFO are set out in statute, such as section 151 of the Local Government Act 1972. They refer to the totality of the financial affairs of the Council in all its dealings.
- 2.6.2. The Director of Resources is the Council's appointed Chief Financial Officer (CFO) and Section 151 Officer. This is a statutory post with overall responsibility for the financial affairs of the Council including the promotion of good financial management throughout the organisation, so that public money is safeguarded at all times, and used appropriately, economically, efficiently and effectively.
- 2.6.3. The CFO's responsibilities include setting and monitoring compliance with financial management standards, advising on the corporate financial position and on key financial controls, providing financial advice, advising on preparation of revenue and capital budgets, and treasury management.

- 2.6.4. The role of CFO conforms to the good practice requirements within the CIPFA statement on “The Role of the Chief Financial Officer in Local Government”. The Council’s Chief Financial Officer is a full member of the Corporate Leadership Team and is supported by appropriately qualified and experienced staff.
- 2.6.5. The Director of Resources helps the Corporate Leadership Team to develop and implement strategy and to resource and deliver the organisation’s objectives for the long term and in the public interest. They are actively involved in, and able to bring influence to bear on all material business decisions, to ensure that the immediate and longer-term implications, opportunities and risks are fully considered, and consistent with the overall financial strategy.
- 2.6.6. The Director of Resources is responsible for advising committees on all financial matters. They must be consulted on all financial matters and given adequate opportunity to provide written comments in any report with financial implications.
- 2.6.7. Where the urgency procedures set out in the Council’s Constitution are to be invoked, the Director of Resources must first be consulted on financial and other resource implications.
- 2.6.8. After consulting with the Head of the Paid Service and the Monitoring Officer, the Director of Resources will report to the Full Council 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.
- 2.6.9. The Director of Resources, if necessary in conjunction with the Chief Executive and after consultation with the Leader of the Council, shall have the powers to take any action necessary to safeguard the interests of the Council.

2.7 Directors

- 2.7.1. Directors must operate efficient systems of financial control and are responsible for:
- proper financial administration of the services under their control in accordance with these Financial Regulations;
 - promoting these Financial regulations and issuing guidance on their application to their respective employees;
 - timely provision of such information on the financial affairs of their services as the Director of Resources may request;
 - ensuring that the financial implications of all proposals have been agreed by the Director of Resources;
 - consulting with the Director of Resources and seeking their approval on any matter that could materially affect the Authority’s financial position before any commitments are incurred;
 - Informing the Director of Resources of any situation that may create a contingent liability, potential claim or litigation.

2.8 The Money Laundering Reporting Officer

- 2.8.1. The Council has nominated the Director of Resources as the Money Laundering Reporting Officer. They are responsible for notifying the National Criminal Intelligence Service (NCIS) of any suspected cases of money laundering committed within the accounts of the Council as soon as possible and for other duties as defined by legislation or regulation related to the post.

2.9 Accounting Arrangements

- 2.9.1. The Director of Resources is responsible for determining the accounting and supporting records of the Council and its financial control system.
- 2.9.2. The Director of Resources must ensure that the financial control systems are observed and that the accounting records are kept up to date. The accounting records must contain:
- entries from day to day of all sums of money received and spent by the Authority and the matters to which its income and expenditure or receipts and payments relate;
 - a record of the assets and liabilities of the Authority.
- 2.9.3. The financial control systems determined by the Director of Resources must include measures:
- to ensure that the financial transactions of the Authority are recorded as soon as, and as accurately as, reasonably practicable;
 - to enable the prevention and the detection of inaccuracies and fraud, and the reconstitution of any lost records;
 - to ensure that risk is appropriately managed;
 - identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers.
- 2.9.4. Accounting procedures will reflect recommended professional practices, and follow accounting principles as determined by the Director of Resources. Accounting procedures will be reviewed as necessary by the Director of Resources in consultation with Directors. No change to existing accounting procedures may be made without prior consultation with the Director of Resources.
- 2.9.5. The Director of Resources must examine and certify where required any submission, estimate, or claim for payment of grant by a Government Department or funding from any other body. Officers responsible for the administration of such

grants, funds and spending associated with them must ensure compliance with the conditions of the grant or funding.

- 2.9.6. The Director of Resources must examine and certify where required any financial return to a Government Department or other body.

2.10 Financial Outturn

- 2.10.1. The Director of Resources will prepare a report to full Council on the Revenue and Capital Outturn after the financial year-end.

2.11 Annual Statement of Accounts

- 2.11.1. The Director of Resources is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).
- 2.11.2. The Director of Resources shall advise the Corporate Leadership Team of any accounting changes that are likely to have a significant impact on the Council's financial position or any requirements for additional information or record keeping.
- 2.11.3. Following appropriate consultation, the Director of Resources shall issue a "Final Accounts Closedown Programme" before the financial year end. All officers are required to support the closedown programme and to alert the Director of Resources to any issues or delays in achieving the timetable.
- 2.11.4. The Director of Resources shall carry out the following in accordance with the deadlines set in the Accounts and Audit Regulations:
- sign and date the statement of accounts, and confirm that they are satisfied that it presents a true and fair view of the financial position of the authority at the end of the financial year to which it relates and the Authority's income and expenditure for that financial year;
 - publish the draft Statement of Accounts on the Council's website;
 - advertise the audit of the Statement of Accounts and the period of public inspection.
- 2.11.5. The Statement of Accounts is subject to external audit, to provide assurance that the accounts have been prepared correctly, that proper accounting practices have been followed and that proper arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources.
- 2.11.6. The Director of Resources shall liaise with the external auditors to set the detailed external audit timetable. The Director of Resources shall ensure the external auditors have the facilities and systems access necessary to complete their audit.
- 2.11.7. The Director of Resources shall report the audited statement of accounts to the

Governance and Resources Committee prior to 30 September following the financial year end. The Committee shall also consider the external audit completion report and the letter of representation. The Committee shall approve the statement of accounts on behalf of the Council. The Director of Resources must then publish the approved Statement of Accounts together with the external auditor's opinion on the Council's website.

2.12 Virements (Budget Transfers)

- 2.12.1. Transfers between budgets, known as virements, are an integral and important feature of budgetary control. They provide the Corporate Leadership Team and Budget Holders with the flexibility to adapt expenditure patterns to meet changing service needs and objectives, or to respond to unforeseen cost increases. Virements should not be made to balance over and underspends that have occurred.
- 2.12.2. Virements can be "one-off" for a single financial year or permanent. Permanent virements require an adjustment to the base budget. Transfers may be made where the management responsibility for a service has changed.
- 2.12.3. Virements will be allowed only where they are within the overall policy framework. They must not create an increasing commitment in future years which cannot be contained within existing approved budget allocations,.
- 2.12.4. Directors may authorise virements of up to £10,000 from one service provision to another within their respective directorate budget portfolio after consultation with the Director of Resources. Virements from £10,000 to £30,000 within or between directorate portfolios, or by the use of a reserve set aside for the specific purpose, may be approved by the Director of Resources. For virements / budget transfers exceeding £30,000, a report shall be taken to the Governance and Resources Committee.
- 2.12.5. Budgets for salaries, wages and associated costs (such as agency cover, recruitment advertising etc.) may be amended, following approval by the Corporate Leadership Team, provided that the cost is within the overall employee budget.
- 2.12.6. Directors will notify the Director of Resources of all virement decisions before expenditure is committed.
- 2.12.7. The authorisation limits set out above do not apply to technical budget transfers necessitated by proper accounting practice that may be authorised by the Director of Resources.

2.13 Carry forwards

- 2.13.1. The Committed Expenditure Reserve may be used to carry forward budget under spending into the next financial year. This prevents the rush to spend up to budget at the end of the financial year, which can lead to poor spending decisions.

- 2.13.2. Carry forwards may also be permitted where it is known that material budgeted expenditure will not now be incurred until the next financial year.
- 2.13.3. Carry forwards will be determined in accordance with guidelines issued by the Director of Resources, considering the Authority's overall financial position.

2.14 Emergency expenditure

- 2.14.1. The Chief Executive and / or Director of Resources has authority to carry out any function of the Council and to approve a supplementary revenue or capital budget of up to £30,000 in order to carry out that function, provided that the Chairman of the relevant policy committee has been consulted and the spending is in advancement of an approved policy position or project or in accordance with a specific Committee or Council decision.
- 2.14.2. The Director of Resources has authority to approve supplementary revenue and capital budgets where a grant has been awarded subsequent to the revenue budget or capital programme being approved and it is necessary, in order to meet grant conditions, to incur associated expenditure before a report can be taken to Council to request a supplementary revenue or capital budget. In such cases, the amounts will be reported to a future Council meeting as part of an updated capital programme or revenue budget monitoring.

2.15 Financial Training

- 2.15.1. The Corporate Leadership Team is responsible for ensuring that employees receive appropriate training to undertake their financial responsibilities, in accordance with any standards set by the Director of Resources.
- 2.15.2. The Director of Resources will provide training and advice to Members, to ensure that they have an understanding of the Council's strategic financial position.

2.16 Accounting policies

- 2.16.1. The Director of Resources is responsible for selecting accounting policies and ensuring that they are applied consistently.
- 2.16.2. The Governance and Resources Committee will be requested to endorse the accounting policies each year as part of the process for the Statement of Accounts.
- 2.16.3. Use of Capital Receipts - All capital receipts will be treated as corporate capital receipts unless specific approval for an alternative treatment is obtained from Full Council.

3 FINANCIAL PLANNING AND BUDGETARY CONTROL

3.1 Policy Framework

3.1.1. The Council has an integrated planning framework, which links the Corporate Plan and Service Plans with financial planning. Annual service plans for the coming financial year are approved at the budget setting Council meeting each March alongside the revenue budget, the capital programme and the Medium-Term Financial Plan (MTFP). This enables scarce resources to be allocated in accordance with the Council's priorities.

3.2 Performance Management

3.2.1. Performance Management is a key element of the management of the organisation. It involves setting objectives, priorities, targets and plans, including financial plans, for all key service areas.

3.2.2. Performance against objectives, priorities and targets is monitored regularly with a view to achieving an integrated planning and review process across the Council. Appropriate action is taken to address the areas that are highlighted by monitoring as needing attention.

3.2.3. The Corporate Plan sets out the Council's objectives and priorities for a four year period. Annual Service Plans set out how the Council will achieve the outcomes and overall actions that are set out in the Corporate Plan. Both the Corporate Plan and annual Service Plans are set alongside the budget

3.3 Medium term planning and budgeting

3.3.1. To deliver the Corporate Plan the available money must be allocated in the most effective way, especially when resources are limited. The Council must have a Medium-Term Financial Strategy and a sustainable Medium Term Financial Plan. A robust challenge process must be in place to ensure that the decisions made are achieving value for money. Budget setting and monitoring is an integral part of performance management.

3.3.2. Medium term financial planning requires:

- planning ahead
- linking resources to the corporate plan priorities
- ensuring that a balanced budget will be delivered
- looking at opportunities for efficiency savings and new income streams.

3.3.3. The Director of Resources shall prepare a Medium Term Financial Strategy (MTFS), which includes:

- A Medium-Term Financial Plan (MTFP), covering five financial years – the current year and the next four years;

- A policy in respect of reserves and provisions;
- A risk assessment.

3.3.4. The Medium-Term Financial Strategy (MTFS) should be linked to corporate objectives, the Corporate Plan and other Council strategies/plans as appropriate.

3.3.5. The MTFS and MTFP should address reaching or maintaining the recommended level of reserves (see section on reserves below).

3.3.6. The MTFS should be updated by the Director of Resources and approved by the Council on an annual basis prior to the preparation of detailed budgets.

3.4 Revenue budget setting and monitoring

3.4.1. The Director of Resources is responsible for ensuring that a revenue budget for the coming year and a medium-term financial forecast for the four subsequent financial years are prepared for consideration by Full Council in March each year. The budget and the medium-term financial forecast are both driven by the corporate plan.

3.4.2. Annual revenue estimates and annual revised revenue estimates shall be prepared jointly by the respective Director of Service and the Director of Resources.

3.4.3. The Director of Resources shall make a budget report to the March Council meeting on the estimates for services for the following financial year. The proposed budget will reflect the Council's financial position taking account of potential government funding, council tax and business rates and medium-term financial issues. The report will include the Director of Resources' assessment of the robustness of estimates contained within the proposed budget and the adequacy of reserves allowed for in the budget proposals.

3.4.4. The Council is legally obliged to set a balanced budget. The Full Council is responsible for approving the annual revenue budget and council tax for the coming financial year.

3.4.5. A rolling budget will be maintained throughout the year, reflecting budget changes arising from Council decisions made in the year after the budget was set, virements and supplementary estimates.

3.4.6. A mid-year report, reflecting income and expenditure to the 30 September (Q2), will be presented (usually to the October/November Council meeting) for approval of the annual revised estimates/budget for the current financial year.

3.4.7. The Director of Resources will present budget monitoring reports to the Governance and Resources Committee, and these reports will include a summary of any budget changes approved under delegated authority for the Committee to note, alongside any necessary budget changes for Member approval, as follows:

- To the July/August meeting, for the period ending 30 June (Q1);
- To the February / March meeting, for the period ending 31 December (Q3).

- 3.4.8. Following the financial year-end and prior to the statutory deadline to publish the Statement of Accounts, the Director of Resources shall present a provisional outturn report to Council. This report provides details of the provisional financial outturn for the year just ended and significant variations from the approved budget. It also seeks approval for the treatment of any under- or over-spending and transfers to and from reserves.
- 3.4.9. It is the responsibility of each Director of Service to ensure that the budgets for controllable expenditure on each Service (as shown in the circulated budgetary control reports) are not exceeded. Where it appears that such a service provision shall be exceeded by an amount in excess of £10,000, it shall be the duty of the Director of Service concerned, in consultation with the Director of Resources, to inform the relevant policy committee with recommendations on how the expenditure is to be funded or defrayed.
- 3.4.10. Directors may designate specific officers as budget holders. A budget holder is an individual who has been nominated by their Director as having responsibility for the managing specified budgets.
- 3.4.11. Directors must ensure that there is a clear allocation of responsibility for revenue budgets at cost centre level and for capital projects / schemes within their service areas. Budget responsibility should be aligned as closely as possible to the decision making that commits expenditure. Managers should be budget holders for their own areas and should be accountable for budget variances within them. Budget Holders must also take any action necessary to avoid exceeding their budget allocation or to address shortfalls in income. Directors must alert the Director of Resources to any significant financial variation (i.e. over £10,000) not previously reported in budget monitoring. The notification must also include an explanation of how the Director intends to ensure that any adverse variance is minimised. Directors must report any problem in delivering previously agreed savings in a format determined by the Director of Resources.
- 3.4.12. A budget holder is not expected to be an accountant but is required to manage their budgets effectively. This means ensuring that budgets are adhered to i.e. that expenditure does not exceed the budget and that income does not fall short. In addition, a budget holder must operate in a manner consistent with the Council's policies and be aware of any objectives or targets the Council has set relating to the particular cost centre(s) under his/her control.
- 3.4.13. A budget holder's responsibilities include:-

Budget Preparation:

- a) To prepare estimates in accordance with deadlines and guidance specified by the Director of Resources, such as the Budget Holder's Manual;

- b) To provide any budget data that the Director of Resources deems necessary for the production of estimates;
- c) To respond promptly to any queries from the Director of Resources or the Financial Services Team regarding the above.

Budget Monitoring:

- a) To examine monthly budgetary control reports, supplying information required by the Director of Resources within specified timescales;
- b) To identify any budget variances and inform the Director of Resources and service director of variances exceeding (or likely to exceed) £10,000;
- c) To take action promptly to deal with budget variances.

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- a) To examine actual expenditure and income to ensure that it is fully accounted for in the correct financial year;
- b) To explain any budget variances that exceed £10,000 and to identify whether they are one-off or likely to recur in the following financial year;
- c) To complete accruals and other year-end processes as required by the Director of Resources.

- 3.4.14. No expenditure introducing major continuing liabilities to the Council, particularly new projects which involve financial commitments in future years, new policy or extension of services, may be incurred without prior consultation with the Director of Resources and the approval of Council either through the budget or separately in the course of the financial year. Such a report shall detail all the financial consequences and state whether sufficient financial provision is available in the budget for the proposal in current and future years and what action is proposed if such provision is not available.
- 3.4.15. A Director shall not incur a liability which would cause expenditure to exceed an approved budget head unless this can be met by way of a supplementary estimate or virement. The necessary approval must be obtained in advance of the relevant commitment being made. Any request for a Supplementary Estimate shall be made after consultation with the Director of Resources.
- 3.4.16. Additional income and savings that do not arise as a result of operational management decisions may be used to finance additional expenditure only after consultation with the Director of Resources who may require a report to the relevant policy committee or full Council.
- 3.4.17. Directors have a responsibility to ensure that value for money is being achieved e.g. comparing costs and looking at procurement practice and opportunities.

3.5 Capital programme

- 3.5.1. Capital expenditure relates to the acquisition or enhancement of fixed assets with a long-term value to the Authority, such as land, buildings, major items of plant and equipment, vehicles or new ICT. Capital assets shape the way services are delivered for the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 3.5.2. Full Council is responsible for approving the capital programme and for monitoring actual expenditure against the programme. In order to provide sufficient challenge, policy committees will consider requests for new capital projects which, if approved, will be referred to Council for approval in the capital programme.
- 3.5.3. New capital projects: Where expenditure is required or anticipated which has not been included in the Capital Programme, a revision to the Capital Programme is required before that spending can proceed. A full business case must be completed for each proposed capital project. Business cases for new capital projects shall be assessed firstly by the Capital Programme Working Group, who will score the new bids prior to making recommendations to the Corporate Leadership Team. The Corporate Leadership Team will then consider the projects to be referred to Council for inclusion in the capital programme, taking into account the Council's priorities, the availability of funding etc. For projects over £30,000, or those of a political nature, a report is required to the relevant policy committee before the project is referred to Council for inclusion in the capital programme; if in doubt, the Director should seek the advice of the Director of Corporate and Customer Services.
- 3.5.4. Increased costs: Changes which result in an increase in the amount of an accepted tender or estimate by 10% or £50,000, whichever is the lower, shall be reported to the Director of Resources as soon as possible with an estimate of the probable new cost and an explanation of the additional cost. If the additional cost cannot be contained within the capital programme allocation, it will be necessary to seek approval from Council for any additional expenditure as part of the updated capital programme.
- 3.5.5. Revisions to the Capital Programme will generally be taken to Council only in March, May/June and October/November each year, unless there are exceptional circumstances. It is the role of the relevant policy committee to oversee the delivery of projects, within the approved capital programme.
- 3.5.6. The inclusion of a capital project within the Capital Programme will authorise the relevant Director to seek tenders to undertake the work subject to:
- compliance with the Council's Contract Standing Orders;
 - the Policy Committee or Council not having placed a specific requirement to report back prior to the issuing of tender documents.
- 3.5.7. The Director of Resources is responsible for:

- Recommending the Capital Programme covering the next four financial years to Council – this usually takes place in March (as part of budget setting), May/June (reporting the provisional out-turn) and October/November (a mid-year review) each year;
- Prescribing the items to be included in the business case template, to be used to assess proposed capital projects;
- Re-profiling projects already in the approved programme where expenditure is delayed or required sooner than anticipated;
- Changing the budget for projects already in the approved programme where appropriate;
- Ensuring that the capital programme is consistent with corporate, service and asset management objectives and priorities;
- Ensuring that projects to be recommended for inclusion in the capital programme have been evaluated using a robust business case process;
- Ensuring that the programme is fully funded and is affordable and sustainable in accordance with statute and the CIPFA Prudential Code;
- Ensuring that the Medium Term Financial Forecast makes appropriate revenue provision for capital financing cost and other revenue implications of capital programme projects;
- Ensuring that external funding for projects is maximised as far is appropriate;
- Preparing a Capital Strategy and a Minimum Revenue Provision Strategy;
- Ensuring that the Capital Programme is consistent with the recommended Treasury Management Strategy;
- Determining accounting policies on capitalisation in the Council's accounts.

3.5.8. The relevant Director is responsible for:

- Preparing a full business case for each proposed capital project and submitting it to the Capital Programme Working Group for consideration, within agreed timescales;
- Where business cases are approved by the CPWG and the Corporate Leadership Team for projects over £30,000, or those of a political nature, preparing a report to the relevant policy committee before the project is referred to Council for inclusion in the capital programme;
- Controlling and monitoring spending against the amount in the capital programme and reporting significant changes to the CPWG (and Director of Resources if appropriate – see above), with explanations for the changes.
- Providing the CPWG with proposals to re-profile projects already in the approved programme where expenditure is delayed or required sooner than anticipated;
- Entering financial monitoring information onto the monthly monitoring reports provided by the financial services team;
- Providing the Director of Resources with information that is required for inclusion in reports to policy committees, council or for accounting purposes;
- Compliance with contract standing orders.

- 3.5.9. Directors must not enter into credit arrangements, such as leasing agreements, without the prior approval of the Director of Resources and the Monitoring Officer and, if applicable, approval of the scheme should be included as part of the capital programme.

3.6 Determination of Affordable Borrowing

- 3.6.1. It is the responsibility of the Director of Resources to provide the Council with a written report on affordable levels of borrowing. This report is to be presented at the meeting when the annual budget is set and should have regard to the Prudential Code for Capital Finance issued by the Chartered Institute of Public Finance and Accountancy. The report will contain a number of prudential indicators that demonstrate that capital spending plans are affordable, prudent and sustainable.

3.7 Reserves

- 3.7.1. It is the responsibility of Director of Resources to provide the Council with a written report on levels of reserves that are considered prudent. This advice is usually included in the Budget Setting Report (see section on budget above).
- 3.7.2. The Authority's Medium Term Financial Strategy and Medium-Term Financial Plan should address reaching or maintaining the recommended level of reserves.

4 RISK MANAGEMENT AND CONTROL OF RESOURCES

4.1 Introduction to risk management

4.1.1. All organisations face risks to their people, property, finances, services, reputation and continued operations. Risk management is about systematically identifying and actively managing these risks. It is an integral part of good business practice and is essential to securing the Council's assets and to ensuring continued financial and organisational wellbeing.

4.1.2. Risk can be mitigated by:

- transferring the risk to a third party, e.g. through insurance;
- implementing additional controls to minimise the likelihood of the risk occurring and/or minimising its potential impact (e.g. through regular inspection and continuous monitoring of identified key risk areas);
- establishing and regularly testing business continuity and disaster recovery procedures to deal with the consequences of events and minimise potential disruption.

4.1.3. The Council has a Risk Management Policy and Strategy. The Council's approach to managing risk is a continuous review of exposure to risk within service areas, overseen by the Chief Executive and the Risk Continuity Group. This is delivered through the maintenance and review of strategic and operational risk registers, which detail the risks and action plans, together with the maintenance of a business continuity plan, an emergency plan and disaster recovery processes, as well as adequate insurance cover. It is essential that risk management is incorporated into business processes in line with corporate guidelines. These processes include budget preparation and integrated service and financial planning, budget monitoring and performance management, programme and project management, procurement and contract management.

4.2 Responsibilities

4.2.1. All Councillors and Managers are responsible for ensuring that risks are considered in the decisions they take. The Council has a Risk Management Policy and Strategy that is usually reviewed every two years. It is the Council's policy to proactively identify, understand and manage the risks inherent in our services and associated within our plans and strategies, so as to encourage responsible, informed risk taking.

4.2.2. All Councillors and employees shall ensure that they identify, manage and act on opportunities as well as risks to enable the Council to achieve its objectives and integrate risk management into the culture and day to day working of the Council. Activities that are suspected to be high risks should be reported immediately to the relevant Director.

4.2.3. Service Managers shall carry out quarterly risk reviews and update the risks that sit within their respective service's risk register. Each Director will nominate a representative(s) to sit on the Risk Continuity Group (RCG).

- 4.2.4. The Risk Continuity Group (RCG) shall meet quarterly to review the Council's Strategic Risk Register and to ensure that there are adequate arrangements for risk reduction measures, training and risk management information to enable officers and members to perform their duties.
- 4.2.5. The RCG shall prepare a Risk Management Strategy (and review it every two years) and a Risk Management Annual Report. The Corporate Leadership Team shall consider these documents before they are presented to the Governance and Resources Committee for scrutiny and approval.
- 4.2.6. The Governance and Resources Committee is responsible for:
- Independent review, challenge and assurance of the adequacy of the risk management framework and the associated control environment;
 - Approval of the Council's Risk Management Policy and Strategy;
 - Consideration of the annual risk management monitoring report (as part of considering the effectiveness of Risk Management, including the risks of bribery, fraud and Corruption);
 - Reviewing the effectiveness of the risk management process.
- 4.2.7. The Chief Executive is responsible for:
- Ensuring that strategic risks are effectively managed within the Council; and
 - Providing an annual statement of assurance on strategic risks (the Risk Management Annual Report).
- 4.2.8. The Corporate Leadership Team is responsible for:
- Scrutinising significant risks in more detail as part of their annual work programme, as appropriate;
 - Taking corporate responsibility for risk;
 - Ensuring that a business continuity plan and emergency plan are in place;
 - Ensuring that disaster recovery processes are in place and are sufficient;
 - Addressing issues that cannot be addressed within service budgets or risk management fund of an extreme or high assessment;
 - Receiving reports of all extreme or high assessments.
- 4.2.9. Directors are responsible for:
- Championing and taking overall responsibility for implementing the Risk Management Strategy and embedding risk management throughout the Council;
 - Maintaining awareness of and promoting the approved risk management strategy to all employees;
 - Ensuring that there are regular reviews of risks within their respective services;
 - Maintaining an operational risk register for their respective services;
 - Reviewing risks identified by the line managers and team leaders;
 - Ensuring that risks which have been identified are addressed and mitigated

and that any high risks are addressed urgently;

- Reviewing risk action plans and ensuring that they are implemented;
- Ensuring that risk management is incorporated into service plans and project plans;
- Ensuring that a full risk assessment is included on all Committee / Council reports.

4.2.10. The Risk Continuity Group is responsible for:

- Preparing and recommending changes to the risk management strategy;
- Preparing, monitoring and reviewing the strategic risk register on a regular basis;
- Identifying and assessing / scoring risks on the strategic risk register;
- Recommending actions to address risks; and
- Arranging and providing risk management training as appropriate.

4.2.11. Managers and Team Leaders are responsible for:

- Identifying and analysing risks;
- Undertaking assessments at service level, at frequencies defining by Directors;
- Preparing risk register entries.

4.2.12. All employees are responsible for:

- Managing risk effectively in their job and reporting opportunities and risks to their managers or team leaders;
- Participating in risk assessment and action planning where appropriate;
- Adhering to Council policies and procedures; and
- Attending training and development sessions when requested.

4.3 Insurance

4.3.1. The Council maintains insurance cover to deal with the financial consequences of any incident which may give rise to a claim being made by/against the Council or result in financial cost or loss which may not otherwise be provided for.

4.3.2. The extent to which the Council “self-insures” is informed by the perceived risk and the Council’s claims history and is determined by the Director of Resources.

4.3.3. The Director of Resources shall be responsible for effecting and reviewing all necessary insurance and for effecting corporate insurance cover, through external insurance and internal funding, and negotiating all claims in consultation with other officers, where necessary, and for arranging suitable Fidelity Guarantee insurance in respect of all employees.

4.3.4. Directors shall be responsible for notifying the Director of Resources immediately of changes in any insurable risks (such as new properties or vehicles or

disposals).

- 4.3.5. Directors shall notify the Director of Resources immediately of any loss, liability or damage that may lead to a claim against the Council.
- 4.3.6. Directors shall submit claims, or information in respect of claims, in accordance with arrangements made by Director of Resources. It is imperative that officers respond promptly to information requests and comply with the timescales for investigating claims and the insurer's conditions. Failure could directly affect the authority's ability to make or defend a claim or could result in financial penalties being imposed on the authority.
- 4.3.7. Directors shall consult the Director of Resources, the Director of Corporate and Customer Services and the Chief Executive before giving any indemnity, or making any admission of liability for or on behalf of the Council.
- 4.3.8. Directors should ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.
- 4.3.9. Directors should consult the Director of Resources and the Director of Corporate and Customer Services and seek legal advice on the terms of any indemnity that the authority is requested to give.

4.4 Internal control

- 4.4.1. Internal control refers to the systems devised by management to guard against risk and promote achievement of objectives. More specifically, internal controls promote:
- the achievement of business objectives and performance standards;
 - compliance with plans, policies, procedures, codes of conduct, laws and regulations;
 - the reliability, integrity, timeliness and usefulness of information;
 - the legality of transactions and compliance with approved budgets and procedures;
 - the safeguarding of people, property, finances, services, continued operations and reputation.
- 4.4.2. Internal controls are an essential part of the Council's risk management arrangements and should be reviewed on a regular basis. Control systems should provide for clarity of policies, objectives, targets, responsibilities and accountabilities, and appropriate authorisations and approvals, separation of duties, level of internal check, management information and physical safeguards.
- 4.4.3. The Director of Resources is responsible for assisting the Authority in putting in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with all applicable statutes, regulations and

codes of practice.

- 4.4.4. The Account and Audit Regulations 2015 require the publication of an Annual Governance Statement. The statement represents the end result of a review of internal control and risk management and includes a description and evaluation of the internal control environment, the review process, and any significant issues.
- 4.4.5. The Director of Resources, in consultation with the Director of Corporate and Customer Services, Internal Audit Consortium Manager and the Corporate Leadership Team, shall draft an Annual Governance Statement in accordance with the Accounts and Audit Regulations.
- 4.4.6. The Governance and Resources Committee is responsible for reviewing the Annual; Governance Statement and should seek to satisfy itself that it has obtained sufficient, relevant and reliable evidence to support the disclosures made.
- 4.4.7. Following approval by the Committee, the statement shall be signed by the Chief Executive and the Leader of the Council by the statutory deadline.

4.5 Internal audit

- 4.5.1. Internal audit is an independent appraisal function that advises management on the effectiveness of their governance, risk and internal control arrangements.
- 4.5.2. The key features of internal audit are:
- it is independent of service operations in its planning and operation;
 - it has sufficient organisational status to facilitate effective discussion and negotiation of the results of its work;
 - it utilises risk-based methodologies in planning and delivering its work and does not have undue limitations placed on its scope;
 - the Chief Internal Auditor / Head of the Internal Audit Consortium has direct access to senior managers, elected members and the external auditor as appropriate;
 - Internal auditors comply with guidance issued by professional bodies, mainly the Public Sector Internal Audit Standards.
- 4.5.3. Internal Audit employees are authorised to appraise the adequacy of procedures employed by Directors of Service to secure economy, efficiency and effectiveness in the use of resources.
- 4.5.4. In accordance with Regulation 5 of the Accounts and Audit (England) Regulations 2015, the Council must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account Public Sector Internal Auditing Standards or other guidance. This function shall be under the control of Director of Resources.
- 4.5.5. The Governance and Resources Committee shall be responsible for:-

- a) agreeing a 3-year strategic Internal Audit Plan and annual operational Internal Audit Plan;
- b) monitoring Internal Audit compliance therewith;
- c) considering reports produced in accordance with the Internal Audit Plan and responses to the recommendations made.

4.5.6. The Director of Resources or his/her authorised representative, shall have authority to:-

- a) enter any Council premises or land at any reasonable times;
- b) have access to all assets, records, documents, correspondence and control systems;
- c) receive any information and explanation considered necessary concerning any matter under consideration;
- d) require any employee of the Council to account for cash, stores or any other Council property under his/her control;
- e) access records belonging to third parties, such as contractors, when required (note that contracts should specify access rights);
- f) directly access the senior managers and elected members where appropriate.

4.5.7. The Director of Resources, supported by the Head of Internal Audit, will ensure that strategic and annual audit plans are prepared and that they take account of the characteristics and relative risks of the services being reviewed.

4.5.8. Directors are required to notify the Director of Resources of new areas of risk which may need to be subject to audit review. The Director of Resources' shall approve any new systems for the maintenance of financial records, or records of assets of the authority, or any changes to such systems.

4.6 External audit

4.6.1. The external auditor's responsibilities are defined in the Local Audit and Accountability Act 2014 and carried out in accordance with the Code of Audit Practice issued by the National Audit Office. This requires the auditor to review and report:

- I. that the accounts comply with the requirements of the enactments that apply to them;
- II. that proper practices have been observed in the preparation of the statement of accounts, and that the statement presents a true and fair view; and
- III. that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

4.6.2. The Governance & Resources Committee's responsibilities relating to external audit are:

- To consider the External Auditor's reports on issues arising from the Audit of Accounts, the External Audit Plan, the Annual Audit Letter etc.;
- To promote co-ordination between the internal and external auditors;
- To receive the External Audit Management Letter on behalf of the Council and any representations and refer any issues requiring attention to the relevant committee and/or officer;
- To consider the appointment of the external auditor, the audit fee, the provision of any non-audit services by the external auditor and any questions of resignation or dismissal of the external auditor.

4.6.3. The Director of Resources is responsible for:

- procuring and managing the contract for the external auditor;
- liaising with the external auditor to make arrangements for the audit and to discuss the findings of the audit;
- preparing reports on external audit issues for the Governance and Resources Committee;
- giving advice on external audit issues to the Committee, Chief Executive, Directors and other officers on their responsibilities in relation to external audit and issues arising from the audit.

4.6.4. The Chief Executive, Director of Resources and other Directors are required to:

- ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets;
- ensure that external auditors are provided with information and explanations that the external auditors consider necessary for the purposes of their work;
- consider and respond promptly to recommendations in external audit reports;
- ensure that agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and in line with the timescale agreed with the external auditor; and
- report on progress.

4.7 Preventing fraud, corruption and money laundering

4.7.1. The Council is responsible for substantial public funds and other assets and has a duty to demonstrate the highest standards of probity and stewardship in the day to day management of its affairs.

4.7.2. It is therefore expected that Members and staff at all levels will lead by example

in ensuring adherence to legal requirements, rules, procedures and practices. The Council also expects that individuals and organisations, with which it comes into contact, will act towards the Council with honesty and integrity. The Council expects all partners in both public and private sectors to establish robust and transparent governance arrangements.

- 4.7.3. Money laundering involves the ‘cleaning’ of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, are introduced into the financial system where they are laundered enabling them to leave the system appearing to come from a legitimate source. The Council could be subject to money laundering attempts when accepting payments by cash in relation to the payment of substantial bills.
- 4.7.4. Responsibility for the prevention and detection of fraud, corruption, bribery and money laundering rests with all Councillors and employees of the Council. The key controls regarding the prevention of financial irregularities are that:
- the Authority has an effective [Anti-Fraud, Bribery and Corruption Strategy \(including Anti-Money Laundering Policy\)](#) in place and maintains a culture that will not tolerate any form of fraud, corruption, bribery, money laundering, abuse of position or other malpractice, whether it is attempted by persons or organisations within or external to the Council;
 - internal control systems exist to minimise the risk of fraud, corruption and money laundering occurring;
 - Codes of Conduct require all Members and employees demonstrate the highest standards of behaviour in the conduct of public business and a register of interests is maintained;
 - the Codes of Conduct are widely publicised;
 - managers are expected to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are found to be corrupt;
 - the Council has Confidential Reporting (whistleblowing) procedures in place, which operate effectively;
 - to prevent large scale money laundering, the Council has a ceiling of £10,000 on any one transaction (legislation states 15,000 euros).
- 4.7.5. Cases of suspected fraud, misappropriation of money, materials or equipment, or any mismanagement of money or other assets, or any other financial irregularities, shall be reported immediately to the Director of Resources, who shall investigate and report to the appropriate Director of Service, the Monitoring Officer and the Chief Executive. The roles and responsibilities of Internal Audit and individuals are set down in the Council’s [Anti-Fraud, Bribery and Corruption Strategy \(including Anti-Money Laundering Policy\)](#).
- 4.7.6. Directors of Service shall be responsible for ensuring that relevant employees are aware of the requirements of the Council’s Anti-Money Laundering Policy. Cases of known or suspected money laundering or terrorist financing activities shall be reported immediately to the Council’s Money Laundering Reporting Officer (MLRO), currently the Director of Resources, who shall investigate as a matter of urgency. The procedure and reporting forms are detailed in the Anti-

Money Laundering Policy which is incorporated within the Anti-Fraud, Bribery & Corruption Strategy, available on the Council's [website](#).

4.7.7. The Director of Resources is responsible for:

- developing and maintaining an Anti-fraud, bribery and corruption policy, which includes laundering;
- ensuring that effective internal controls are in place to minimise the risk of fraud, corruption and financial irregularities
- ensuring that effective procedures are in place to identify both internal and external fraud;
- the investigation of reported cases of fraud, corruption, bribery, money laundering or other malpractice as a matter of urgency;
- where evidence of fraud etc. is found, reporting the outcome of investigations to the appropriate Director of Service, the Monitoring Officer and the Chief Executive and that all necessary steps are taken to prevent further loss and to secure records and documents against removal or alteration;
- providing advice, guidance and training on the policy to members and employees;
- determining whether the suspicions should be reported to the National Crime Agency.

4.7.8. All members and employees shall have due regard to the Council's [Anti-Fraud, Bribery and Corruption Strategy \(including Anti-Money Laundering Policy\)](#) and shall co-operate with investigations under the Policy and with regulatory authorities during any subsequent investigation.

4.7.9. All staff have a duty to report any suspicions to the Money Laundering Reporting Officer (Director of Resources).

4.7.10. The relevant Director must ensure the full cooperation of senior management in any investigation and instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

4.8 Land, Property and Other Physical Assets (including vehicles, plant, equipment and stocks)

4.8.1. The Director of Regulatory Services (in conjunction with the Director of Resources and Director of Corporate & Customer Services) shall:

- make adequate arrangements to maintain an asset register of all assets with a value in excess of £10,000 and ensure that all assets are valued in

accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, or such standards as may supersede it;

- issue guidelines for the disposal of assets.

4.8.2. The Chief Executive and Directors must ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

4.8.3. Directors shall be responsible for the safe custody of assets under their control, and the maintenance of records in accordance with advice issued from time to time by the Director of Resources. Directors are responsible for ensuring that all assets in their control are appropriately maintained and shall:

- make adequate arrangements to maintain a property database in a form agreed with the Director of Resources for all properties, plant and machinery and moveable assets;
- ensure the security of all buildings and other assets, including cash, under their control;
- maintain inventories in a form determined by the Director of Resources for items with a value of £500 or more;
- ensure that stocks of goods and materials are held at a level appropriate to the business needs of the Council;
- carry out a stock check at least once a year for items with a value of £500 or more and provide the Director of Resources with a stock certificate at the end of each financial year;
- annually write-off and dispose of obsolete stores and equipment in consultation with the Director of Resources;
- make arrangements with the Director of Resources to ensure that all items are appropriately insured against loss.

All Council assets (including tools and equipment) with a value of £500 or more should be clearly identified and marked as property of the Council.

Significant stores discrepancies shall be subject to Internal Audit scrutiny.

4.8.4. No Council asset should be subject to personal use by an employee without prior authorisation from their director.

4.8.5. The Corporate Leadership Team is responsible for all disposals of land and property and for identifying any revenue implications arising from the sale of assets. Service Directors may dispose of revenue assets through sale, donation or scrapping. They must assure themselves that the assets concerned are the property of the Council (rather than a leasing company) before disposing of them. Directors must ensure that value for money is obtained for every disposal and maintain adequate evidence (e.g. receipts, sealed bids) to support all asset disposals demonstrating value for money, the reasons for the disposal, and that the assets are obsolete or surplus to requirements. Directors should ensure that income from disposals is correctly accounted for and promptly banked.

- 4.8.6. All assets to be disposed of over the value of £30,000 must be cleared with the Corporate Leadership Team before they can be disposed of.
- 4.8.7. Directors must ensure that legal, environmental and other statutory issues are addressed when disposing of any assets and must ensure they take advice from the Director of Resources on the appropriate method of disposal.

4.9 Leasing

- 4.9.1. The Director of Resources shall be responsible for the evaluation and arrangement of all Capital financing facilities. This excludes the short-term hiring of equipment for periods of less than 12 months.
- 4.9.2. Directors must take appropriate advice from the Director of Resources and the Director of Corporate and Customer Services before entering into any lease agreement.

4.10 Treasury Management (Investments and borrowing)

- 4.10.1. This Council has adopted CIPFA's Code of Practice for Treasury Management in the Public Services. The Council has delegated responsibility for the implementation and monitoring of its Treasury Management Policies and Practices to the Director of Resources.
- 4.10.2. Accordingly, the Council shall adopt a Treasury Management Strategy Statement (TMSS) setting out the policies and objectives of its Treasury Management activities. The Director of Resources shall review the TMSS annually and present a report for its approval by Full Council. The TMSS shall be considered for approval at the same meeting as the Council's Revenue Budget and Capital Programme. The Director of Resources shall report at least twice a year (a mid-year report and an out-turn report) to the Governance and Resources Committee to monitor treasury management activities against the Strategy.
- 4.10.3. As further required by the CIPFA Code, the Director of Resources shall prepare and maintain Treasury Management Practice Statements (TMPs). The Governance and Resources Committee will be responsible for the scrutiny of TMPs.
- 4.10.4. All money in the hands of the Council shall be under the control of the officer designated for the purposes of Section 151 of the Local Government Act 1972 referred to in the Code as the "Chief Financial Officer", i.e. the Director of Resources.
- 4.10.5. All Council decisions on borrowing, investment or financing shall be delegated to the Director of Resources who shall be required to act in accordance with CIPFA's "Treasury Management in the Public Services: Code of Practice".
- 4.10.6. The Director of Resources shall prepare an Annual Report on Treasury Management for presentation to the Council by 30 September of the succeeding financial year. The report will cover the activities of the treasury management

operation and the exercise of delegated treasury management powers.

- 4.10.7. Should the Director of Resources wish to depart in any material respect from the main principles of the code, the reasons should be disclosed in the report to the Council.
- 4.10.8. All investments shall be made in the name of the Council or in the name of nominees approved by the Council. The Director of Resources shall be authorised to operate such investment accounts as he/she feels necessary, subject to compliance with the Council's Treasury Management Strategy Statement.
- 4.10.9. All Securities in the name of the Council or its nominees shall be held in the custody of the Director of Corporate and Customer Services.
- 4.10.10. All borrowings shall be in the name of the Council.
- 4.10.11. The Director of Resources shall arrange short-, medium- and long-term borrowing on the best available terms within the overall borrowing policy approved by the Council annually. The Director of Resources may appoint an external Cash Manager where appropriate.
- 4.10.12. No loans shall be made to third parties and no interests shall be acquired in companies, joint ventures or other enterprises without the approval of Council, following consultation with the Director of Resources.

4.11 Banking, Corporate Credit Cards and Imprest Accounts (including petty cash and other floats)

- 4.11.1. All arrangements with the Council's bankers shall be made by the Director of Resources, who will maintain and operate such bank accounts as they consider necessary. No bank account may be opened or closed except on the prior approval of the Director of Resources.
- 4.11.2. The Financial Services Manager is responsible for managing the banking contract and the day to day administration and reconciliation of accounts.
- 4.11.3. Employees must not open accounts in the name of the Council, Members or officers unless they are acting on the instructions of the Director of Resources. Opening an unauthorised bank account is a disciplinary offence.
- 4.11.4. Cheques will only be used for the Chairman's and Vice Chairman's Accounts. All cheques shall be ordered by the Director of Resources who shall make proper arrangements for their safe custody. Cheques drawn shall bear the signature of one of the authorised cheque signatories. Any amendments shall be approved by the signature of an authorised signatory.
- 4.11.5. All payments from the Council's main bank accounts shall be made by electronic methods e.g. Direct Debit, Bankers Automated Clearing System (BACS), Faster Payments or Clearing House Automated Payments System (CHAPS). All

payments shall be authorised by an officer approved by the Director of Resources.

- 4.11.6. The Director of Resources shall make arrangements for a corporate credit card, PayPal and other such accounts as he/she considers are appropriate. Each individual transaction of this type shall not exceed £2,500.
- 4.11.7. The Corporate Credit Card is available for use by officers nominated by the Director of Resources to purchase goods up to £2,500 or to address specific requirements such as the payment of court costs. Key controls shall be built into the system through card limits, merchant categories, defined suppliers, and other measures. The Director of Resources is responsible for issuing guidance on the use of the Corporate Credit Cards.
- 4.11.8. Officers using the Corporate Credit Card must seek an assurance from the relevant budget manager that there is sufficient budget available to cover the cost of the transaction.
- 4.11.9. Corporate Credit Card balances are settled through the bank on a monthly basis. Statements are provided to enable employees from the Financial Services Team to check transactions and coding.
- 4.11.10. Misuse of a corporate credit card would normally constitute gross misconduct and could result in dismissal. The Director of Corporate and Customer Services and the Director of Resources are responsible for ensuring the cards are operated in a responsible manner.
- 4.11.11. All lost or stolen cards must be reported immediately.
- 4.11.12. Imprest and petty cash accounts can facilitate very minor items of expenditure where it would not be cost effective to use a corporate credit card or purchase order. Imprest and petty cash accounts must not be used to reimburse employee expenses, which must be made through payroll.
- 4.11.13. The Director of Resources shall provide such imprest accounts as he/she considers appropriate for the purposes of defraying petty cash or other expenses. Such accounts may be held as petty cash advances or as bank accounts as the Director of Resources may decide and should be maintained on the imprest system. The overall limit of the imprest account and the upper limit of the allowable expense shall be determined by the Director of Resources.
- 4.11.14. No income received may be paid into an imprest account and the account holder shall not permit the account to become overdrawn.
- 4.11.15. Payments from the imprest account, or those using the corporate credit card or PayPal account, shall be supported by the original invoice, or such other documentation as specified by the Director of Resources, including VAT receipts and the voucher should be authorised to confirm that the expenditure is reasonable and there is sufficient budget provision to cover the expenditure.
- 4.11.16. Imprest holders must reconcile their accounts to the finance system on a monthly

basis or prior to seeking reimbursement. A certificate of value must be completed at 31st March each year and the records must be produced on demand.

- 4.11.17. Imprest accounts and the corporate credit card and PayPal account shall only be used for incurring properly authorised expenditure of the Council. They will not be used for personal expenditure, nor should any personal loans or advances be made from them.

4.12 Staffing

- 4.12.1. As Head of Paid Service the Chief Executive shall be responsible for ensuring the sufficiency of employee budgets and shall exercise adequate control over staffing costs including overtime, training and temporary staff. Directors will support the Chief Executive in this role by monitoring staffing in their respective departments and reporting significant issues to the Chief Executive.
- 4.12.2. The payment of salaries, wages, Members' allowances and allied payments shall be made only by the Chief Executive, or under arrangements approved by him/her and in accordance with Financial Procedures issued under these Regulations.
- 4.12.3. Claims for travelling and other expenses must be made on a monthly basis.
- 4.12.4. Accurate and effective systems must be in place and the following procedures and regulations must be followed:
- appointments shall be made in accordance with the approved Recruitment and Selection Procedures;
 - appointments shall be in accordance with the approved establishment and grade for the post; any requests to amend the approved establishment must be approved by the Corporate Leadership Team;
 - Salary payments shall only be made to bona fide employees;
 - costs associated with early retirements, redundancy payments and other similar events must be made through payroll and met from within the employee budget of the service involved unless there exists a specific corporate provision for this purpose.

4.13 Use of Consultants and Agency Services

- 4.13.1. Directors must ensure that their staff understand the distinction between employment and a contract for consultancy or agency services. If a consultant or agency worker is brought in to cover a vacant post or carry out a role similar to that of a member of staff then it is likely that the Council will be required to treat them as employed for tax purposes and pay them via the payroll. In these circumstances the Council's recruitment policies should be applied.
- 4.13.2. Where a consultant or agency worker is required to carry out a project which has a clear start and end date and is described in a brief or specification, and where the consultant will be taking on the risk and providing their own premises,

equipment and insurance etc., then it is likely that the work will be governed by a contract and the consultant will be paid via the Accounts Payable system through the raising of an official order and goods receipt. In these circumstances the Council's contract standing order rules should be applied. The insurance requirements must be clear in the documentation supporting the contract and evidence that the policy is in place should be obtained from the consultant or agency worker.

- 4.13.3. Directors must ensure that where payments are to be made to consultants or agency workers other than through the Council's payroll system, that there is a clear justification for this and that there are no tax implications that may arise. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Financial Services Manager or Senior Accountant.

4.14 Trust funds and Funds held for Third Parties

- 4.14.1. Directors of Service must ensure that all trust funds are in the name of the Council. Trust funds should not be held in the name of individual officers. All officers acting as trustees by virtue of their official position shall deposit securities etc. relating to the trust with the Director of Resources / Director of Corporate and Customer Services unless the deed otherwise provides.
- 4.14.2. Directors of Service must arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Resources and maintain written records of all transactions.
- 4.14.3. Directors of Service must ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust, and to contact the Director of Corporate and Customer Services as appropriate.

5 FINANCIAL SYSTEMS AND PROCEDURES

5.1 General Responsibilities

5.1.1. The Director of Resources is responsible for:

- issuing advice, guidance and procedures for officers and others acting on behalf of the Council in relation to its financial affairs;
- determining the financial management system, form of accounts and supporting financial records;
- establishing arrangements for the audit of the Council's financial affairs;
- approving any new financial systems and procedures to be introduced;
- approving any changes to existing financial systems and procedures, including the reconciliation of any financial information being fed into the core financial management system.

5.1.2. Directors are responsible for:

- ensuring that accounting records are properly maintained and are held securely;
- maintaining a complete audit trail for financial transactions;
- ensuring that there is sufficient separation of duties to provide adequate internal control and minimise the risk of fraud or other malpractice;
- maintaining documented and tested business continuity plans;
- documenting systems and procedures and ensuring staff are trained in their use;
- ensuring that systems and comply with the Data Protection Act;
- ensuring that employees are aware of and comply with Freedom of Information legislation.

5.2 Income

5.2.1. The Council collects substantial amounts of income (council tax, business rates, rents, service charges and fees and charges) and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly, and that VAT is correctly accounted for.

5.2.2. The responsibility for the collection of all income due to the Council lies with the Director of Resources. The Director of Resources is responsible for approving procedures, systems and documentation for collecting and banking income and writing off debts as part of the overall control framework of accountability and control.

5.2.3. Wherever possible and appropriate, income should be obtained in advance or at the point of supplying goods or services as this improves the authority's cash flow and also avoids the time and cost of administering debts.

- 5.2.4. Directors/Service Managers must have robust processes in place for dealing with income collection in their service area where required. There must be extra controls in service areas that collect cash or cheques. Directors/Service Managers must ensure that:
- All income due is identified and that requests to raise a Sundry Debtor Invoice are raised in a timely manner (within 14 days of the goods / service being provided);
 - They follow the systems and procedures laid out by the Director of Resources;
 - Income must be paid fully and promptly into the Council's bank account and full details recorded on the paying in slip;
 - ensure that where income cannot be banked immediately it is stored securely and is insured against loss or theft;
 - Officers are suitably trained;
 - Official receipts are always given;
 - Proper records are kept;
 - Hold securely receipts, tickets and other records of income;
 - VAT is properly charged
 - Provide the Director of Resources with full details of debts to be considered for write off All requests for write off, giving the reasons for the request and supporting documentation..
- 5.2.5. Unless the value is £10 or less (and there is no legal requirement to invoice) or the Director of Resources has authorised any other exception, where a Sundry Debtor Invoice is required a Sales Orders must be raised through the Agresso Financial Management System. Sales orders must indicate clearly the nature and quantity of the work or services provided by the Council, the income due and any relevant contract or payment terms (if different from the Council's standard terms and conditions).
- 5.2.6. Directors/Service Managers must have effective systems for monitoring income that is due to their service area. The Director of Resources must be advised of any cases of financial impropriety.
- 5.2.7. No new proposal to generate or charge income shall be introduced without approval of the Chief Executive, after consultation with the Director of Resources on the financial and taxation implications.
- 5.2.8. Directors shall undertake an annual review of fees and charges in consultation with the Director of Resources and the Director of Resources shall be present a joint report to the Governance and Resources committee (usually in January for the coming financial year) for approval.
- 5.2.9. Personal cheques shall not be cashed.
- 5.2.10. Any transfer of money from one member of staff to another shall be supported by an official receipt or, where appropriate, by the signature of the receiving officer.
- 5.2.11. The Director of Resources shall take all reasonable steps for the recovery of

debts including court proceedings, when justified, that may be instigated in consultation with the Legal Services Manager who shall advise and assist with legal requirements.

- 5.2.12. All requests for write off must be accompanied by a brief report giving the reasons for the request and supporting documentation. The Director of Resources shall have the authority to write off individual debts of less than £10,000, after due consideration of the circumstances, unless the debt is due to officer error, in which case there shall be no limit. The write off of debts of £10,000 or more will require the approval of the Governance and Resources Committee.
- 5.2.13. Each Director of Service shall, within such a period as the Director of Resources may specify, supply such information after 31 March in each year as shall enable income for the previous financial year to be properly accounted for and resulting accounts to be raised promptly.

5.3 Ordering and paying for work, goods and services

- 5.3.1. The authority's procedures are designed to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's procurement strategy and Contract Standing Orders.
- 5.3.2. Every employee and member of the authority must declare to the Director of Corporate and Customer Services and (for employees) their own Service Director any links or personal interests that they may have with suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with appropriate codes of conduct.
- 5.3.3. Expenditure on work, goods and services must comply with the Council's Contract Standing Orders, which set out the procurement framework and the thresholds.
- 5.3.4. Unless agreed by the Director of Resources, Purchase Orders must be issued for all goods and services prior to the goods, services or supplies being commissioned.. Exceptions to this rule are: (i) Utility bills (ii) Payroll and staff expenses (iii) Work which is part of a formal contract (excluding term or schedule of rates contracts) (iv) Subscriptions (v) Grants (vi) Refunds (vii) Compensation payments (viii) Periodic payments (such as rent or rates) (ix) Petty cash purchases and purchase card purchases (x) Orders with a value of £10 or less.
- 5.3.5. Purchase card purchases should only be used for the purchase of goods. All other purchases must have a specific contract in place that has been agreed by the Council's legal team; provided that such a contract is in place, a purchase order may be issued to a supplier.
- 5.3.6. Unless the Director of Resources has authorised an exception, Purchase Orders may only be raised through the Agresso Financial Management System. Official orders must indicate clearly the nature and quantity of the work or services

required, the financial commitment and any relevant contract or payment terms (if different from the Council's standard [Purchase Order Terms and Conditions](#)).

- 5.3.7. Orders for goods and services must only be issued where the Officer approving the order is satisfied that the goods or services are appropriate and needed and that the expenditure is provided for within the approved budget or is covered by an appropriately approved virement or a supplementary estimate. Commitments and accruals will be automatically recorded onto the Council's Agresso Financial System through the approval of the purchase order. This ensures that the finance system gives a true picture of the amount of expenditure incurred or committed and the balance remaining against each budget head.
- 5.3.8. Directors and / or their delegated officers may place purchase orders for expenditure up to the amounts provided in the approved Budget, provided that such orders conform to Contract Standing Orders, Financial Procedures and these Regulations.
- 5.3.9. Responsibility for orders lies with the appropriate Director and / or their delegated officer. Acceptance of any order by a supplier forms a legally binding contract. Official Orders will show amounts in £ sterling. Foreign currency transactions are not allowed without the prior written consent of the Director of Resources..
- 5.3.10. The Director and / or their delegated officer issuing an Official Order is responsible for certifying the receipt of goods and services or any variation in price on the Agresso Financial System, thereby authorising the related invoice(s) for payment, and similarly for any other payment vouchers or invoices arising from his/her service area. Directors may nominate staff to approve Official Orders and certify invoices or payment vouchers on their behalf.
- 5.3.11. Directors are responsible for:
- ensuring best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality and by utilising corporate purchasing arrangements where they exist;
 - establishing and maintaining sound and efficient systems for the ordering, receipt, checking and payment of goods and services in a form approved by the Director of Resources, which incorporate, as far as possible, separation of duties between the ordering, receiving and payment processes;
 - ensuring that Officers who raise Purchase Orders and process / authorise invoices for payment have been properly trained;
 - maintaining an up-to date list of those officers authorised to authorise official orders and/or authorise payments and supplying a copy of the list to the Director of Resources. The list is to clearly show the financial limits of authority which apply to each officer;
 - ensuring that official purchase orders are used for all goods and services except where the prior written approval of the Director of Resources has been obtained;
 - ensuring that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment.

- 5.3.12. No invoice shall be passed for payment until the relevant Director, or his/her authorised nominee, is satisfied it is in accordance with the Council's Financial Regulations and Financial Procedures.
- 5.3.13. Each Director shall, as soon as possible after 31st March and not later than the date specified by the Director of Resources in each year, notify the Director of Resources of all outstanding expenditure relating to the previous financial year.
- 5.3.14. The Director of Resources has a duty under law to make payments, whether or not provision has been made in the Budget, in the following cases:
- (a) Payments specifically required by statute;
 - (b) Payments under a Court Order;
 - (c) Payments under a contract properly made by a Director;
 - (d) Where an Official Order has been issued.
- 5.3.15. The Director of Resources shall make payments from the Council's official funds, providing that the relevant authorisations have been made on the Agresso Financial System (or by any other procedure authorised by the Director of Resources) by Directors or their delegated officers and that the expenditure has been duly incurred in accordance with these Financial Regulations.
- 5.3.16. Official Orders shall not be raised for any personal or private purchases, nor shall personal or private use be made of Council contracts or preferential terms enjoyed by the Council.
- 5.3.17. The Director of Resources shall publish data on the Council's website to show:
- the percentage of undisputed invoices paid within 30 days and the amount of interest paid to suppliers due to late payment;
 - details of spending over £250.

5.4 Payments to employees and members

- 5.4.1. Staff costs are the largest item of expenditure for most services. It is therefore important that payments are accurate, timely, and made only where they are due for services to the Authority, and that payments accord with an individual's conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Full Council.
- 5.4.2. The Human Resources & Payroll Manager is responsible for all payments of salaries and wages and expenses to staff, including payments for overtime, honoraria etc. and submission of related tax returns to HM Revenue and Customs by their due date for the above.

5.4.3. The Human Resources & Payroll Manager shall:

- arrange and control secure and reliable payment of salaries, wages, compensation, other emoluments, expenses and allowances in accordance with procedures produced in agreement with the Director of Resources;
- record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions to the relevant bodies;
- commission external taxation advice where appropriate and discuss the advice with the Director of Resources prior to implementing any procedural changes;
- provide accounting records of all transactions in the form determined by the Director of Resources.

5.4.4. Directors are responsible for:

- Ensuring that employee appointments are made in accordance with the regulations of the Council and approved establishments, grades and scales of pay and that budget provision is available;
- notifying the HR and payroll team as soon as practicable of all appointments, terminations or variations which may affect the pay of an employee, in the form determined by the HR and Payroll Manager;
- informing the HR and Payroll Manager of those managers authorised to sign records and returns relating to payments to employees and councillors via the electronic system or other procedure approved by the HR and Payroll Manager;
- ensuring that all payments to employees and councillors, including all casual and temporary staff, are processed only through the payroll system.

5.5 Taxation

5.5.1. The Director of Resources is responsible for providing information to HMRC in relation to the Construction Industry Tax Deduction Scheme as required and advising Directors of their responsibilities under the scheme.

5.5.2. Directors are responsible for ensuring that the appropriate controls and procedures are operated within the service area in relation to taxation issues.

5.5.3. The Director of Resources is responsible for completing the monthly return of VAT (inputs and outputs) to HMRC. The Director of Resources will monitor the Council's partial exemption limit. The Director of Resources must be consulted by Directors on whether to opt to tax on any major project or land.

5.5.4. The Director of Resources should be consulted on the VAT and taxation implications of any new service development. The Director of Resources shall commission external VAT and taxation advice where appropriate.

5.6 Trading accounts and business units

- 5.6.1. In some areas the Council may operate a trading account. This means that the costs and income from charges relating to the service are ring-fenced in the accounts. Any surplus or deficit is added to a reserve each year. The Director of Resources is responsible for ensuring that trading accounts are treated properly in the Council's accounts.
- 5.6.2. Directors are responsible for ensuring that, in line with the Local Government Act 2003, charges are set to recover costs without building up significant surpluses, and that any changes in take up of the service which could result in a deficit are reported at an early stage. All charges must be reviewed on a regular basis and annually as a minimum as part of integrated service and financial planning.
- 5.6.3. The Director of Resources shall determine in liaison with other Directors the need for the establishment and operation of trading accounts and business units.

5.7 Retention of documents and records

- 5.7.1. Directors shall be responsible for ensuring that records are carefully and systematically retained for inspection by the Monitoring Officer, Director of Resources, or internal or external audit and agencies such as HM Revenue and Customs.
- 5.7.2. The minimum periods for the retention of financial records are set out in the Council's Document Retention Policy. The key areas are set out below:
- mortgages, bonds, stocks and other holdings, insurance, contracts, pension information and transfer values should be held indefinitely;
 - documents relating to EU grant schemes should be retained for 30 years;
 - other contract documents including the final account where the contract is under seal should be retained for 12 years;
 - the majority of accounting records should be retained for a period of six years following audit.

In the event of doubt, advice should be sought from the Director of Resources.

- 5.7.3. Following the period of retention, records should be disposed of in accordance with the Document Retention Policy.

6 EXTERNAL ARRANGEMENTS

6.1 Partnerships

6.1.1. The Full Council is responsible for approving delegations, including frameworks for partnerships for service provision.

6.1.2. The Director of Resources must ensure that the accounting arrangements to be adopted relating to companies, partnerships and joint ventures are proper. The activities are likely to be consolidated in the Council's Statement of Accounts. Companies, partnerships and joint ventures must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

6.1.3. The Chief Executive and Directors must ensure that the full implications of any service provision partnership are explored and that Finance and Legal officers are consulted at an early stage. The following issues should be addressed to the satisfaction of the Corporate Leadership Team:

- Is a partnership the best vehicle for achieving the desired outcome?
- What are the aims and objectives of the partnership and are they consistent with the Council's priorities?
- How will the partnership be funded and who is responsible for the financial management, accounts and audit arrangements? There must be a right of access for the Council's auditors at all times to all documents, records, premises and employees.
- What is the expected duration of the partnership? Is there an exit strategy?
- What is the Council's commitment in terms of finance and other resources?
- What are the resource implications in terms of staff, premises etc.?
- What are the risks and how will they be managed and monitored? The relevant service director must prepare a full risk assessment for each proposed partnership;
- What is the legal status of the partnership and how will it be governed?
- Are the roles and responsibilities of each partner clear?
- Are there any personal responsibilities for individual officers and how does this fit with the Council's scheme of delegation, contract standing orders and these financial regulations?
- How will the performance of the partnership be monitored and how will success be measured?
- Are there any taxation issues?
- How will goods and services required by the partnership be procured?
- Is there a robust business case?

6.1.4. The relevant Director is responsible for seeking appropriate approvals before any commitment or agreement is entered into.

6.1.5. A partnership arrangement must not be used as a means of avoiding the

Council's procurement rules.

6.2 External funding

6.2.1. The Council bids for funds from government departments and other external agencies. On occasion the Council may be granted external funding without the need for bidding. Each funding regime is subject to its own rules and regulations and the process for submitting applications and drawing down funding varies.

6.2.2. It is important to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Council are clearly understood. Directors should:

- ensure that all applications for funding are consistent with the Council's priorities and approve them in principle before detailed work commences;
- ensure that an officer is nominated as project manager;
- consult the Financial Services Team when preparing grant bids to ensure that full costs are identified including any match funding required, and ongoing commitments are taken into account.
- ensure that the application is signed off by the Director of Resources or an appropriate officer in the Service and complete any pre-application checklist issued by the Director of Resources;
- where applications are successful, ensure that the expenditure and income budgets are amended as necessary;
- ensure that the rules and regulations for the particular funding stream are complied with at application stage and throughout the life of the project;
- ensure that all requirements relating to the delivery of outputs and spend are met in line with the approved bid or project plan;
- ensure that all funding notified by external bodies is claimed, received and properly recorded in the authority's accounts and complete any pre-claim checklist issued by the Director of Resources;
- check the audit requirements and notify the Director of Resources of any claims that must be audited by the Council's external auditor.

6.3 Work for third parties

6.3.1. Directors must ensure that work for third parties is covered by a suitable contract or agreement so that the responsibilities of each party are clear.

6.3.2. Financial and legal advice should be sought at an early stage. This will ensure that the Council only carries out work that is within its legal powers, and that financial issues such as insurance and taxation are properly considered.

6.3.3. Directors must ensure that:

- the Council is not put at unnecessary risk from bad debts;
- contracts are not subsidised by the Council.

- 6.3.4. Directors must provide appropriate information to the Director of Resources to enable a note to be entered into the Statement of Accounts where necessary.

6.4 Work by third parties

- 6.4.1. Directors must ensure that work carried out by third parties for the Council is approved and covered by a suitable contract or agreement so that the responsibilities of each party are clear. Financial, legal and procurement advice should be sought at an early stage. This will ensure that the Authority only carries out work that is within the relevant legal powers, and that financial issues such as responsibility for managing budgets, insurance and taxation are properly considered.

7 COMPLIANCE WITH THE LOCAL GOVERNMENT TRANSPARENCY CODE

7.1 Publication of Data

- 7.1.1. Directors shall collate and publish all data which the Code requires to be published in relation to services for which they are responsible within the timescales set out in the version of the Code in force at the time.
- 7.1.2. Where, in order to comply with 7.1.1 above, a Director requires data from another Director, this shall be provided in a timely manner so as to enable the responsible Director to meet the deadlines for publication set out in the Code.
- 7.1.3. The Director of Resources may by agreement publish particular data on behalf of Directors. In such cases, Directors will ensure that they supply all data in a timely manner so as to enable the Director of Resources to meet the deadlines for publication set out in the Code.
- 7.1.4. The Code requires data to be published on the Council's website. Accordingly the Director of Corporate and Customer Services will ensure that all data supplied to them for publication will be placed on the website in a timely manner in order to comply with the timescales set out in the Code.
- 7.1.5. Regard will be had to Guidance published from time to time by the Local Government Association in respect of data to be published and the format of publication.