

# Gedling Borough Council Constitution

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## Section 1 - Purpose, definition, interpretation and amendment of the constitution

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### 1 Purpose of the Constitution

The purpose of the Constitution is to:

- 1.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses, statutory partners and other organisations;
- 1.2 support the active involvement of citizens in the process of local authority decision making;
- 1.3 help Councillors represent their constituents more effectively;
- 1.4 enable decisions to be taken efficiently and effectively;
- 1.5 create a powerful and effective means of holding decision makers to public account;
- 1.6 ensure that no one will take part in or scrutinise a decision on a matter in which they are directly involved;
- 1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and

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1.8 provide a means of improving the delivery of services to the community.

## 2 Definitions in the Constitution

2.1 Within the Constitution the following words and phrases have the meaning set out below:

“Budget”	The overall revenue and capital budget approved by Full Council;
“Chief Officer”	Any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who: <ul style="list-style-type: none"><li>• reports directly to the Head of Paid Service in respect of all or most of his/her duties; or</li><li>• the Head of Paid Service is directly responsible for;</li></ul>
“Councillor”	a person elected to the Council to represent an area (called a ward) within Gedling Borough Council;
“Day”	a “day” or “days” means a council working day, and does not include the day on which the notice was given or the day of the meeting to which the notice refers
“Executive”	the Cabinet, Sub-Committee of Cabinet, or a Member of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function”	(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Committee is an Executive Function.



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	<p>(b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p>
“Forward Plan”	<p>the Forward Plan is a document which lists all of the key decisions that the Council and the Cabinet intend to take. This does not prevent urgent or unforeseen matters being considered;</p>
“Full Council”	<p>the body where all Councillors act to exercise functions of the Council;</p>
“Head of Paid Service”	<p>an Officer who must be appointed by law to carry out certain functions. See Section 10 for more details. The Officer will usually have other duties and a different job title. See Section 10 for which Officer is the Head of Paid Service;</p>
“Local Choice Functions”	<p>there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion;</p>
“Member”	<p>either a Councillor or a person chosen by the Council to serve on one of its Committees or Sub-Committees (called “a Co-Opted Member”);</p>
“Monitoring Officer”	<p>an Officer who must be appointed under S.5 of the Local Government and Housing Act 1989 by law to carry out certain functions. See Section 10 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;</p>
“Non-Executive Functions”	<p>any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a committee or an officer;</p>
“Planning Application”	<p>any of the following:</p> <ul style="list-style-type: none"><li>• application for planning permission (including renewal);</li><li>• application for approval of reserved matters;</li><li>• application for listed building consent;</li></ul>

- application relating to trees;
- proposal to serve an urgent works notice or acquire a listed building in need of repair;
- application for conservation area consent;
- application for advertisement consent;
- application to vary or remove conditions on a planning condition;

“Policy Framework”

See Section 4 paragraph 2;

“Section 151 Officer”

an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;

“Service”

one of the services provided by the Council;

### 3 Interpretation of the Constitution

- 3.1 The Constitution has been drafted in a structured way so as to aid clear understanding.
- 3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.
- 3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

### 4 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. The Section 151 Officer shall be responsible for keeping under review the Financial Rules set out in Section 25 of the Constitution.

### 5 Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 5.1 observe meetings of different parts of the Member and Officer structure;
- 5.2 undertake an audit trail of a sample of decisions;

- 5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

### **6 Changes to the Constitution**

#### **6.1 Approval**

Subject to paragraphs 6.2 and 6.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the Monitoring Officer or on recommendation of the Cabinet, in relation to Executive Functions.

#### **6.2 Minor Changes**

If, in the reasonable opinion of the Monitoring Officer, a change is:

- a) a minor variation; or
- b) required to be made to remove any inconsistency, ambiguity or typographical correction; or
- c) required to be made so as to put into effect any decision of the Council or its committees or the Cabinet including amending delegations to officers; or
- d) required to be made so as to reflect any changes in job titles or structural changes

the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

#### **6.3 Legislative Change**

The Monitoring Officer has the authority to amend the constitution where such amendment is made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

### **7 Suspension of the Constitution**

#### **7.1 Limit to Suspension**

Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

#### **7.2 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 is 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 this Section.

### **8 Publication**

- 8.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.
- 8.2 The Monitoring Officer will provide a link to a copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.
- 8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 6.

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### 1 Composition and eligibility

#### 1.1 Composition

The Council comprises of 41 members, otherwise called councillors. One or more councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by Parliament.

#### 1.2 Eligibility

Only registered voters of the Borough or those living or working there will be eligible to hold the office of councillor.

### 2 Election and terms of councillors

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.

### 3 Roles and functions of all councillors

#### 3.1 Key roles

All councillors will:

- (i) collectively be the policy-makers and carry out a number of strategic functions;
- (ii) contribute to the good governance of the area and actively encourage

- community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and leadership of the Council; and
  - (vi) maintain the highest standards of conduct and ethics.

### **3.2 Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Section 18 of this Constitution.

## **4 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Section 27 of this Constitution.

## **5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Section 29 of this Constitution.

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### 1 Getting Information

#### 1.1 Information available to Members of the public

Members of the public can obtain information in the following ways:

- a) When Meetings of Council, Cabinet, Committees and Sub-Committees will take place

A programme of meetings is available by contacting the Council direct or viewing the notice of public meeting at the civic centre or on the website.

- b) Forward Plan/Scrutiny Work Programme

From the Forward Plan and Scrutiny Work Programme, see what decisions will be taken by the Cabinet or Council and what issues the Scrutiny Committees will be considering and when these matters will be discussed.

- c) Information Available Prior to a Meeting

5 clear days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

- d) Information Available at a Meeting

The Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the

meeting (save during any part of the meeting to which the public are excluded).

e) Information Available After a Meeting

For a period of six years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of four years.

f) Council's Accounts

Inspect the Council's accounts and make views known to the external auditor. The accounts will be available for public inspection for twenty working days after the date appointed by the auditor.

Information which is confidential or exempt (as defined in Section 18) will not be disclosed to members of the public at any time.

## 2 Getting Involved

### 2.1 Members of the Public

Members of the public can get involved in the following ways:

a) Vote

If they are over 18 years and registered as a local elector with the area of the Borough, citizens have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

b) Meetings

Citizens have the right to attend meetings of the Council and its Committees except where confidential or exempt business is discussed. Citizens can also ask questions at meetings of the Council (see section 4)

c) When are Meetings Open to the Public?

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed and it is in the public interest that the information is not disclosed. (See section 18 for definition of exempt information and section x for definition of public interest.)



### d) Making Comments/Complaints

A member of the public may comment or complain about Council services by:

- (i) Using the Council's complaints process
- (ii) Complaining to the Local Government or Social Care Ombudsman should the Council's complaints process not resolve the problem
- (iii) Complaining to the Council's Monitoring Officer about a breach of the Member's code of conduct.

### **2.2 Citizen's Responsibilities**

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

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## **1 Membership**

All elected members of the Borough Council shall be Members of the Full Council

## **2 Quorum and Frequency of meetings**

- a) No business shall be transacted at a meeting of the Council, unless at least one quarter of the whole number of Members of the Council are present thereat.
- b) If during any meeting of the Council the Mayor, after counting the number of Members present, declares that there is not a quorum present, the meeting shall stand adjourned.
- c) The consideration of any business not transacted shall stand adjourned to a time fixed by the Mayor at the time the meeting is adjourned, or, the mayor does not fix a time, to the next ordinary meeting of the Council.
- d) Ordinary meetings will take place five times per annum. The Annual General Meeting will take every year in May.

## **3 Responsibility**

Only the Council will exercise the following functions:

- a) adopting and amending the constitution;
- b) approving or adopting the plans and strategies that form the policy framework and the budget;
- c) subject to the urgency procedure contained in the Access to Information Rules in Section 18 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or not in accordance with the constitution or Financial Rules;
- d) electing the Leader of the Council at the post-election annual meeting;

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- e) appointing members, Chairs and Vice-Chairs of other Council committees and bodies. Where the Council does not appoint the Chair or Vice-Chair of a body, the body itself may do so;
- f) electing the Mayor and Deputy Mayor;
- g) appointing a Youth Mayor
- h) establishing committees and agreeing and amending the terms of reference, determining the powers they may exercise, determining their composition and making appointments to them, unless delegated elsewhere;
- i) removing the Leader of the Council by way of resolution by a simple majority. If the Council passes the resolution to remove the Leader then a new Leader is to be elected at the meeting in which the leader is removed from office or at a subsequent meeting;
- j) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- k) adopting or amending the members' allowances scheme, having regard to the recommendations of an Independent Remuneration Panel, and determining allowances payable to Councillors;
- l) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- m) confirming the appointment of the Chief Executive and Head of Paid Service;
- n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- o) deciding whether or not to delegate non-executive functions to another local authority or to accept delegations from another Council;
- p) approving, varying or revoking the code of conduct for members and co-opted members;
- q) decisions relating to the Statement of Licensing Policy (Section 5 and 7 of the Licensing Act 2003);
- r) making, varying or revoking an order under section 172a (Early Morning Alcohol Restriction Order – Licensing Act 2003);
- s) passing a resolution not to issue casino premises licences (Section 166 and 154(2)(c) of the Gambling Act 2005);
- t) making or revising a Council Tax Reduction Scheme;
- u) considering any recommendation from the Appointments and Conditions of Service Committee for the dismissal of the Head of Paid Service, Chief Financial Officer and Monitoring Officer, having first taken into account the views of the Independent Panel in accordance with the Local Authority (Standing Orders)(England)(Amendment) Regulations 2015;
- v) establishing the composition and terms of reference of an Independent Panel constituted under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015;

- w) making appointment to the above Independent Panel;
- x) hearing appeal of the Chief Executive, the Head of Paid Service, the Monitoring Officer and the Section 151 Officer against dismissal;
- y) Hearing appeal of the Chief Executive, the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer against disciplinary action short of dismissal;
- z) Maintaining the content of Section 19 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive; and
- aa) all other matters which, by law, must be reserved to Council.

### **4 Council Meetings**

There are three types of Council meeting:

- a) the annual meeting;
- b) ordinary meetings;
- c) extraordinary meetings;

and they will be conducted in accordance with the procedures listed below.

### **5 The Mayor and Deputy Mayor**

The Mayor and Deputy Mayor will be elected by the Council annually.

### **6 Functions of the Mayor**

The Mayor (and in his/her absence the Deputy Mayor) will have the following responsibilities:

- a) To take precedence and be the first citizen of the Borough;
- b) To promote the Council as a whole and act as a focal point for the community;
- c) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- d) 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;
- e) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or appointed as committee chairs are able to hold the Executive and committee chairs to account;
- f) To promote public involvement in the Council's activities;
- g) To be the conscience of the Council;
- h) To attend such civic and ceremonial functions as is appropriate; and

- i) In the absence of the Chair of the Overview and Scrutiny Committee, to consider proposals from the Executive for urgent key decisions to be taken.

## 7 Procedure Rules for Full Council

### 7.1 Meetings of the Council

- a) The Annual Meeting of the Council shall be held:-

- (1) In a year of ordinary elections of Councillors, on the eighth day after the day of retirement of Councillors or such other day within twenty-one days of retirement as the Council may fix.
- (2) In any other year on such day in the month as the Council may fix.
- (3) The Summons to the Annual Meeting shall set out the business to be conducted and the agenda shall be restricted, apart from the matters set to be decided at the Annual Meeting by these procedures, to:
  - the election of the Mayor and Deputy Mayor of the Council
  - the appointment of a Youth Mayor
  - the appointment of Committees and Sub-Committees
  - the recognition of Group Leaders
  - the appointment of the Leader of the Council in the year following the ordinary election of Councillors
  - the appointment of persons to represent the Council on outside bodies
  - the approval of dates and times for a programme of ordinary meetings of the Council and Committees for the year
  - the notification to the Council by the Leader of the Council of the composition, constitution and identities of the Cabinet for the coming year and any proposed Executive delegation arrangements
- (4) The election of the Mayor, followed by the election of the Deputy Mayor, shall be the first business transacted at the Annual Meeting of the Council.

- b) In addition to the Annual Meeting of the Council, and any meetings convened by the Mayor or by Members of the Council, meetings for the transaction of general business shall be held in each year on such dates as shall be fixed by the Council at the Annual Meeting. Approval to change the dates of meetings so fixed can only be given at a Council meeting by a two thirds majority of those present and voting.

- c) No scheduled meeting of the Council shall be cancelled, postponed or otherwise altered without prior consultation with the Leader of the Council and the Leader of the Second Group, or their appointed representatives.

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- d) The Mayor may call an extraordinary meeting of the Council at any time and shall call an extraordinary meeting if requested to do so by a Scrutiny Committee pursuant to the Budget and Policy Framework Procedure Rules.
- e) If the Mayor refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five members of the Council, has been presented to him, or if, without so refusing, the Mayor does not call an extraordinary meeting within seven days after the requisition has been presented to him, then five members of the Council on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Council.
- f) The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting, except that the Mayor has absolute discretion to permit other items of business to be conducted for the efficient discharge of the Council's business.

### **7.2 Conduct of Meetings**

Any power or duty of the Mayor in relation to the conduct of a meeting of the Council may be exercised in his absence by the Deputy Mayor or in his absence, by the person appointed to preside at the meeting.

### **7.3 Order of Business**

Except as otherwise provided by paragraph 7.5 below, the order of business at every Ordinary Meeting of the Council shall be:-

- a) To choose a person to preside if the Mayor and Deputy Mayor be absent.
- b) Apologies for absence.
- c) Any announcements, correspondence, communications or other business specially brought forward by the Mayor.
- d) To approve as a correct record and sign the Minutes of the last meeting of the Council.
- e) Declarations of interest from Members.
- f) To deal with any business expressly required by statute to be done.
- g) To dispose of business (if any) remaining from the last meeting.
- h) To deal with any petitions received under paragraph 7.8
- i) To answer questions asked by the public under paragraph 7.7
- j) To answer questions asked by Members under paragraph 7.9



- k) To receive and consider reports, and recommendations of the Executive and Committees
- l) To consider comments and questions under 7.11
- m) To consider motions under paragraph 7.12 in the order in which notice has been received
- n) Other business if any specified in the summons.

### **7.4 Variations of Order of Business**

Business falling under Items (a), (b), (c) or (f) of paragraph 7.3 below shall not be displaced but subject thereto the foregoing order of business may be varied:-

- a) By the Mayor at their discretion
- b) By a resolution passed on a motion (which need not be in writing) duly moved and seconded which shall be moved and put without discussion.

### **7.5 Motions and Amendments Which May be Moved without Notice**

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

- a) The appointment of a Chair of the meeting at which the motion is made.
- b) Questioning the accuracy of the Minutes.
- c) To change the order of business in the agenda.
- d) Referring a matter to the Executive or to a Committee.
- e) Appointment of a Committee or Members of that Committee arising from an item of business on the agenda.
- f) Appointment of new Leader whether following a resolution to dismiss the Leader or other eventuality.
- g) Adoption of reports and recommendations of the Executive or of Committees or Officers and any consequent resolutions.
- h) That leave be given to withdraw a motion.
- i) Extending the time limit for speeches.
- j) Amendments to motions.
- k) That the Council proceed to the next business.
- l) That the question be now put.
- m) That the debate be now adjourned.
- n) That the Council do now adjourn.
- o) Suspending Procedure Rules for Full Council in accordance with paragraph 7.30.

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- p) Motion under Section 100a of the Local Government Act 1972 to exclude the public and press.
- q) That a Member named under paragraph 7.15 be not further heard or do leave the meeting.
- r) Giving consent of the Council where the consent of the Council is required by this section of the constitution.

### **7.6 Minutes**

- a) At each ordinary meeting of the Council the Mayor shall put the question that the Minutes of the previous ordinary meeting of the Council and any extraordinary meeting held since the last ordinary meeting of the Council be approved as a correct record.
- b) No discussion shall take place upon the Minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Mayor shall sign the Minutes.

### **7.7 Questions by the Public**

- a) A period of up to 30 minutes shall be allocated at every ordinary council meeting for any member of the public and any single representative of any group or association operating in the Borough to ask questions of any member of the Executive or committee chair.
- b) A question under this rule may only be asked if notice has been given by delivering it in writing (email is acceptable) to the Chief Executive by 5.00 pm at least six clear working days before the meeting (for example, for a meeting on Wednesday, the question must be received by 5 pm on the Monday in the week before the meeting). Each question must give the name and address of the questioner.
- c) At any meeting no person or representative may submit more than one question.
- d) The Chief Executive may reject a question if it:
  - 1) is not about a matter in respect of which the Council has powers or duties or which affects the Borough;
  - 2) is defamatory, frivolous or offensive;
  - 3) is substantially the same as another question which has been put at a meeting of the Council in the previous six months; or
  - 4) requires the disclosure of confidential or exempt information.
- e) Copies of questions will be circulated to all Members and made available to the public attending the meeting.

- f) The Mayor will invite the questioner to put the question to the member named in the question, or any other member nominated by the Mayor if no member has been named by the questioner, to answer the question verbally. If the questioner is not present at the meeting, the question will not be dealt with. In exceptional circumstances, in consultation with the Chief Executive, The Mayor has the discretion to put the question in the absence of the questioner, to defer it to the next meeting or to direct that a written response is provided
- g) Any answer may take the form of:
  - 1) a direct verbal answer;
  - 2) where the desired information is contained in a publication of the Council, a reference to that publication;
  - 3) a written answer circulated at the meeting; or
  - 4) a combination of such forms.
- h) Any question which cannot be dealt with during public question time either because of lack of time or because of the non-attendance of the member to whom it was to be put will be dealt with by a written answer.
- i) Every question shall be put and answered without discussion, but the member to whom it has been put may decline to answer.

### **7.8 Petitions**

- a) At an Ordinary Meeting of the Council a petition organiser, or their nominated representative may present a petition to the Council in accordance with the Council's Petition Scheme
- b) The Mayor will accept the petition on behalf of the Council.
- c) The petition organiser, or their nominated representative may address the Council on the subject of the petition for a maximum of five minutes.
- d) The request to the Council which is the subject of the petition shall be deemed to be the motion before the Council and to have been moved and seconded when the petition is accepted by the Mayor.
- e) Paragraph 7.15 (Rules of Debate for Council Meetings) shall apply to the debate on the motion, save that for the purposes of a debate on a petition, considered pursuant to this paragraph, paragraph 7.15(h) shall be substituted by "The mover of an amendment shall have the right to reply at the close of the debate on his amendment. If his amendment is carried and if any further amendment is moved, the mover of the original amendment shall have the right of reply at the close of the debate on that further amendment and shall not otherwise speak on that amendment".

- f) The debate on the petition will close when the last member remaining entitled to speak and wishing to do so has spoken and the substantive motion then before the Council shall be put to the vote.

### 7.9 Questions asked by Members

- a) At an Ordinary Meeting of the Council a Member of the Council may ask any member of the Executive or the Chair of any Committee any question on any matter in relation to which the Council has powers or duties, if either:-
- 1) Notice has been given by delivering it in writing (email is acceptable) to the Chief Executive by 5.00 pm at least six clear working days before the meeting (for example for a meeting on Wednesday, the question must be received by 5 pm on the Monday in the week before the meeting). The question will be set out in the Summons for the meeting.
  - 2) the question relates to urgent matters, the content of the question has been given by delivering it in writing (email is acceptable) to the Chief Executive by 10.00 am on the day of the meeting and the Mayor has given permission for the question to be put. A copy of the question will be circulated to all Members and made available to the public attending the meeting.
- b) Any Member asking a question under rule 7.9 may ask one related supplementary question of the member of the Executive or Committee Chair answering the original question.
- c) Every question or supplementary question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer.
- Any answer may take the form of:-
- 1) a direct verbal answer;
  - 2) where the desired information is contained in a publication of the Council, a reference to that publication;
  - 3) a written answer circulated to Members at the meeting of the Council.
  - 4) a combination of such forms.
- d) If the Member asking the question is not present at the meeting, the question will not be dealt with.

### 7.10 Reports and Recommendations of the Executive and Committees

- a) Immediately after questions under paragraph 7.10 have been dealt with, the reports and recommendations of the Executive or Committees shall be considered by the Council in the order in which they appear in the Summons and the rules of debate for Council meetings shall apply to the consideration of such reports and

recommendations.

- b) The procedure set out in Part II of the Budget and Policy framework Procedure Rules in this Constitution shall be applied in the consideration of any draft plan or strategy recommended to the Council for adoption or approval by the Council.

### 7.11 Comments and Questions

- a) At an Ordinary Meeting of the Council a Member of the Council may comment or ask a question upon any matter dealt with by the Executive or by a Committee or Sub-Committee under delegated powers and reported to the particular meeting of the Council for information.
- b) The Mayor shall ask for comments or questions to be put in relation to the work of the Executive and of each Committee.
- c) The appropriate Cabinet member or appropriate Committee Chair, or another Member nominated by them, may if they so desire, reply to any comments.
- d) Except by consent of the Council, a Member's speech by way of question, comment or any reply thereto shall not exceed five minutes.
- e) If the Chief Executive is of the opinion that a comment or question is not within the scope of this paragraph or is, vexatious, scurrilous or otherwise improper, the Mayor can take the decision not to hear such a comment.

### 7.12 Notice of Motion

- a) Except for a motion which under paragraph 7.6 may be moved without notice, written notice of every motion must be given by delivering it in writing (email is acceptable) to the Chief Executive by 5.00 pm at least six clear working days before the day of the meeting (for example for a meeting on a Wednesday, the motion must be received by 5 pm on the Monday in the week before the meeting). Each notice of motion shall name the Members of Council intending to propose and second the motion and in the case of notice in writing shall be signed by the said Members. The Chief Executive shall enter it in a book which shall be open to the inspection of every Member of the Council.
- b) No Member may give notice of more than one motion for any Council meeting, except with the consent of the Mayor.
- c) The Chief Executive shall set out in the Summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the Member giving such a notice intimated in writing, when giving it, that he proposed to move it at some later meeting, or has since withdrawn it in writing.
- d) If a motion thus set out in the Summons be not moved by the Member who gave notice thereof it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice

- e) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the Borough. The determination on this paragraph shall be made by the Mayor.
- f) If the Chief Executive is of the opinion that a proposed motion is not within the scope of this paragraph or is vexatious, scurrilous or otherwise improper, (s)he may refer the notice to the Mayor who may direct that it be returned with an intimation that it will not be placed on the Notice of Meeting except upon the written request of three Members of the Council, and the Monitoring Officer shall return the same accordingly.
- g) If the same notice be afterwards re-delivered to the Chief Executive with a request for its insertion in the Notice of Meeting written thereon and signed by three Members of the Council, the Chief Executive shall then insert such notice, with the names of the requesting Members, in the notice of the next following meeting of the Council.

### **7.13 Motion to Remove Leader of Council**

A motion of no confidence in the Leader of the Council, or to remove or dismiss the Leader of the Council shall only be moved at a Council Meeting if the notice thereof given in pursuance of this paragraph bears the names of at least one-fifth of the whole number of Members of the Council. In order for such a motion to be carried it must be supported by at least two thirds of those Members voting and present at the meeting at the time the question is put.

### **7.14 Rules of Debate for Council Meetings**

- a) A motion shall not be discussed unless it has been proposed and seconded. The member who gave notice thereof shall be permitted to confirm that they do not intend to move the motion and the reasons why but shall not otherwise be permitted to speak.
- b) A Member when seconding a motion or amendment may, if they declare their intention to do so, reserve their speech until later in the debate.
- c) If two or more Members wish to speak, the Mayor shall call on one to speak; the other or others shall then sit. While a Member is speaking, the other Members shall remain seated unless rising to a point of order or in personal explanation. Members shall speak of each other in Council during the transaction of business by their respective titles of "Mr. Mayor" (or "Deputy Mayor") or "Madam Mayor" (or "Deputy Mayor") or 'Councillor' as the case may be.
- d) If a motion thus set out in the Summons be not moved by the Member who gave notice thereof it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- e) A Member may, with the consent of the Council signified without discussion:-

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- 1) alter a motion of which they have given notice, or
- 2) with the further consent of his seconder, alter a motion which he has moved.

If (in either case) the alteration is one which could be made as an amendment thereto.

- f) A motion or amendment may be withdrawn by the mover with the consent of their seconder and of the Council, which shall be signified without discussion. No Member may speak on the motion after the mover has asked permission for its withdrawal, unless such permission shall have been refused.
- g) When a motion is under debate, no other motion shall be moved except the following:-
  - 1) to withdraw a motion;
  - 2) to amend the motion;
  - 3) to adjourn the meeting to a specified date and time.
  - 4) to adjourn the debate to a specified date and time.
  - 5) to proceed to the next business;
  - 6) that the question be now put;
  - 7) that a Member be not further heard;
  - 8) by the Mayor under Rule 7.17 that a Member do leave the meeting
  - 9) a motion under Section 100(a)(4) of the Local Government Act, 1972 to exclude the press and public.
- h) An amendment must be proposed and seconded and if so required by the Mayor shall be put in writing and handed to the Mayor before it is put to the meeting.
- i) An amendment shall be relevant to the motion, must not negate the motion that it seeks to alter because the same effect can be achieved by voting against the motion and shall be either:-
  - 1) to refer a subject of debate to the Cabinet or to a Committee for consideration or reconsideration;
  - 2) to leave out words;
  - 3) to leave out words and insert or add others; or
  - 4) to insert or add words;



- j) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.
- k) A Member shall direct their speech to the question under discussion or to a personal explanation or to a point of order.
- l) Except by consent of the Mayor, the speech of the proposer of any motion or amendment shall not exceed ten minutes, and all other speeches shall not exceed five minutes. If such consent be given, the speech may be continued for a further five minutes, unless the Mayor is of the opinion that the subject matter of the speech is of more than ordinary importance, in which case the speech may be continued for such further time as the Mayor may allow. In no case shall more than one extension of time be granted.
- m) A Member who has spoken on any motion shall not speak again whilst it is the subject of debate except:-
  - 1) to speak once on an amendment moved by another Member;
  - 2) if the motion has been amended since they last spoke, to move a further amendment;
  - 3) if their first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which they spoke was carried;
  - 4) in exercise of a right of reply given by paragraph h above;
  - 5) on a point of order; or
  - 6) by way of personal explanation.
- n) A Member who has not already spoken on the proposition or, if an amendment has been moved and is under debate, the amendment under debate, may move, without comment, at the conclusion of a speech of another Member 'that the Council proceed to the next business' (in the case of comments or questions), 'that the question be now put', 'that the debate be now adjourned' or 'that the Council do now adjourn', on the seconding of which the Mayor shall proceed as follows:-
  - 1) On a motion to proceed to the next business they shall put to the vote the motion to proceed to the next business and if the vote be passed the appropriate Committee Chair shall be given an opportunity to respond to the comment(s) or question(s) previously made or put;
  - 2) On a motion that the question be now put: unless in their opinion the matter before the meeting has been insufficiently discussed, they



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shall first put to the vote the motion that the question be now put and, if it is passed, then give the mover of the original motion their right of reply under Paragraph 8 above before putting their motion to the vote:

- 3) On a motion to adjourn the debate or the meeting: if in their opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, they shall put the adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion.
- o) A Member may rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Council procedure rule or statutory provision and the Member shall specify which procedure rule or statutory provision and the way in which they consider it has been broken. A personal explanation shall be confined to some material part of a former speech by the member which may appear to have been misunderstood in the present debate.
  - p) The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.
  - q) The mover of a motion has the right to reply at the close of the debate on the motion, immediately before it is put to the vote.
  - r) If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have a right of reply to the debate on his amendment immediately before the mover of the original motion.
  - s) If an amendment is lost, other amendments may be moved on the original motion.
  - t) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved. The mover of the original motion shall have a right of reply at the close of the debate on the substantive motion. The right of reply shall not extend to the mover of any amendment that having been carried becomes the substantive motion.
  - u) Whenever the Mayor speaks during a debate a Member shall resume their seat and the Council shall be silent.

### 7.15 Disorderly Conduct

- a) If at a meeting any Member of the Council, in the opinion of the Mayor notified to the Council, misconducts themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Mayor or any other Member may move

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'that the Member named be not further heard on this matter', and the motion, if seconded, shall be put and determined without discussion.

- b) If the Member named continues their misconduct on the item under consideration or any subsequent item after a motion under the foregoing paragraph has been carried, the Mayor shall:-
  - 1) either move 'that the Member named do leave the meeting' (in which case the motion shall be put and determined without seconding or discussion); or
  - 2) adjourn the meeting of the Council for such period as the Mayor in their discretion shall consider expedient.
- c) In the event of general disturbance which in the opinion of the Mayor renders the due and orderly dispatch of business impossible, the Mayor, in addition to any other power vested in them, may, without question put, adjourn the meeting of the Council for such period as he in his discretion shall consider expedient.
- d) If a member of the public interrupts the proceedings at any meeting, the Mayor shall warn them. If they continue the interruption, the Mayor shall order their removal from the meeting. In the event of general disturbance in any part of the Chamber open to the public, the Mayor shall order that part to be cleared.

### **7.16 Rescission of Preceding Resolution**

- a) No motion shall be moved at a Council meeting to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months shall be proposed unless the notice thereof given in pursuance of paragraph 7.13 bears the names of at least one quarter of the whole number of Members of the Council (or in the eventuality referred to in Paragraph 45 of the Schedule 12 to the Local Government Act, 1972 one quarter of the number of Members remaining qualified). When such motion or amendment has been disposed of by the Council, it shall not be open to any Member to propose a similar motion within a further period of six months.
- b) Provided that this paragraph shall not apply to any motion to remove the Leader of the Council pursuant to paragraph 7.14 and shall not restrict the right of the Executive or a Committee to resolve to place a recommendation before the Council to rescind a previous Minute.

### **7.17 Voting**

- a) Unless otherwise provided in these procedure rules any matter will be decided by simple majority of those members voting and present in the room at the time the question was put.
- b) Voting at meetings of the Council shall be by show of hands and on the requisition of any two Members of the Council, made before the vote is taken, the voting on

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any matter shall be recorded so as to show how each Member voted and there shall also be recorded the name of any Member then present who abstained from voting (a “named vote”).

- c) In the case of a “named vote”, a record shall be taken by an officer calling out the name of each Member present whereupon the Member whose name is called shall state whether they vote for, against the motion or wish to abstain. Members’ replies will be included in the minutes.
- d) For all votes, The Mayor has the discretion to implement an electronic system of voting
- e) Where immediately after a vote is taken at a meeting any member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast their vote for the question or against the question or whether they abstained from voting.
- f) In the case of an equality of votes upon any question the Mayor shall have a second or casting vote.
- g) Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

### **7.18 Voting on Appointments**

Where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken and so on until a majority of votes is given in favour of one person.

### **7.19 Record of Attendances**

Every Member of the Council attending a meeting of the Council will have their attendance recorded by either signing the attendance sheet circulated at the meeting or through the clerk to the meeting making a record of their attendance.

### **7.20 Disclosable Pecuniary Interests**

- a) If a Member is aware that they have a disclosable pecuniary interest in any matter to be considered, or being considered at the meeting, the Member must withdraw from the room or chamber where the meeting considering the business is being held:
  - 1) in the case where paragraph b below applies, immediately after making representations, answering questions or giving evidence;
  - 2) in any other case, wherever it becomes apparent that the business is being considered at that meeting;

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Unless the Member has obtained a dispensation from the Council's Standards Committee or Monitoring Officer.

- b) Where a Member has a disclosable pecuniary interest in any business of the Council, the Member may attend a meeting (including a meeting of the Overview and Scrutiny Committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **7.21 Recording of meetings**

- a) Where the public are excluded from a meeting, persons present shall not report on the meeting using methods:
  - 1) which can be used without that person's presence at the meeting, and
  - 2) which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later,

Unless the meeting first resolves to allow such reporting to take place.

- b) For the purposes of this paragraph, "reporting" means:
  - 1) Filming, photographing or making an audio recording of proceedings at the meeting;
  - 2) Using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later; or
  - 3) Reporting or providing commentary on proceedings at the meeting, verbally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.

### **7.22 Election of a Chair of a Committee**

Every Committee and Sub-Committee shall, at its first meeting, before proceeding to any other business, elect a Chair and Vice-Chair for the year unless such appointments have been determined by the Council. In the absence from a meeting of the Chair and Vice-Chair, a Chair for that meeting shall be elected by those present as the first item.

### **7.23 Sub-Committees**

Each Committee appointed by the Council may appoint Sub-Committees for purposes to be specified by the Committee.

### **7.24 Meetings of Ordinary Committees and Sub-Committees**

- a) All meetings of Ordinary Committees and Sub-Committees shall be summoned by the Chief Executive.

- b) The Chair of an ordinary Committee or Sub-Committee may instruct the Chief Executive of the Council to summon a special meeting at any time. A special meeting shall also be summoned on the requisition of not less than a quarter of the whole number of the Committee or Sub-Committees delivered in writing (email is acceptable) to the Chief Executive. Each such instruction or requisition shall be in writing and shall specify the business which it is desired shall be transacted at the meeting. The Summons to a special meeting shall set out the business to be considered thereat, and no business other than that set out in the Summons shall be considered at that meeting.

### 7.25 Quorum of Committees and Sub-Committees

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

### 7.26 Substitutes on Committees

- a) For each of the standing Committees and Sub-Committees for the Council, where a member of a committee is listed as a member of a political group for the purposes of allocating committee seats, all other eligible members of that political group properly notified to the proper officer who are not appointed members of that Committee or Sub-Committee are appointed as substitute members.
- b) Where a member (the original member) of a standing Committee or sub-committee of the Council is unable to attend a meeting of that Committee or Sub-Committee the original member may request the member appointed as a substitute pursuant to paragraph (a) above (the substitute member) for that committee or sub-committee for the political group to which the original member belongs to attend the Committee or Sub-Committee on behalf of the original member. The attendance of the substitute shall be notified in writing (email is acceptable) to the Chief Executive no later than 5.00 pm on the day before the meeting. The substitute member shall announce at the start of the meeting which member they are substituting for under the item "Apologies for Absence and Substitutions".
- c) A substitute member shall not be permitted to attend a meeting of the Planning Committee, Environment and Licensing Committee or Licensing Act Committee unless they have previously received appropriate training to the satisfaction of the Monitoring Officer.
- d) The substitute member attending the Committee or Sub-Committee shall declare their presence as substitute at the commencement of the business of the Committee or Sub-Committee. The substitute member shall then act for all purposes, for the duration of that meeting only, as though they were the original

member of the Committee or Sub-Committee.

- e) If the original member of the Committee or Sub-Committee is the Chair or Vice-Chair of that Committee or Sub-Committee the substitute member shall not automatically be entitled to act in that office.

### **7.27 Interpretation of procedures for meetings**

The ruling of the Mayor (or, if they shall be in the chair, the Deputy Mayor or any other member chairing the meeting) as to the construction or application of these procedures, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

### **7.28 Suspension of procedures for meetings**

- a) Subject to paragraph b below, any of the preceding procedures for the conduct of meetings may be suspended so far as regards any business at the meeting where its suspension is moved.
- b) A motion to suspend the procedures for meetings (which shall be specified in the motion) shall not be moved without notice unless there shall be present at least one half of the whole number of the members of the Council and shall not be carried except by the vote of not less than two-thirds of the Members of the Council present.

### **7.29 Application to Committees and Sub-Committees**

Paragraphs numbered 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.13(e), 7.14, 7.15, 7.16, 7.17, 7.18, 7.19, 7.20, 7.21, 7.22, 7.23, 7.26, 7.27, 7.28, and 7.29, shall apply to meetings of the Committees and Sub-Committees of the Council as they apply to the Council meeting and references to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee or Sub-Committee concerned and references to the "Council Chamber" shall apply to the room in which the meeting is held.

### **7.30 Absence of Chief Executive**

In the absence of the Chief Executive, any function of the Chief Executive shall be exercisable by a Director or the Monitoring Officer.

### **7.31 Variation and Revocation of the Constitution**

Any motion to add to, vary or revoke sections of the Procedure Rules for Full Council, Contracts and Procurement Rules, Procedures for Dealings with Land and Buildings and Staffing Rules, except for the amendment of financial limits and other amendments appropriate to give effect to changes in officers' duties, responsibilities and titles as well as any changes related to legislative changes, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **8 Ordinary Committees**

The Council may from time to time appoint committees to discharge any functions of the Council which are not the responsibility of the Executive.

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## Section 5 – Overview and Scrutiny Committee

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### **1 Membership**

- a) The Overview and Committee will be comprised of 13 members appointed each year at the Annual meeting of Council. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.

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Members of the committee and their substitutes cannot be members of the Executive or hold a Cabinet Assistant role (policy advisor).

- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

## 2 Quorum and Frequency of Meetings

- a) The quorum of the Committee shall be three members.
- b) Meetings will take place at least five times per year although the Chair has the discretion to vary this due to levels of business.

## 3 Role of the Overview and Scrutiny Committee

The Overview and Scrutiny Committee can:

### a) Hold the Executive to account

- Review the performance and decisions of the Executive
- Review the Council's progress in achieving policy aims and performance targets
- Review the performance of individual services

### b) Develop and review policy

- Help Council and the Executive develop policy by studying issues in detail
- Carry out research and consultation on policy

### c) Call-in Executive decisions

- Exercise the right to call in decisions made by the Executive, but not yet implemented, if there is a need for the decision to be reviewed.

### d) Hold others to account

- The Overview and Scrutiny Committee can hold other public service providers to account for their activities and performance.
- Undertake an annual review of the work of the Local Crime and Disorder Reduction Partnerships.

## 4 What powers does the Overview and Scrutiny Committee have?

The Overview and Scrutiny Committee can:

- Send reports and recommendations to the Executive on anything the Council is responsible for that affects the Borough or its residents

- Call-in Executive decisions that have not yet been implemented for review. Any
- Require Executive members and senior officers to attend meetings and answer questions.
- Establish working groups to carry out in-depth reviews and make recommendations.

### **5 Programme of work**

The Overview and Scrutiny Committee is responsible for setting its own work programme.

### **6 Agenda**

#### **a) Putting items on the agenda**

Any member of the Overview and Scrutiny Committee can put an item on the committee agenda subject to the prior agreement of the Chair and the item is relevant to the functions of the committee.

#### **b) Speaking on agenda items**

Any member of the public and any councillor who is not part of the committee can speak on an agenda item if the Chair agrees. The Chair will decide how long they can speak for.

#### **c) Requests from Cabinet**

The Overview and Scrutiny Committee can, but does not have to, review issues put forward by the Executive.

#### **d) Petitions**

Under the Council's Petitions Policy (section 28 of the constitution), the Overview and Scrutiny Committee may be asked to examine issues raised by a petition. The Committee can also review the handling of a petition if a petitioner believes that their petition has not been handled correctly.

### **7 Order of business of the Overview and Scrutiny Committee**

The order of business will be:

- a) Apologies for absence
- b) Minutes of the last meeting
- c) Declarations of interest

- d) Any decisions that have been called in
- e) Business set out on the agenda of the meeting
- f) The scrutiny work programme including Executive responses to Scrutiny recommendations
- g) Reports and Notices received by the Chair of Overview and Scrutiny Committee as required under the Constitution or Law.

### 8 Call-in procedure

- 8.1 “Call in” is a statutory right for members of the council to “call in” a key decision of cabinet, an individual cabinet member or an officer with delegated authority after it is made but before it is implemented.
- 8.2 Call in does not apply to cabinet decisions that make recommendations to Council because those decisions will not be implemented in any event until the matter has been considered and agreed by Council.
- 8.3 Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:
- a) that there has been inadequate consultation with stakeholders prior to the decision being made;
  - b) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;
  - c) that the decision materially departs from the budget and policy framework;
  - d) that the decision is disproportionate to the desired outcome;
  - e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
  - f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the monitoring officer and the chief finance officer, as appropriate, or has failed to have sufficient regard to that advice;
  - g) that the decision exceeds the powers or terms of reference of the decision maker responsible for the decision; or
  - h) that the access to information rules have not been adhered to.
- 8.4 Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules, that decision will not be subject to call in.
- 8.5 The call in procedure will also not apply where the decision taken needs to be implemented urgently. 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 interest.

- 8.6 In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the monitoring officer should confirm that as such it is not subject to call in.
- 8.7 Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.
- 8.8 To exercise the "call in" mechanism, no less than three councillors must make such request in writing (email is acceptable) to the Monitoring Officer. The written notification of call-in must include reasons as set out in 8.3 above.

### 9 Whipping

When considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to instructions from his party or group to how they should speak or vote ("the party whip") the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### 10 Scrutiny working groups

On completion of a review the Overview and Scrutiny Committee will agree the report and recommendations and send it to the Executive for a response. The Executive must consider this at their next meeting and respond to the Overview and Scrutiny Committee within 28 days of receipt of the report.

If the working group cannot agree on a single final report then a minority report can be submitted for consideration by the Executive alongside the majority report.

### 11 Scrutiny Committee members' rights to see documents

In addition to their rights as councillors members of the Overview and Scrutiny Committee and its working groups have additional rights of access to documents as included in the Access to Information rules in the Constitution. This allows the committee access to copies of any documents which are in the possession, or control, of the Executive or its committees.

### **12 Duty of Cabinet members and officers to attend the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee can require Executive members to attend meetings and answer questions about:

- Their performance
- Decisions they were involved with
- The extent to which they have complied with the budget and policy framework.

Executive members required to attend the Overview and Scrutiny Committee will be given at least 5 working days' notice in writing, together with an indication of the issues being raised and the expected focus of questioning.

### **13 Annual Report**

The Overview and Scrutiny Committee will report annually to Full Council informing it of their work during the past year.

### **14 Relationship between the Overview and Scrutiny Committee and the Executive**

Additional information concerning the relationship between the Executive and the Overview and Scrutiny Committee is available in the Executive-Scrutiny Protocol.

### **15 Rules of Procedure**

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28, and 4.7.29 of the rules and procedure for Council (Section 4 of this constitution) shall apply to meetings of the Overview and Scrutiny Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

## **Section 6 – The Executive**

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## 1 Role

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

### 1.1 Description of Executive Arrangements

The following parts of this constitution constitute the Executive Arrangements:

- a) Section 5 - Overview and Scrutiny Committee
- b) Section 6 - The Executive
- c) Section 19a - Scheme of Delegation (Executive).

## 2 Form and composition

The Executive will consist of the Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader. The meeting of all executive members shall be known as the Cabinet.

## 3 Quorum and Frequency of Meetings

- a) The quorum of the Cabinet shall be three members.
- b) Meetings will normally take place at least monthly, although this can be varied at the discretion of the Leader.

## 4 Leader

- 4.1 The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:
  - a) the expiry of four years from the date of election to the office of Leader of the Council or until the first Council meeting after they stand for re-election as a Borough Councillor, whichever is the sooner, or
  - b) they resign from the office; or
  - c) they are no longer a councillor; or
  - d) they are removed from office by resolution
- 4.2 The Leader shall designate one member of the cabinet as Deputy Leader with full authority to act in the absence of the Leader.
- 4.3 In the event that the Leader ceases to be the Leader as a result of Paragraph 4.1 (b) and (c) above, the Council shall forthwith appoint a new Leader of the



Council and pending the appointment of a new Leader all powers and functions of the Leader shall be vested in the Deputy Leader.

## 5 Other executive members

Other executive members shall hold office until:

- a) they resign from office; or
- b) they are no longer councillors; or
- c) they are removed from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

## 6 Responsibility for functions

The Leader will maintain a list (at Paragraph 9 below) in setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

## 7 Response to government and other consultation

Before exercising the function of responding to consultation from the government and other bodies the Executive shall consult with committee chairs and other members outside the Executive as appropriate taking into account the matter concerned and the time available.

## 8 Executive Procedure Rules

### How does the executive operate?

#### 8.1 Who may make executive decisions?

The Leader has discretion to decide how executive functions are to be exercised. The Leader may provide for executive functions to be discharged by:

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

#### 8.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Section 19 of this constitution. The document presented by the Leader

will contain the following information about executive functions in relation to the coming year:

- a) the names of the councillors appointed to the executive by the Leader;
- b) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- c) the terms of reference and constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- d) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **8.3 Sub-delegation of executive functions**

- a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- b) If the Leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.
- c) Unless the Leader directs otherwise, a committee of the executive to whom functions have been delegated by the Leader may delegate further to an officer.
- d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **8.4 Amendment of Executive Delegations**

- a) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

- b) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when it is served on its chair.

## **8.5 Conflicts of Interest**

- a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 26 of this Constitution.
- b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 26 of this Constitution.
- c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Section 26 of this Constitution.

## **How are the Executive Meetings Conducted?**

### **8.6 Who Presides?**

The Leader will preside at any meeting of the executive or its committees at which they are present, or may appoint another person to do so.

### **8.7 Consultation**

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

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

The Leader will decide upon the schedule for the meetings of the executive. The Leader may put on the agenda of any executive meeting any matter which they wish, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.

## **9 Cabinet Portfolios**

### **9.1 Leader of the Council Areas of Responsibility**

- a) Overall strategy and delivery of agreed Council priorities and objectives.
- b) Oversight of all Cabinet responsibilities.

- c) Building and developing relationships with partners at a local, regional, national and international level to pursue matters of interest to the Council and the community.
- d) Representing the interests of the Council and the wider community on the Local Enterprise Partnership, East Midlands Councils, and other key strategic local, regional and national bodies.
- e) Oversight of the Council's Partnership and Collaboration Agreements with key partners.
- f) Building and maintaining positive relationships with and between elected Members and employees.
- g) Promoting and encouraging effective corporate governance and the highest standards of probity.
- h) Emergency Planning.
- i) Responding to the 'Cost of Living' crisis.

### **9.2 Corporate Resources and Performance Portfolio Areas of Responsibility**

- a) Deputising for the Leader in all matters.
- b) Budget strategy, financial management and local taxation.
- c) Asset Management, including the Council's investment property, sales and purchase of land.
- d) Information and Communications Technology, including digitalisation.
- e) Human resources, staff development and welfare.
- f) Customer experience and insight.
- g) Democratic services, governance.
- h) Member training and development.
- i) Communications and Social Media relations.

- j) Commercialisation, marketing and promotion.
- k) Transformation of Council Services.

### **9.3 Environmental Services Portfolio Areas of Responsibility**

- a) Maintenance of cemeteries and allotments.
- b) Waste management and recycling.
- c) Street cleansing.

### **9.4 Public Protection Portfolio Areas of Responsibility**

- a) Community protection, crime reduction and safeguarding.
- b) Modern slavery and hate crime.
- c) Food hygiene.
- d) Health and safety refutation.
- e) Private Sector housing and selective licensing.
- f) Environment prosecutions and enforcement.

### **9.5 Climate Change and Natural Habitat Portfolio Areas of Responsibility**

- a) Carbon management and climate change.
- b) Carbon sequestration (offsetting) through blue/green infrastructure.
- c) Maintenance and development of parks and open spaces.
- d) Provision of play parks, pitches and other play facilities.
- e) Tree planting, woodland and wildflower meadow areas.
- f) Air and water quality.
- g) Flood mitigation.

## **9.6 Sustainable Growth and Economy Portfolio Areas of Responsibility**

- a) Planning policy, development management, building control and land charges.
- b) Strategic development framework, including transport and community infrastructure, walkways and cycle-paths.
- c) Strategic Housing and addressing empty homes.
- d) Business growth, economic development, and inward investment.
- e) Workforce development, employment and skills opportunities.
- f) Town and local centre economy.

## **9.7 Lifestyles, Health and Wellbeing Portfolio Areas of Responsibility**

- a) Leisure Centres
- b) Sports Development and physical activity.
- c) Arts and culture, including Bonington theatre/cinema.
- d) Health Promotion and development.
- e) Social prescribing partnerships.
- f) Loneliness and isolation.
- g) Mental health, including dementia support.

## **9.8 Communities and Place Portfolio Areas of Responsibility**

- a) Heritage.
- b) Community Events.
- c) Engagement with the voluntary sector.
- d) Parish Council liaison.
- e) Senior's Council and other engagement forums.

- f) Rural affairs.

## **9.9 Life Chances and Vulnerability Portfolio Areas of Responsibility**

- a) Housing benefits and homelessness.
- b) Equalities, diversity and inclusion.
- c) Refugees and resettlement.
- d) Member champion for women and the disabled.
- e) Domestic violence.
- f) Social mobility, including linkages to its markers of health, education, housing, income, race and gender.
- g) Engagement and consultation with young people, including play, events and addressing child poverty.
- h) Youth Council and Youth Mayor.
- i) Youth unemployment and apprenticeships, including working with schools.

## **Delegations**

The Leader of the Council is empowered to exercise all executive functions of the Council.

### **10.1 Delegation to Executive**

The Executive is authorised to make new or replacement appointments to outside bodies which fall to be made from time to time during the year.

### **10.2 Delegations to Executive Members**

All Portfolio holders have the authority to:-

- a) Make all executive decisions, within their area of responsibility, on matters which are not reserved to Cabinet and within the limitations of the Financial Procedure Rules.
- b) Monitor service performance, within their area of responsibility and take action to improve performance where necessary, in conjunction with the relevant Director.

- c) Respond to consultation documents received by the Council within their area of responsibility.
- d) Approve policies and procedures within their area of responsibility.
- e) Authorise the commencement of any proceedings in connection with any offences within their area of responsibility.
- f) Determine fees and charges within their area of responsibility.
- g) Make recommendations to the Cabinet, within their area of responsibility, on matters reserved to Cabinet.

When taking decisions, professional advice from officers, including the statutory officers, should be taken into account.

### **10.3 Delegation to Officers**

The Leader has established an executive scheme of delegation which authorises certain executive matters to be delegated to officers. The Executive Scheme of Delegation can be found in Section 19 of this constitution.

### **11 Rules of Procedure**

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28, and 4.7.29 of the rules and procedure for Council (Section 4 of this constitution) shall apply to meetings of the Executive as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Executive and references to the "Council Chamber" shall apply to the room in which the meeting is held.



## **Section 7 – Audit Committee**

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3 Responsibility .....	1
4 Delegation.....	4
5 Rules of Procedure .....	4

### **1 Membership**

- a) The Audit Committee will be comprised of seven members appointed each year at the Annual meeting of Council. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### **2 Quorum and Frequency of Meetings**

- a) The quorum of the Committee shall be three members.
- b) Meetings will take place at least four times per annum although the Chair has the discretion to vary this due to levels of business.

### **3 Responsibility**

#### **Statement of purpose**

- a) The Audit Committee is a key component of Gedling Borough Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- b) The purpose of the Audit Committee is to provide independent assurance to the Council of the adequacy of the risk management framework and the internal control environment. It provides independent review of Gedling Borough Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

### **Governance, risk and control**

- c) To review the Council's corporate governance arrangements including the Local Code of Corporate Governance.
- d) To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
- e) To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- f) To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- g) To consider and monitor the effective development and operation of risk management in the council.
- h) To monitor progress in addressing risk-related issues reported to the committee.
- i) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- j) To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- k) To consider and monitor the counter-fraud strategy, actions and resources.

### **Internal audit**

- l) To approve the internal audit charter defining the role and scope of internal audit.
- m) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- n) To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
- o) To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services.

- p) To consider the Head of Internal Audit's annual report confirming compliance with auditing standards and the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control - these will assist the committee in reviewing the Annual Governance Statement.
- q) To consider summaries of specific internal audit reports as requested.
- r) To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- s) To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- t) To support effective communication with the Head of Internal Audit.

### **External audit**

- u) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- v) To consider specific reports as agreed with the external auditor.
- w) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- x) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial reporting**

- y) To consider and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- z) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability arrangements**

- aa) To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control

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frameworks, financial reporting arrangements, and internal and external audit functions.

## 4 Delegation

Delegations from the Audit Committee to Officers can be found in Section 19 of this constitution.

## 5 Rules of Procedure

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council (section 4 of this constitution) shall apply to meetings Audit Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

## **Section 8 – Standards Committee**

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3 Responsibility .....	1
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5 Delegation .....	2
a) Hearing Panel.....	2
b) Officer Delegation.....	3
6 Rules of Procedure.....	3

### **1 Membership**

- a) The Council will have a Standards Committee which is not politically balanced. In accordance with a resolution passed by Council, there shall be two members drawn from each political group. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
- b) There shall be one non-voting, co-opted parish councillor.
- c) There shall be one non-voting-co-opted independent member.

### **2 Quorum and Frequency of meetings**

- a) The quorum of the Committee shall be three members.
- b) Meetings will take place three times per annum although the Chair has the discretion to vary this due to levels of business.

### **3 Responsibility**

Within their terms of reference the Standards Committee will be responsible for:

- a) promoting and maintaining high standards of conduct by the members and an co-opted members of the council;
- b) assisting members and any co-opted members of the Council to observe the Members' Code of Conduct;

- c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- d) monitoring the operation of the Members' Code of Conduct;
- e) advising, training or arranging to train members and any co-opted members of the council on matters relating to the Members' Code of Conduct;
- f) performing the functions set out in (a) - (e) above in respect of the parish councils in the Borough;
- g) granting dispensations to members and any co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- h) dealing with any reports from the Monitoring Officer on any matter;
- i) advising on what should be entered into the register of interests for members and co-opted members;
- j) dealing with matters relating to the recruitment of co-opted independent and parish members of the Standards Committee;
- k) dealing with matters relating to the recruitment of the Independent Person and to make recommendations to Council as to the appointment of the Independent Person.
- l) approving all strategies, policies, protocols and procedural documents that fall within the remit of the Committee (excluding budget and policy framework items).

### **4 Hearing Panels**

The Council will have sub-committees of the Standards Committee which are not politically balanced. The Hearing Panel will be drawn from the membership of the Standards Committee and will comprise of one Councillor from each Group together with a non-voting co-opted member.

### **5 Delegation**

#### **a) Hearing Panel**

Each Hearing Panel is authorised to consider allegations following an investigation, determine whether the member did fail to comply with the Code of Conduct and impose an appropriate sanction.

### **b) Officer Delegation**

Delegations from the Standards Committee to Officers can be found in Section 19 of this constitution.

### **6 Rules of Procedure**

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council (section 4 of this constitution) shall apply to meetings of the Standards Committee as they apply to Council meetings.
  
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of this Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

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## Section 9 – Environment and Licensing Committee

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1 Membership .....	1
2 Quorum and Frequency of Meetings .....	1
3 Responsibility .....	1
4 Delegation .....	3
5 Member Training .....	4
6 Rules of Procedure.....	4

### 1 Membership

- a) The Environment and Licensing Committee will be comprised of 11 members appointed each year at the Annual meeting of Council. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
  
- b) The Committees will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### 2 Quorum and Frequency of Meetings

- a) The quorum of the Committee shall be three members.
  
- b) Meetings will take place monthly, although the Chair has the discretion to vary this due to levels of business.

### 3 Responsibility

Within their terms of reference the Environment and Licensing Committee is responsible for:

- 1) All non-executive functions of the Council with regard to:
  - a) Environmental health
  - b) Health and safety at work (other than the exercise of the functions of the Council in the capacity of employer)
  - c) Food hygiene and safety
  - d) Animal health and hygiene
  
- 2) The determination of applications for licences, approvals, consents, permission or registration or the direct regulation of any person or the

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enforcement of any such licence, approval, consent, permission or regulation with regard to the functions in relation to contaminated land, control of pollution, air quality and noise and statutory nuisance listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

- a) All non-executive functions of the Council with regard to licensing and registration of:
    - 1) Caravan sites
    - 2) Hackney Carriages and Private Hire Vehicles, drivers and operators
    - 3) Entertainments
    - 4) Betting, gaming and lotteries
    - 5) Theatres and cinemas
    - 6) Street trading and markets
    - 7) All other licensing functions listed in Part B of Schedule 1 to the Regulations other than those relating to streets and highways.
  - b) Any function relating to contaminated land.
  - c) The discharge of any function relating to the control of pollution or the management of air quality.
  - d) The service of an abatement notice in respect of a statutory nuisance.
  - e) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
  - f) The inspection of the authority's area to detect any statutory nuisance.
  - g) The investigation of any complaint as to the existence of a statutory nuisance.
- 
1. Power to issue licences authorising the use of land as a caravan site.
  2. Power to license the use of movable dwellings and camping sites.
  3. Power to license Hackney Carriages and Private Hire Vehicles.
  4. Power to license drivers of Hackney Carriages and Private Hire Vehicles
  5. Power to grant permits in respect of premises with amusement machines.
  6. Power to register societies wishing to promote lotteries.
  7. To consider applications for hazardous substances consent.
  8. Power to grant permits in respect of premises where amusements with prizes are provided.
  9. Power to consider and determine applications for public entertainment licences.
  10. Power to licence sex shops and sex cinemas.
  11. Power to licence performances of hypnotism.
  12. Power to licence premises for acupuncture, tattooing, ear piercing and electrolysis.

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13. Power to licence markets and street trading.
14. Power to licence night cafes and take away food shops.
15. Power to licence dealers in game and the killing and seeking of game.
16. Power to register and licence premises for the preparation of food.
17. Power to licence scraps yards.
18. Power to licence premises for the breeding of dogs.
19. Power to licence pet shops and other establishments where animals are kept or bred for the purposes of carrying on a business.
20. Power to licence dangerous wild animals.
21. Power to licence knackers' yards.
22. Power to licence persons to collect for charitable and other causes.
23. Power to approve meat product premises and to approve premises for the production of minced meat or meat preparations.
24. Power to approve dairy establishments and egg product establishments.
25. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling both raw meat and ready to eat foods.
26. To keep a register of food business premises.
27. Power to register food business premises.
28. Power to issue arena and theatre licences.
29. Power to licence zoos.
30. To consider and determine applications for public entertainment licences.
31. The functions of the Council under the following legislation:
  - i. House to House Collections Act 1939 as amended by the Local Government Act 1972;
  - ii. Betting, Gaming and Lotteries Act 1963 - 1971 as amended by the Gaming and Lotteries (Amendment) Act 1980.
  - iii. Gaming Act, 1968 as amended by the Lotteries and Amusement Act 1976.
32. Power to fix those fees and charges falling within the remit of the Committee.

### 4 Delegation

Delegations from the Environment and Licensing Committee to Officers can be found in Section 19 of this constitution.

## 5 Member Training

All members and substitute members of the Environment and Licensing Committee will receive training with regard to licensing policy. Only Councillors who are willing to attend such training within a reasonable time will be permitted to serve on the Committee.

## 6 Rules of Procedure

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council (section 4 of this constitution) shall apply to meetings of the Environment and Licensing Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

## **Section 10 – Planning Committee**

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### **1 Membership**

- a) The Planning Committee will be comprised of 16 members appointed each year at the Annual meeting of Council. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
  
- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### **2 Quorum and Frequency of Meetings**

- a) The quorum of the Committee shall be six members.
  
- b) Meetings will take place approximately every six weeks, although the Chair has the discretion to vary this due to levels of business.

## 3 Responsibility

- 1) To examine and investigate any proposals for development within or outside the Borough which affect the growth prosperity and wellbeing of the Borough and to consult on any action considered necessary.
- 2) Power to fix fees and charges in relation to the remit of the Committee.
- 3) Power to appoint delegates to conferences and to approve Member training in relation to the remit of the Committee.
- 4) To respond to consultative documents received by the Council and falling within the remit of the Committee.
- 5) Power to institute enforcement and legal proceedings in connection with any offences under any powers delegated to this Committee.
- 6) Power to determine applications for planning permission.
- 7) Power to determine applications to develop land without compliance with conditions previously attached.
- 8) Power to grant planning permission for development already carried out.
- 9) Power to decline to determine applications for planning permission.
- 10) Duties relating to the making of determinations of planning applications.
- 11) Power to determine applications for planning permission made to the Council.
- 12) Power to make determinations, give approvals and agree matters relating to the exercise of development rights.
- 13) Power to enter into agreements regulating the use or development of land.
- 14) Power to issue a certificate of existing or proposed lawful use or development.
- 15) Power to serve a completion notice.
- 16) Power to grant consent for the display of advertisements.
- 17) Power to authorise entry onto land pursuant to Section 196A of the Town and Country Planning Act 1990.
- 18) Power to require the discontinuance of a use of land.
- 19) Power to serve a contravention notice, breach of condition notice or stop notice.
- 20) Power to issue an enforcement notice.

- 21) Power to apply for an injunction restraining a breach of planning control.
- 22) Power to require proper maintenance of land pursuant to Section 215(1) of the Town and Country Planning Act 1990.
- 23) Power to determine applications for listed buildings consent.
- 24) Power to serve a building preservation notice
- 25) Power to acquire a listed building in need of repair and to serve a repairs notice.
- 26) Power to apply for an injunction in relation to a listed building.
- 27) Power to execute urgent works to a listed building.
- 28) Power to create, extinguish, stop up or divert footpaths or bridle ways after consultation, where appropriate, with the relevant Parish Council.
- 29) Power to make a rail crossing diversion or extinguishment order.
- 30) To exercise the Council's powers relating to the preservation of trees contained within the Town and Country Planning Act 1990.
- 31) To exercise the Council's powers with regard to the Hedgerows Regulations 1997.
- 32) Power to make, amend, revoke or re-enact byelaws within the remit of the Committee.

### **4 Rules of Procedure**

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council shall apply to meetings of the Planning Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of this Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

### **5 Member Training**

All members and substitute members of the Planning Committee will receive training with regard to the planning system. Only Councillors who are willing to attend within a reasonable time such training will be permitted to serve on the Planning Committee.

## 6 Planning Delegation Panel

- a) The Planning Delegation Panel will be consulted by the Director responsible for the planning service in respect of all planning applications which do not fall to be decided by them under their other delegations and to decide which of these applications he will determine and which will be referred to the Planning Committee for determination.
- b) The Planning Delegation Panel will consist of a permanent membership of six Councillors drawn from and agreed by the Planning Committee. In the event that a permanent member of the panel is unable to attend, another member of the Planning Committee may act as substitute.
- c) The quorum for the Planning Delegation Panel shall be three.
- d) Meetings of the Panel will be held each Friday and the agenda for the meeting will be issued in advance.
- e) Where an application is added to the agenda after it has been circulated, the panel members and relevant ward members will be notified.
- f) All Councillors may attend the meetings and contribute to discussions.
- g) Notes of each meeting of the panel will be included as information items on the next available Planning Committee agenda.

## 7 Delegation

Delegations from the Planning Committee to Officers can be found in Section 19 of this constitution.

## 8 Code of Practice for Councillors in Dealing with Planning Applications

### 8.1 Introduction

This Code is based upon the Guidance Note issued by the Local Government Association on Probity in Planning for Councillors and Officers. It has been prepared by the Planning Committee and has been adopted by the Council. Failure on the part of any Councillor to comply with this Code may comprise conduct which could reasonably be regarded as bringing his office or the Council into disrepute and may accordingly be a breach of Paragraph 7 of the Members' Code of Conduct.

### 8.2 The General Role of Councillors and Officers



- a) Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst Officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors. A successful relationship between Councillors and Officers will be based upon mutual trust, understanding and respect of each other's positions and roles.
- b) Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the RTPI. Similarly Officers who are Solicitors are subject to the Solicitors Regulation Authority (SRA) Code of Conduct, breaches of which may be subject to disciplinary action by the SRA. Councillors must not ask officers to act in a way which will put them in breach of their professional rules.

### 8.3 Conflicts of Interest and Predetermination

- a) A member of the Planning Committee who is also a member of another body, whether within the Council such as the Cabinet or a committee, or outside the Council such as a parish council or charitable body, should comply with the requirements of the Council's Members' Code of Conduct with regard to the declaration of interests and the participation or non-participation in the consideration of any planning application submitted by that body.
- b) A Member of the Planning Committee who has expressed a clear intention to vote in a particular way or has otherwise predetermined their position on an application before its consideration by the Committee must not take part in the decision as a Member of the Planning Committee.
- c) If any member of the Planning Committee has expressed a view on a planning application to be considered by the Planning Committee on any occasion and in any forum in advance of consideration of the matter by the Planning Committee, but is willing to and intends to listen to all the considerations presented to the committee before deciding on how to vote, then they should not be regarded as having fettered their discretion and they may participate and on that application.

### 8.4 Development proposals submitted by councillors and officers and Council development

- a) Councillors and Officers have a right as members of the public to submit planning applications. Such applications must be handled in the following way so as to avoid accusations of favouritism:
  - Officers and Councillors must not act as agents for those pursuing planning matters within the Council even if they are not involved in the decision making.

- Where a Councillor is the applicant for planning permission or is a relative or close associate of the applicant, that Member should play no part in the decision-making process for those proposals. A Councillor who is the applicant will have a disclosable pecuniary interest in their own application and would commit a criminal offence if they participated in its consideration.
  - Where an Officer is the applicant for planning permission or is a relative or close associate of the applicant, that Officer should play no part in processing, advising on or determining the application.
  - The Monitoring Officer should be informed of any application submitted by a Councillor or Officer.
  - Councillor/Officer applicants must not lobby or bring pressure to bear on other Officers or Councillors in connection with their application.
  - Any planning application submitted by a Councillor or Officer (or their partner or spouse or immediate family member) should be dealt with by the Planning Committee itself and not dealt with by officers under delegated powers.
  - The right of an applicant to address the Planning Committee before consideration of the application by the Planning Committee should not apply where the applicant is a member of the Council. In that case, the Councillor may write to the Committee with such representations as they wish to make.
- b) The decision making process for proposals relating to Council owned land or Council development can be open to criticism on the basis that the Council may find it difficult to separate its roles as developer and planning authority. It is therefore important that the application is treated with the same transparency and impartiality as those of private developers. Such applications must therefore be handled in the following way:
- Any Officer involved in the initiation of the proposals must not be involved in the processing and determination of the application.
  - Any Councillor/Officer involved in the initiation of the proposals must not lobby or bring pressure to bear on other officers or Councillors in connection with the application.
  - Any planning application submitted by or on behalf of the Council should be dealt with by the Planning Committee itself and not dealt with by officers under delegated powers.
  - Any Councillor involved in the decision to initiate the proposals can only participate at Planning Committee if they are prepared to make their decision in the light of the information and evidence presented there.

### 8.5 Lobbying of and by Councillor

- a) Lobbying is a normal part of the planning process; however it can lead to the impartiality and integrity of Councillors being called into question unless care is exercised. When being lobbied by any party on a planning application, members of the Planning Committee should avoid expressing any opinion which might be taken as indicating that they have already made up their mind on the issue. If Councillors do express an opinion, they should make it clear that they will only be in a position to make a final decision after having heard all the relevant

## **Gedling Borough Council Constitution**

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arguments and taking into account all relevant material and planning consideration at committee. In order to avoid any allegation of predetermination or bias, Councillors could restrict themselves to giving procedural advice, including advice on how and to whom those lobbying can communicate.

- b) Councillors can raise issues which have been raised by their constituents with officers.
- c) The consideration of planning applications by the Planning Committee should not be subject to whipping arrangements on behalf of the political groups and Councillors must not decide in group meetings before the Committee how they should vote on the matter in Committee. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- d) A member of the Planning Committee should avoid organising support for or against a planning application and should avoid lobbying other Councillors on such applications.
- e) Councillors should not put improper pressure on officers for a particular recommendation or decision, and should not do anything which compromises or is likely to compromise officers' impartiality or professional integrity. Councillors must recognise that Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct and may be subject to disciplinary action if they are in breach of the Code. Similarly Solicitors are subject to the Solicitors Regulation Authority Code of Conduct.
- f) If any Councillor, whether or not a member of the Planning Committee, acts as a speaker on behalf of a lobby group at Committee, they must withdraw once they have spoken in order to avoid any suggestion that members of the Committee may be influenced by their continued presence.

### **8.6 Decisions Contrary to Officer Recommendations**

- a) The Planning Committee must only make planning decisions in accordance with the development plan (which includes the Aligned Core Strategy and adopted Local Plan and supplementary planning documents), unless material considerations indicate otherwise, and Article 11 of the Articles of the Constitution
- b) Planning Committee can make a decision which is contrary to the officer recommendation. This will usually be as a result in the difference in the assessment of how a policy has been complied with or a different weight given to material considerations.

- c) When making a decision which differs from the Officer recommendation, Planning Committee will:
- Record the reasons for the decision as part of the mover's motion.
  - Adjourn for officers to draft suitable wording to reflect the reasons proposed.
  - In any case in which Councillors wish to add to or amend conditions proposed by Officers, adjourn the meeting to give Officers a reasonable opportunity to draft suitable conditions reflecting Councillors wishes
  - Give officers the opportunity to explain the implications of the decision, including an assessment of a likely appeal outcome and chance of a successful award of costs against the Council, should one be made.
  - Formally agree the detailed reasons for the decision when the meeting re-convenes.
  - Consider adjourning the matter to another meeting where there are concerns about the validity of the reasons proposed.
- d) If the Planning Committee makes a decision contrary to the officers' recommendation, the Minutes should contain a detailed note of the Committee's reasons for the decision, which should be placed on the application file. Councillors must be prepared to explain in full their reasons for not agreeing with the officer recommendation. The reasons for the decision should be clear and convincing.
- e) Where Councillors refuse permission contrary to Officer advice, after the Committee meeting, Officers and Councillors will meet to discuss how to pursue the matter. Where it appears that the grounds for refusal could be overcome by further negotiation with the applicant, Officers will pursue this with a view to encouraging a revised application. However, this can involve cost for the applicant and can be time consuming. Therefore, notwithstanding any attempts at negotiation by Officers, the applicant may decide to appeal the decision.
- f) Where an appeal is received, Officers and Councillors will meet to discuss the nature of the appeal, the issues raised and how it will be handled.
- g) For appeals determined by Written Representations, after discussion with the relevant Councillors, Officers will produce the draft written statement, which will reflect and justify the reasons for refusal. This will then be sent to the nominated Member(s) to agree or add to the statement. Officers will provide technical and professional guidance on whether it is appropriate to include or exclude certain information. The statement will then be submitted and the appeal determined.
- h) For appeals determined at Informal Hearings, the statement will be produced as above. Pre-hearing meetings will then be held between Planning and Legal Officers and the nominated Member(s) to discuss what the planning issues are, and how the nominated Member(s) will present their reasons for the decision and defend the appeal at the hearing.
- i) An informal hearing is a round table debate in the form of a discussion led by the Inspector. Cross-examination is not usually permitted unless the Inspector considers that it is required to ensure a thorough examination of the main issues. In such cases the Inspector will consider whether the informal hearing should be closed and a full public inquiry be held instead.

- j) Solicitors or other professional advisers (such as highways or landscape officers) do not usually attend informal hearings on behalf of the Council as there is no role for them at the round table discussion. However, it is recognised that in exceptional circumstances there may be grounds for an advocate to attend the informal hearing. In such cases the Monitoring Officer, in consultation with the Chair of the Planning Committee, will determine what attendance, if any, is appropriate.
- k) Planning Officers will attend the informal hearing to act in a facilitator role, clarifying any questions regarding process or factual matters, for example regarding points of planning policy, site history or technical issues, and to provide professional advice for Councillors.
- l) At the hearing itself, if an application for award of costs is made by the appellant, Planning Officers will support the nominated Member(s) in responding to these, and may respond on issues of procedure and decision-making. In this situation Officers will work with Councillors to emphasise the importance of local decision making and to explain the process which was applied when applying weight to the material considerations of the case.
- m) For appeals determined at Public Inquiries, the same process as above will apply. However, as these involve more significant issues, and may require professional legal representation, there are likely to be more meetings before statements are exchanged and before the inquiry itself. It will be important therefore that both Officers and the nominated Councillors attend all of these.
- n) Officers and professional legal representatives will act as advocates (or expert witnesses) and will also work with Councillors to prepare them to be cross examined during the Inquiry. This will include investigating potential lines of inquiry.

### 8.7 Site Visits

- a) Site visits will only be arranged for the Planning Committee with the agreement of the Chair of the Committee where the benefit is clear and substantial. A site visit is only likely to be necessary if:
  - 1) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers; or
  - 3) there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing
  - 4) the proposed development is particularly contentious or significant in relation to the locality.
- b) Where a site visit is arranged for the Planning Committee:
  - the purpose, format and conduct should be clear at the outset and adhered to by all throughout the visit

- record of the reasons why a site visit is called shall be kept
  - the Committee will be accompanied by Officers
  - the visit must not be used as a lobbying opportunity by the applicant, objectors or supporters. This will be made clear to parties present
  - the visit itself will consist of an inspection of the site by the Committee to gain a better understanding of the issues and will be run on the strict lines of a planning inspector's site visit.
  - the merits or otherwise of the application will not be discussed.
- c) Where a site visit is not arranged for the Planning Committee a member of the Committee may be tempted to visit the application site alone. Members do not have the right to enter private property and can only view the site from public vantage points. Even if invited by the owner to do so, Members of the Planning Committee should not enter the site on their own, as this could lead to a perception of bias or pre-determination.

## Section 11 – Licensing Act Committee

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### 1 Membership

- a) The Licensing Act Committee will be comprised of 11 members appointed each year at the Annual meeting of Council. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
  
- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### 2 Quorum and Frequency of Meetings

- a) The quorum of the Committee shall be three members.
  
- b) Meetings shall not be programmed and take place only when business dictates.

### 3 Responsibility

The Licensing Act Committee is responsible for:

- 1) Any function of a licensing authority under the Licensing Act 2003, other than the approval of the Statement of Licensing Policy.



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- 2) Any function of a licensing authority under the Gambling Act 2005, other than the approval of the Licensing Authority Statement of Policy and determining policy not to permit casinos
- 3) Ensuring that the Council complies with its duty to comply with the requirement to provide information to Gambling Commission.
- 4) Functions relating to exchange of information under Section 30 of the Gambling Act 2005.
- 5) Functions relating to occasional use notices.
- 6) Resolving not to issue a casino premises licence under Section 166 of the 2005 Act.
- 7) Designating an officer of the council as an authorised person for a purpose relating to premises under Section 304 of the Gambling Act 2005.
- 8) Making an order to disapply section 279 or 282(1) of the Gambling Act 2005 in relation to specified premises.
- 9) The institution of criminal proceedings under Section 346 of the Gambling Act 2005.
- 10) Exchanging information under Section 350 of the Gambling Act 2005.
- 11) Functions relating to the determination of fees for premises licences under the Gambling (Premises Licence Fees) (England and Wales) Regulations
- 12) Functions relating to the registration and regulation of small society lotteries under Schedule 11 to the Gambling Act 2005.
- 13) In the exercise of a function specified above -
  - a) Power to impose any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted.
  - b) Power to determine any other terms to which any such approval, consent, licence, permission or registration is subject.
  - c) Power to determine whether, and in what manner, to enforce any failure to comply with an approval, consent, licence, permission or registration granted.



- d) Power to determine whether, and in what manner, to enforce any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.
- e) Power to determine whether, and in what manner, to enforce any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the authority.
- f) Power to amend, modify or vary such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject.
- g) Power to revoke any such approval, consent, licence, permission or registration.
- h) The function of determining whether a charge should be made for any approval, consent, licence, permit or registration and where a charge is made, the amount of that charge.
- i) Responsibility for approving all strategies, protocols and procedural documents that fall within the remit of the Committee (excluding budget and policy framework items).
- j) Power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.

### 4 Licensing Panels

#### 4.1 Licensing Act 2003

Under the Licensing Act 2003, each Licensing Panel has delegated authority to make decisions on:

- a) Applications for a personal licence where there is a police objection;
- b) Applications for a personal licence where unspent convictions are revealed;
- c) Applications for a premises licence or club premises certificate where a relevant representation is made and not withdrawn;

- d) Applications for a provisional statement where a relevant representation is made and not withdrawn;
- e) Applications to vary on premises licence or club premises certificate if a relevant representation is made and not withdrawn;
- f) Applications to vary, the designated premises supervisor, where a police objection is made;
- g) Applications for transfer of a premises licence where a police objection is made;
- h) Applications for interim authorities where a police objection is made;
- i) Applications to review a premises licence or club premises certificate;
- j) Determinations of a police objection to a temporary event notice.

### **4.2 Gambling Act 2005**

Under the Gambling Act 2005, each Licensing Panel has delegated authority to make decisions on

- a) Applications for a premises licence and for variation of a licence where representations.
- b) Applications for a transfer of a licence where representations have been received from the Commission.
- c) Applications for a provisional statement where representations have been made and not withdrawn.
- d) A review of a premises licence.
- e) Applications for club gaming and club machine permits where objections have been made and not withdrawn and applications for the cancellation of such permits.
- f) The giving of a counter notice to a temporary use notice.

### **4.3 Licensing Panel Composition**

- a) A Hearing Panel will be drawn from the membership of the Licensing Act Committee on an ad hoc basis.

- b) Members of the Panel will be selected based on availability respecting political balance where possible.
- c) Members representing a Ward in which the application premises are situated will not be selected.
- d) Each selected Member shall be asked to confirm their attendance. If confirmation cannot be given then the next Member alphabetically will be selected.

### **5 Member Training**

All members and substitute members of the Licensing Act Committee will receive training with regard to licensing policy. Only Councillors who are willing to attend within a reasonable time such training will be permitted to serve on the Committee.

### **6 Delegation**

Delegations from the Licensing Act Committee to Officers can be found in Section 19 of this constitution.

### **7 Rules of Procedure**

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council shall apply to meetings of the Licensing Act Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

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## **Section 12 – Appointments and Conditions of Service Committee**

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5 Rules of Procedure.....	3

### **1 Membership**

- a) The Appointments and Conditions of Service Committee will be comprised of 7 members appointed annually at the Annual meeting of Council. One Committee Member must be a member of the Executive who shall not also sit on the Appeals and Retirements Committee. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
  
- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### **2 Quorum and Frequency of Meetings**

- a) The quorum of the Committee shall be three members.
  
- b) Meetings will take place four times per year or more frequently as business dictates, although the Chair has the discretion to vary this.

### **3 Responsibility**

- 1) To conduct the process of appointment, dismissal or taking disciplinary action in respect of the Chief Executive and Head of Paid Service and make recommendations to full Council in relation to appointment and dismissal.
  
- 2) Power to suspend the Chief Executive pending an investigation and to appoint an independent investigator to conduct an investigation in relation to allegations concerning the Chief Executive.

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- 3) To determine appropriate disciplinary action, short of dismissal, in respect of the Head of Paid Service.
- 4) To appoint Statutory Chief Officers and non-Statutory Chief Officers.
- 5) To dismiss or take disciplinary action in respect of Chief Officers, other than the Head of Paid Service, Monitoring Officer or Chief Financial Officer.
- 6) To conduct the process of dismissal or taking disciplinary action in respect of the Monitoring Officer or Chief Financial Officer. To determine appropriate disciplinary action, short of dismissal, and make recommendations to full Council in relation to dismissal.
- 7) To approve corporate employment policies which form the terms and conditions of Council employees and determine the standard terms and conditions on which employees hold office including procedures for disciplinary action and dismissal.
- 8) To appoint Proper Officers, other than where such appointment is reserved to full Council.
- 9) To designate an Officer as Chief Financial Officer.
- 10) To designate an Officer as Head of Paid Service and to ensure the provision of sufficient staff and other resources.
- 11) To designate an Officer as Monitoring Officer and to ensure the provision of sufficient staff and other resources.
- 12) To provide staff and other resources to a person nominated by the Monitoring Officer.
- 13) To approve any proposals for significant restructuring of the Council's management structure proposed by the Chief Executive.
- 14) To approve any proposals from the Chief Executive for any changes to salary levels (including ranges of salaries) for the Chief Executive and Chief Officers.

### **4 Delegation**

Delegations from the Appointments and Conditions of Service Committee to officers can be found in Section 19 of this constitution.

## 5 Rules of Procedure

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council shall apply to meetings of the Appointments and Conditions of Service Committee as they apply to Council meetings.
  
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

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**Section 13 – Joint Consultative and Safety Committee**

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2 Quorum and Frequency of Meetings ..... 1  
3 Responsibility ..... 1  
4 Delegation ..... 2  
5 Rules of Procedure..... 2

**1 Membership**

- a) The Joint Consultative and Safety Committee will be comprised of 7 members appointed annually at the Annual meeting of Council. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
  
- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

**2 Quorum and Frequency of Meetings**

- a) The quorum of the Committee shall be three members.
  
- b) Meetings will take place four times per year although the Chair has the discretion to vary this due to levels of business.

**3 Responsibility**

The Joint Consultative and Safety Committee is responsible for:

Providing a forum for discussion and consultation between the Council and Trade Union representatives on matters affecting the Council’s employees. Such matters to include but not limited to:

- 1) Employee terms and conditions
- 2) Employee health and well-being and
- 3) Health and Safety of employees.

## 4 Delegation

Delegations from the Joint Consultative and Safety Committee to Officers can be found in Section 19 of this constitution.

## 5 Rules of Procedure

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council shall apply to meetings of the Joint Consultative and Safety Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

## Section 14 – Appeals and Retirements Committee

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### 1 Membership

- a) The Appeals and Retirements Committee will be comprised of 7 members appointed annually at the Annual meeting of Council. One Committee Member must be a member of the Executive who does not also sit as a member of the Appointments and Conditions of Service Committee. Substitute members are permitted in accordance with paragraph 4.7.28 of the rules of procedure for Council.
- b) The Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### 2 Quorum and Frequency of Meetings

- a) The quorum of the Committee shall be three members.
- b) Meetings shall not be programmed and take place only when business dictates.

### 3 Responsibility

Within their terms of reference the Appeals and Retirements Committee will be responsible for:

- a) To determine appeals from Chief Officers (other than the Head of Paid Service, Monitoring Officer and Chief Financial Officer) against decisions taken under the Council's Disciplinary Procedures including all decisions up to and including decision to dismiss.
- b) To determine appeals from the Head of Paid Service, Monitoring Officer and Chief Financial Officer against decisions taken under the Council's Disciplinary Procedures short of dismissal.

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- c) To determine appeals from employees employed under the NJC for Local Authority Services against any decision to dismiss.
- d) To determine appeals where approved employment policies and procedures provide for appeal to or consideration by a Committee.
- e) Consideration of issues arising from Pension Act reviews where these involve the exercise of discretion.
- f) To authorise release of pension in all cases of early retirement where the council is liable to meet a pension strain cost, other than ill health retirement, subject to the Council's policy on early retirement and to consideration of a fully costed report in each case.
- g) To determine and authorise release of any discretionary payments allowed by local policy in respect of dismissals due to reason of redundancy or efficiency of service, whether or not associated with early retirement, and subject to the Council's policy and to consideration of a fully costed report in each case.
- h) To consider all issues concerning the Local Government Pension Scheme and sick pay within the terms of the approved policy.
- i) To consider extensions to the Council's sick pay scheme in individual cases in accordance with the approved policy.

### **4 Delegation**

Delegations from the Appeals and Retirements Committee to Officers can be found in Section 19 of this constitution.

### **5 Rules of Procedure**

- a) Paragraphs 4.7.2, 4.7.7, 4.7.13(d), 4.7.17, 4.7.18, 4.7.19, 4.7.20, 4.7.21, 4.7.22, 4.7.28 and 4.7.29 of the rules and procedure for Council shall apply to meetings of the Appeals and Retirements Committee as they apply to Council meetings.
- b) References to "the Mayor and Deputy Mayor" shall apply to the Chair and Vice-Chair respectively of the Committee and references to the "Council Chamber" shall apply to the room in which the meeting is held.

## Section 15 - Officers

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### 1 Management structure

#### (a) General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

**(b) Chief Officers**

The Council will from time to time appoint such chief officers as it may consider necessary to carry out its functions.

**(c) Appointment of Chief Officers**

Where the Council proposes to appoint a chief officer, section 24 of this constitution containing rules relating to staff shall apply.

**(d) Head of Paid Service, Monitoring Officer and Chief Financial Officer**

The Council will designate officers to perform the functions of The Head of Paid Services, Monitoring Officer and Section 151 Officer (hereinafter referred to as “Chief Financial Officer”) as appropriate.

Such posts will have the functions described in Paragraph 15.2–15.4 below.

### **2 Functions of the Chief Executive**

**(a) Discharge of functions by the Council**

The Head of Paid Service will report to the Council as necessary on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

### **3 Functions of the Monitoring Officer**

The functions of the Monitoring Officer shall include the following:

**(a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

**(b) Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Full Council, and to the Executive in relation to an executive function, 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.

**(c) Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**(d) Code of Conduct**

The Monitoring Officer has a range of functions relating to the conduct of Councillors. These include assessing complaints, arranging investigations into members conduct both at Borough and Parish level providing advice on the Code of Conduct, maintaining the Register of Members Interests and reports to the Standards Committee.

**(f) Proper officer for access to information**

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible in accordance with the requirements in that regard contained in the Local Government Act 1972, the Local Government Act 2000 and Regulations made thereunder or any statutory provisions replacing or re-enacting the said Acts and Regulations.

**(g) Advising whether executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the executive are in accordance with the budget and policy framework.

**(h) Contributing to Corporate Management**

The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

**(i) Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

### **4 Functions of the Chief Financial Officer**

**(a) Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council, and to the Executive in relation to an executive function, and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

**(b) Administration of financial affairs**

The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to corporate management**

The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**(d) Providing advice**

The Chief Financial Officer will provide advice on financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

**(e) Give financial information**

The Chief Financial Officer will provide financial information to the media, members of the public and the community.

### **5 Duty to provide sufficient resources**

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

### **6 Conduct**

Officers will comply with the Protocol on Officer/Member Relations set out in Section 27 of this Constitution.

### **7 Employment**

The recruitment, selection and dismissal of officers will comply with the Rules relating to Staff set out in Section 24 of this Constitution.



## **Section 16 – Decision Making**

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### **1 Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Sections 4-14 for Committees and Section 19 for Officers of this Constitution.

### **2 Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- a) Any action decided upon must be proportionate to the desired outcome;
- b) Decisions should be taken after due consultation and after taking professional advice from officers;
- c) Decisions and action taken should be in accordance with the Human Rights Act and have regard to the public sector equality duty and transparency;
- d) There should be a presumption in favour of openness;
- e) The decision-maker must be clear as to the aims and desired outcomes;
- f) The decision-maker should not take into account any irrelevant matters, should not refuse or neglect to take into account any relevant matters and decisions taken should be reasonable in all respects.

### **3 Types of decision**

- (a) Decisions relating to the functions listed in Section 4, Paragraph 2 will be made by the Full Council and not delegated.
- (b) Key decisions.
  - (i) A key decision is an executive decision which is likely

- (aa) to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned; or
- (bb) to be significant in terms of its effect on communities living or working in an area comprising two or more wards

and the Full Council will in each year determine the financial thresholds for each service or function above which expenditure or saving is to be regarded as significant.

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Rules set out in Section 18 of this Constitution.

### **4 Decision making by the full Council**

Subject to Paragraph 16.7, the Council meeting will follow the Rules of procedure set out in Section 4 of this Constitution when considering any matter.

### **5 Procedures of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Section 5 of this Constitution when considering any matter.

### **6 Decision making by other committees and sub-committees**

Subject to paragraph 16.7, other Council committees and sub-committees will follow those parts of the procedure rules set out in Section 4 of this Constitution as they apply to them.

### **7 Decision making by Council bodies acting as tribunals**

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

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### **17.1 Financial management**

The management of the Council’s financial affairs will be conducted in accordance with the financial regulations set out in Section 25 of this Constitution.

### **17.2 Contracts**

Every contract made by the Council will comply with the Rules relating to contracts set out in Section 21 of this Constitution.

### **17.3 Legal proceedings**

The Director of Organisational Development and Democratic Services is authorised to institute, settle, defend or participate 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 they consider that such action is necessary to protect the Council’s interests.

### **17.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by a Solicitor employed by the Council, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £10,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Any such contract with a value between £10,000 and £75,000 shall be signed by the Director with responsibility for the relevant power or function or Officer authorised by him/her to sign. Any such contract with a value exceeding £75,000 shall be made under the common seal of the Council or if the Monitoring Officer agrees shall be signed by at least two officers of the Council.

## **17.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any duly authorised 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 Organisational Development and Democratic Services should be sealed.

The affixing of the Common Seal will be effected by the Mayor or Deputy Mayor of the Council or another Member of the Council and the Monitoring Officer, Deputy Monitoring Officer, Solicitor or Chief Executive.

## **17.6 Sealing Register**

An entry of every sealing of a document shall be made and consecutively numbered in a register kept for the purpose and shall be signed by the officer who has attested the affixing of the Common Seal.

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## Section 18 – Access to Information Rules

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## **1 Scope**

These rules apply to all meetings of the Council, committees, sub-committees and the Executive (together called meetings).

## **2 Proper Officer**

The Proper Officer for the purposes of these rules is set out in the Proper Officer Provisions in Section 15. The Proper Officer is authorised to require the Executive or any officer to supply any document or information in whatever form or style the Proper Officer may specify which the Proper Officer believes may be relevant to the exercise of any of the functions set out in these rules.

## **3 Additional Rights to Information**

These rules do not affect any more 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 Meeting**

The council will give at least five clear days' notice of any meeting by posting details of the meeting at the Civic Centre and on the Council's website unless the meeting is called at shorter notice, in which case the notice will be posted when the meeting is called.

## **6 Access to Agenda and Reports for Public Meetings**

The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Centre and the Council's website at least five clear days before the meeting. If an item is authorised as urgent by the Committee Chair or Leader and is added to the agenda later, the revised agenda (where reports are

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prepared after the summons has been sent out, the Proper 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 from the time the item was 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 Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item;

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

Copies will be freely available on the Council's website.

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

## **9 Background Papers**

### **9.1 List of background papers**

The Proper Officer will ensure that officers with responsibility for writing reports set out in every report a list of those documents (called background papers) relating to the subject matter of the report which, in the opinion of the Proper Officer:

- (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 this list need not include published works or those documents which disclose exempt or confidential information (as defined in Rule 10) and, in respect of executive reports, the advice of a political advisor.

## **9.2 Public inspection of background papers**

The Council will make available for public inspection at the Civic Centre and on the Council's website for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **10 Access to Meetings by the Public**

Members of the public are entitled to attend meetings unless excluded under the following rules.

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

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

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

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

### **10.3 Disorderly Conduct – Discretion to Exclude Public**

The public may be excluded from a meeting if necessary to maintain orderly conduct or prevent misbehaviour at the meeting.

### **10.4 Meaning of Confidential Information**

Confidential information means:

- information provided to the Council by a government department on terms which forbid the disclosure of the information to the public; or
- information which cannot be disclosed to the public as it is prohibited by legislation or by Court Order.

### **10.5 Meaning of Exempt Information**

Exempt information means information falling within the following categories (subject to any qualification):



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Category	Qualification
1. Information relating to any individual	Exempt information if any so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Industrial and Provident Societies Act 1965 to 1978</li> <li>(e) the Building Societies Act 1986</li> <li>(f) the Charities Act 1993</li> </ul>
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	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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Category	Qualification
employees of, or office holders under, the authority	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes -  a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  b) to make an order or direction under any enactment	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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.

### **11 Exclusion of Access by the Public to Reports**

If the Proper Officer thinks fit, access by the public to reports which in the Proper Officer's opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public may be excluded. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

### **12 Application of Rules to the Executive**

Rules 1 – 11 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 13-23 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Section 16 of this Constitution.

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If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 10 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief members.

## **13 Procedure Before Taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- a) a document (called here a forward plan) has been made available for inspection at the Civic Centre and on the Council's website in connection with the matter in question;
- b) at least 28 clear days have elapsed since the publication of the forward plan; and
- c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14 The Forward Plan**

### **14.1 Period of forward plan**

Forward plans will be prepared to cover a minimum period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan. It will be available for inspection at the Civic Centre and on the Council's website.

### **14.2 Contents of forward plan**

The forward plan will contain matters which will be the subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive or officers in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision maker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;

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- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter.
- (e) the address from which copies of, or extracts from, those documents are available
- (f) that other documents may be submitted to the decision maker;
- (g) the procedure for requesting those documents when they are available.

The forward plan will not contain any confidential information, exempt information or particulars of the advice of a political adviser.

### **15 General Exception**

- 1) If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may only be taken if:
  - a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and at least 28 clear days have elapsed since the publication of that forward plan.
  - b) the Proper Officer has informed the chair of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee by notice in writing of the matter in respect of which the decision is to be made;
  - c) the Proper Officer has made a copy of that notice available for public inspection at the Civic Centre and published on the Council's website; and
  - d) at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

As soon as reasonably practicable after the Proper Officer has complied with Rule 15 (1) above, the Proper Officer must make available for inspection at the Civic Centre and publish on the Council's website a notice setting out why compliance with Rule 23 is impracticable.

## **16 Special Urgency**

- 1) If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no chair of the Overview Scrutiny Committee, or if the chair of the Overview Scrutiny Committee is unable to act, then the agreement of the Mayor or in his/her absence the Deputy Mayor will suffice.
- 2) As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16(1), the decision maker must make available at the Civic Centre and publish on the Council's website a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

## **17 Report to Council**

### **17.1 When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not treated as a key decision the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **17.2 Executive's report to Council**

The Executive will prepare a report for submission to the next ordinary meeting of the Council, setting out the decision and reasons for the decision, the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the particulars of each decision taken and a summary of the matters in respect of which those decisions were taken.

The Leader will submit at least one report to Council each year.

## **18 Record of Decisions made at Executive Meetings**

After any meeting of the Executive or any of its committees, whether held in public or private, the Proper Officer or, where the Proper Officer was not present, the person

presiding at the meeting, will produce a written statement of every decision taken at that meeting as soon as reasonably practicable. The statement will include:

- a record of the decision and date it was made
- reasons for the decision
- alternative options considered and rejected
- conflicts of interest declared and a note of dispensations granted by the Head of Paid Service

## **19 Executive Meetings Relating to Matters which are not Key Decisions**

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

## **20 Notice of Private Meeting of the Executive**

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

## **21 Record of Decisions by Individual Members of the Executive and Officers**

### **21.1 Record of individual decision by individual Members**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive, they will prepare, or instruct the Proper Officer, to prepare a written statement setting out :

- a record of the decision and the date it was made
- reasons for the decision
- alternative options considered and rejected
- conflicts of interest declared by any Executive member consulted and a note of dispensations granted by the Head of Paid Service

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

### **21.2 Record of Decision by Officers**

As soon as is reasonably practicable after an Officer has made an executive decision, he/she will prepare a written statement setting out:

- a record of the decision and the date it was made
- reasons for the decision
- alternative options considered and rejected
- conflicts of interest declared by any Executive member consulted and a note of dispensations granted by the Head of Paid Service

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by Officers. This does not require the disclosure of exempt or confidential information.

### **22 Overview and Scrutiny Committee's Access to Documents**

22.1 Subject to Rule 22.3 below, the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- (a) any business that has been transacted at meetings of the Executive (or its committees, if any); or
- (b) any decision that has been taken by an individual member of the Executive or an officer in accordance with executive arrangements.

22.2 The Executive must provide such document as soon as reasonably practicable and in any case no later than 10 clear days after the request is received.

22.3 No member of an Overview and Scrutiny committee (including its sub-committees) is entitled to a copy:

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

22.4 Where the Executive determines that the member is not entitled to a copy of the document or part thereof under Rule 22.3, it must provide Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

### **23 Additional Rights of Access to Documents for Members**

- 23.1 Any document which is in the possession or under the control of the Executive and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member for a least five clear days before the meeting. Where the meeting is convened at shorter notice, such a document must be available when the meeting is convened and when an item is added to the agenda at shorter notice such a document must be available for inspection when the item is added to the agenda.
- 23.2 Any document which is in the possession or under the control of the Executive of a local authority and contains material relating to any business transacted at a private meeting or any decision made by an individual member or officer in accordance with executive arrangements must be available for inspection by any Member when the meeting concludes or immediately after the decision has been made and in any event within 24 hours of the conclusion of the meeting or the decision being made as the case may be.
- 23.3 The above does not require a document to be available for inspection if it appears to the Proper Officer that it discloses:
- (a) exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act unless it is information of a description falling within paragraph 3 of Schedule 12A (except to the extent that the information relates to any terms proposed or to be proposed by the Authority in the course of negotiations for a contract) or paragraph 6; or
  - (b) advice provided by a political adviser or assistant.



# Gedling Borough Council Constitution

## Section 19a – Scheme of Delegation to Officers – Executive Functions

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### **1.1 Introduction**

These delegations are made under the powers contained in Section 9E of the Local Government Act 2000 and with reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and all other enabling powers.

An officer or other person is authorised to exercise such powers as are set out in this Scheme of Delegation.

### **1.3 When a Post is Vacant or a Post-holder is Absent**

For the purposes of this Scheme, if the post of an officer to whom a function is delegated is vacant or if the post-holder is absent on leave (of whatever type), unless the function is exercisable by an officer who has the appropriate sub-delegation or the Council otherwise decides the following shall apply:

## Gedling Borough Council Constitution

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- 1.2.1 In the case of the Chief Executive, the delegation shall be exercisable by a Director or an Interim Chief Executive
- 1.2.2 In the case of a Director, the delegation shall be exercisable by the Chief Executive, or another Director.
- 1.2.3 In the case of the Chief Financial Officer, the delegation shall be exercisable by a Deputy Chief Financial Officer in relation to matters which are the responsibility of the Chief Financial Officer.
- 1.2.4 In the case of the Monitoring Officer, the delegation shall be exercisable by a Deputy Monitoring Officer in relation to matters which are the responsibility of the Monitoring Officer.
- 1.2.5 Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

### **1.3 All Decisions made by Officers**

Where decisions are taken by officers under delegated powers the following conditions and rules shall apply:

- 1.3.1 All delegations shall be exercised in accordance with the Constitution, all relevant policies and procedures of the Council and all relevant legislative provisions.
- 1.3.2 Any officer exercising a delegation shall only do so where provision has been made for any expenditure within the relevant budget or otherwise in accordance with the Financial Rules.
- 1.3.3 Any officer exercising a delegation shall not do so in a manner which is contrary to any resolution of Full Council, Executive, an Individual Executive Member or a Committee.
- 1.3.4 Any officer exercising a delegation shall do so having regard to Health & Safety requirements.
- 1.3.5 Any officer exercising a delegation shall do so having regard to Equalities requirements.
- 1.3.6 Any officer exercising a delegation shall do so having regard to Data Protection requirements.
- 1.3.7 Any officer exercising a delegation shall do so having regard to relevant legislative requirements.
- 1.3.8 Any officer exercising a delegation is responsible for carrying out any consultation necessary under this Scheme. Such consultation shall be in writing, unless due to urgency that is not practicable, in which case there may be verbal consultation which must be recorded in writing, as soon as reasonably practicable and, in any event, within 5 working days.

## Gedling Borough Council Constitution

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- 1.3.9 Any officer to whom a delegation is given may waive his/her right to exercise the delegation and refer the matter to the original delegate for a decision or to the Executive or Individual Executive Member.
- 1.3.10 Where an officer has the authority to take decisions, any action taken to implement such decisions may be taken in the name of (but not necessarily personally by) that officer, or any other officer authorised by that officer in accordance with paragraph 1.5.
- 1.3.11 Any decision which could subject the Council to legal liability or legal proceedings shall be taken in consultation with the Monitoring Officer.
- 1.3.12 Any decision which has financial implications other than those budgeted for shall be taken in consultation with the Chief Financial Officer.
- 1.3.13 The decision as to whether or not legal action should be taken by or on behalf of the Council must be taken in consultation with the Monitoring Officer.
- 1.3.14 Officers shall not have the power to exercise any delegation where an individual officer is required by law to hold a relevant qualification and he/she does not hold that qualification.
- 1.3.15 Officers shall not have the power to exercise any delegations which fall outside the individual's actual authority as determined by his/her post.
- 1.3.16 Officers shall not have the power to exercise any delegations in a situation where doing so would be unlawful or constitute maladministration.
- 1.3.17 Subject to any express instructions to the contrary from the delegated body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 1.3.18 Functions, matters, powers, authorisations, delegations, duties and responsibilities, shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate, or is conducive, or incidental, to the discharge of anything specified.

### **1.4 Recording decisions**

As soon as reasonably practicable after making a decision an Officer must produce a written statement of the decision in accordance with regulation 13 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012.

### **1.5 Sub-Delegations**

- 1.5.1 Where an officer is authorised to act under this Scheme of Delegation he/she may further delegate the authority to exercise a specific power to another officer, whilst still retaining the delegation themselves.
- 1.5.2 Before making a sub-delegation, the delegating officer must give consideration to and be satisfied that the officer to whom he/she is sub-delegating is of an appropriate level and has the necessary expertise and knowledge bearing in mind the nature of the delegation.

- 1.5.3 Any such sub-delegation is subject to the existing consultation and limitation requirements.
- 1.5.4 All sub-delegations must be made in writing and a copy provided to the Monitoring Officer within five working days. The Monitoring Officer shall maintain a central register of sub-delegations which shall be available on the intranet.
- 1.5.5 No sub-delegations may be further delegated, unless there is express permission from the original delegating officer that the specific power can be delegated further. Such permission should be included in the written record of the sub-delegation provided under paragraph 1.5.4. When deciding whether to permit further sub-delegation, the same consideration should be given as outlined in paragraph 1.5.2.
- 1.5.6 In the event that a post to which a delegation or function is given ceases to exist and its responsibilities are transferred to another post temporarily or permanently then the delegations given under this Scheme shall be exercisable by the post to which the responsibilities have been transferred. There should be written confirmation of the change in responsibilities from the line manager, which shall be provided to the Monitoring Officer to be retained with the central copy of the scheme of delegations.

### **1.6 Interpretation**

- 1.6.1 Any reference to an Act, Order or other legal provision shall include a reference to any modification or re-enactment thereof and any reference to any Directive, Act, Order or other legal provision shall include any Regulations, Orders, Rules, Instruments, Directions, Statutory Guidance or other legal provision made thereunder.
- 1.6.2 ‘Relevant Director’ shall mean the Director responsible for the function to which the particular exercise of the delegation applies.
- 1.6.3 ‘Consultation’ shall mean seeking the comments of the person(s) to be consulted. Consultation shall not mean obtaining the consent of the person(s) to be consulted. A written record of the consultation shall be retained by the officer in accordance with paragraph 1.3.8.
- 1.6.4 ‘Emergency’ shall mean a situation where immediate action is necessary and where inaction may lead to loss of life, serious injury to a person or animal, or significant damage to or significant loss of property. A written record of any decision taken in an emergency must still be made in accordance with paragraph 1.4.

# Gedling Borough Council Constitution

## Delegations

General Matters – Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
G1	To act in all matters within their area of responsibility and to ensure the proper management and leadership of their Directorate and the functions administered by their Directorate	Director	
G2	Act as authorised officer, relating to the functions allocated to him/her, for the purposes of any Act of Parliament or Statutory Instrument.	Director	
G3	Appoint officers to act as authorised Officers or Inspectors for the purposes of any Act of Parliament or Statutory Instrument.	Director	
G4	Where not specifically mentioned in a separate delegation, to serve and withdraw notices under any Act of Parliament or Statutory Instrument and take any action in default, including enforcement action, carrying out works in default and recovery of costs.	Director	
G5	Authorise persons, whether employed by the Council or not, to undertake duties and responsibilities for the purposes of any Act of Parliament or Statutory Instrument, including powers of entry.	Director	
G6	Authorise the commencement of legal proceedings.	Director	In consultation with the Monitoring Officer
G7	Respond to consultation documents of a non-controversial nature.	Director	
G8	Approve all work for third parties up to the value of £20,000.00 per contract or type of work; and agree the fees and charges for such work which must, as a minimum, be on a full cost recovery basis.	Director	
G9	Authority to approve procurement and procurement methods in accordance with contract and procurement rules	Director	
RR9	Authority to make applications for external funding	Director	In consultation with the Chief Financial Officer

## Gedling Borough Council Constitution

Health & Safety and Emergency Planning Matters - Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
L1	To make amendments to any Health and Safety Policy or associated documents.	Head of Paid Service	
L2	To agree procedural documents including guidance and protocols setting out processes for the discharge of health and safety/emergency planning functions.	Director	
L3	To suspend any Council activities which are being carried out (whether by Council employees or volunteers/contractors acting on the Council's behalf), which he reasonably believes are in breach of the Health and Safety at Work etc Act 1974 and any other relevant H&S legislation.	Director	
L4	To approve minor updates to the Business Continuity Policy.	Director	
L5	To make amendments to the Business Impact Assessment templates and guidance to ensure they remain fit for purpose.	Director	

Building Control – Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
GR1	Authority to make decisions on plans deposited under the Building Regulations and to issue Completion Certificates.	Chief Executive	
GR2	Authority to issue notices requiring advance payment of Private Street Works charges under Section 220 of the Highways Act 1980 and Exemption notices under Section 219 of the Highways Act 1980.	Chief Executive	
GR3	Authority to approve plans in relation to elevations, alterations, extensions, additions and other matters submitted to the Council as vendors of land	Chief Executive	
GR4	Authority to take enforcement action under the Building Regulations and Building Act 1984.	Chief Executive	
GR5	Authority to make a declaration that plans approved under the Building Regulations since 1 April 1974 are of no effect where work has not commenced on site within three years of the deposit of plans	Chief Executive	
GR6	Power to take all necessary action on dangerous buildings in cases of emergency including the serving of notices under Section 77 of the Building Act 1984.	Chief Executive	
GR7	Authority to determine requests for Building Regulations house type approvals.	Chief Executive	
GR8	Authority to enter premises under Section 324 of the Town and Country Planning Act 1990 and Section 95 of the Building Act 1984.	Chief Executive	
GR9	The provision of exits in case of fire under Section 24 of the Building Act 1984.	Chief Executive	

## Gedling Borough Council Constitution

### Building Control – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
GR10	Authority to exercise powers under Sections 47 and 53 of the Building Act 1984 in relation to plans and work by Approved Inspectors.	Chief Executive	
GR11	The control of demolition under Sections 80 and 81 of the Building Act 1984	Chief Executive	
GR12	Authority to number and renumber new and existing properties	Chief Executive	
GR13	Power to take all necessary action regarding dangerous structures in cases of emergency involving public safety under Section 78 of the Building Act 1984.	Chief Executive	

### Community Relations Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
CD1	To exercise powers of management, maintenance and repair of community centres.	Director	
CD2	Authority to appoint delegates to conferences which relate to recreational matters in the local authority field	Director	
CD3	The allocation of individual lettings within the policies of the Community Development portfolio.	Director	
CD4	Authority to let facilities within the ambit of the Community Development portfolio to local organisations for non-commercial and non-political purposes.	Director	
CD5	Authority to determine the following matters relating to Community Centre Programming and pricing: Programming community centre courses and activities Setting prices for community centre courses Setting prices for equipment for resale. Setting prices for licensed bar sales. Over an agreed time period varying current prices for Community centre activities for the purpose of promotional offers. For an agreed time period introducing new prices for community centre promotional packages	Director	
CD6	Approval to grant free use of community centre facilities for community-based events and that were these events are granted.	Director	In consultation with the Portfolio Holder.
CD7	The allocation of minor playgroups grants in accordance with Council policy and subject to budgetary provision not being exceeded.	Director	In consultation with the Portfolio Holder.
CD8	The allocation of minor arts grants in accordance with Council policy and subject to budgetary provision not being exceeded.	Director	In consultation with the Portfolio Holder.



## Gedling Borough Council Constitution

### Community Relations Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
CD9	Authority to close all or part of any community centre facility for the purpose of repair or maintenance.	Director	In consultation with the Portfolio Holder
CD10	Authority to close all or part of any Public Art facility for the purpose of repair or maintenance.	Director	In consultation with the Portfolio Holder
CD11	Authority to determine what should be required of a developer under a Section 106 Agreement in relation to Community Centres in accordance with the Council's Policy.	Director	
CD12	Authority to complete National Lottery consultation forms for schemes within the Borough.	Director	

### Financial Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
RR1	Authority to negotiate and execute all financial and operating leases for items of plant and equipment in the Council's approved Capital Programme, together with any documents required pursuant thereto or in connection therewith. All leases to be effected in the name of the Council.	Director	
RR2	All executive decisions on borrowing, investment or financing in accordance with CIPFA's Code of Treasury Management in Local Authorities.	Director	In consultation with the Portfolio Holder
RR3	Authority to take all such decisions as may be required relating to the level of insurance cover for the Council and the placing of the cover with appropriate insurers.	Director	
RR4	Authority to determine the local average mortgage interest rate	Director	
RR5	Authority to amend fees and charges following any variation in the rate of VAT.	Director	
RR6	The taking of possession and subsequent resale of properties purchased with the aid of a Council mortgage	Director	
RR7	Authority to impose such penalties as are prescribed for failure to supply requested information or failure to make any notification required under the Local Government Finance Act 1992 including the power to impose further penalties, and to quash any penalty imposed.	Director	
RR8	Authority to consider initial appeals against any penalties imposed.	Director	
RR9	Authority to write off any sums due for any debt in line with the Financial Regulations	Director	



## Gedling Borough Council Constitution

Financial Matters – Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
RR10	Authority to determine length, value, contract arrangements including extension of contracts for the Council's banking services	Director	
RR11	Authority to determine the Authority's course of action in defending insurance claims including agreeing settlement where appropriate	Director	
RR12	The determination of the extent and terms of any loans to voluntary bodies in the Borough, subject to the approval of the making of a loan and in accordance with the policy framework agreed by the Portfolio holder.	Director	
RR13	Authority to determine any requests received from approved lending institutions to postpone the Council's discount provision charge under the Council's Right to Buy Scheme.	Director	In consultation with the Portfolio Holder
RR14	Authority to consider applications under Section 537 of the Housing Act 1985 and make appropriate.	Director	In consultation with the Portfolio Holder
RR15	Authority to take urgent decisions in connection with the operation of the scheme under Part XVI of the Housing Act.	Director	In consultation with the Portfolio Holder
RR16	Approval of Registration of Second Mortgages.	Director	In consultation with the Portfolio Holder
RR17	The determination of the extent and terms of any loans to voluntary bodies in the Borough, subject to the approval of the making of a loan and in accordance with any policy framework agreed by the Portfolio Holder.	Director	

Homelessness and Housing Matters – Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
HHW1	With regard to homelessness applications to determine as appropriate decisions as to homelessness, priority need, intentionality and local connection and in accordance with statutory requirements to ensure that accommodation becomes available for homeless applicants	Director	
HHW2	Power to issue Notices to Quit and Notices of Seeking Possession	Director	
HHW3	In connection with the letting or repair of Council properties, authority to make, where appropriated an allowance towards redecoration up to a maximum of £100.00.	Director	
HHW4	To instruct the Monitoring Officer to instigate legal proceedings on behalf of the Authority, for the recovery of	Director	

## Gedling Borough Council Constitution

### Homelessness and Housing Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
	possession of Council dwellings occupied by unauthorised persons.		
HHW5	Delegated authority to deal with all requests for access to personal information in accordance with the Access to Personal Files (Housing) Regulations 1989 and to decide whether the relevant information was inaccurate information.	Director	The decision to be subject to review by the Portfolio Holder.
HHW6	Authority to appoint a named Officer to enter premises, carry out investigations, obtain information and act in connection with the statutory functions exercised by the Executive.	Director	
HHW7	Authority to act and be responsible for the implementation of the procedures prescribed in Section 47 of the National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951.	Director	In consultation with the Monitoring Officer
HHW8	Power to take action for recovery and possession	Director	In consultation with the Portfolio Holder
HHW9	Power to authorise the service of statutory notices and enforcement thereof in the event of default	Director	In consultation with the Portfolio Holder

### Legal Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
L1	Authority, in any case where to wait for instructions would, in his/her opinion, prejudice the Council's position, to institute, defend, conduct and settle any legal proceedings affecting the rights or interests of the Council.	Monitoring Officer	
HHW2	Authority to approve the detail of service level agreements where specific grants have been approved.	Monitoring Officer	
L2	Responding to all requests for information in accordance with the Freedom of Information Act 2000, Environmental Information Regulations and Data Protection Act 2018.	Director	
L3	Applying exemptions and exceptions under the Freedom of Information Act 2000 and Environmental Information Regulations (other than those reserved to the "qualified person") or refusing to provide information under the Data Protection Act 2018.	Director	
L4	Determining requests for review/appeal of decision not to release information under the Freedom of Information Act 2000, Environmental Information Regulations and Data Protection Act 2018.	Director	

## Gedling Borough Council Constitution

<b>Leisure Matters – Executive Function</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
HHW1	To exercise powers of management, maintenance and repair of leisure centres.	Director	
HHW2	Authority to appoint delegates to conferences which relate to recreational matters in the local authority field	Director	
HHW3	The allocation of individual lettings within the policies of the Leisure portfolio.	Director	
HHW4	Authority to let facilities within the ambit of the Leisure portfolio to local organisations for non-commercial and non-political purposes.	Director	
HHW5	Authority to determine the following matters relating to Leisure Centre Programming and pricing: Programming leisure centre courses and activities. Subject to a subsequent report to Portfolio Holder setting prices for leisure centre activities at "off peak" times. Setting prices for leisure centre courses. Setting prices for individual performances at Bonington Theatre. Setting prices for equipment for resale. Setting prices for licensed bar sales. Over an agreed time period varying current prices for leisure centre activities for the purpose of promotional offers. For an agreed time period introducing new prices for leisure centre promotional packages.	Director	
HHW6	Authority to award free swimming passes at Borough swimming establishments for 12 months, to those swimmers passing the "Award of Merit" of the Royal Life Saving Society.	Director	
HHW7	Power to grant free swim passes at Borough swimming pools for six months to those persons qualifying under the GP referrals scheme	Director	
HHW8	Approval to grant free use of leisure facilities for community-based events and that were these events are granted.	Director	In consultation with the Portfolio Holder
HHW9	The allocation of minor sports grants in accordance with Council policy and subject to budgetary provision not being exceeded.	Director	In consultation with the Portfolio Holder
HHW10	Authority to close all or part of any leisure centre facility for the purpose of repair or maintenance.	Director	In consultation with the Portfolio Holder
HHW11	Authority to withdraw facilities, services and activities from members of the public.	Director	
HHW12	Authority to determine what should be required of a developer under a Section 106 Agreement in relation to Leisure Centres in accordance with the Council's Policy.	Director	
HHW13	Authority to complete National Lottery consultation forms for schemes within the Borough.	Director	
HHW14	Authority to determine opening hours for leisure facilities during the Christmas/New year period	Director	In consultation with the Portfolio Holder

## Gedling Borough Council Constitution

<b>Parks and Street Care Matters – Executive Functions</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
E1	Authority for the cutting or felling of dangerous trees on or near Council land and power to serve notice to carry out work in default and recover costs incurred including authority under: Highways Act 1980 Section 154 authority to serve notices to carry out work in default and recover costs incurred. To exercise the rights of entry and to apply to Magistrates' Court for an Order of Entry under Section 294. Local Government (Miscellaneous Provisions) Act 1976 Section 23. To serve any required notices and to take such steps as he considers appropriate for the purposes of making the trees safe and the recovery of expenses. Town and Country Planning Act 1990 Sub-Section 214B and 214C. To authorise an appropriate officer to enter and the making of an application for warrant for entry in cases of urgency or where entry has been refused or refusal is apprehended.	Director	
E2	Authority to set the appropriate charges in connection with burials and interments.	Director	
E3	Authority to set the appropriate charges in connection with allotments.	Director	
E4	Authority to set the appropriate fees and charges for tennis and bowls.	Director	
E5	Authority to complete National Lottery consultation forms for schemes within the Borough's parks and open spaces	Director	
E6	Power to manage the Council's cemeteries and to maintain those cemeteries in parish areas where the Parish Councils do not wish to exercise their right and closed churchyards where the Council has this responsibility.	Director	
E7	Authority to approve drawings and specifications in accordance with the Council's rules and regulations regarding cemeteries	Director	
E8	Authority to serve Notices to Quit under the Allotment Act 1908 - 1950 and to initiate proceedings to gain possession.	Director	
E9	Authority to complete and sign all documents required for the removal of human remains.	Director	In consultation with the Monitoring Officer
E10	Authority to approve the formation of Allotment Associations.	Director	
E11	Authority to determine what should be required of a developer under a Section 106 Agreement in relation to Open Spaces in accordance with the Council's Policy.	Director	
E12	Authority to vary the frequencies and times of street cleansing operation	Director	

## Gedling Borough Council Constitution

### Parks and Street Care Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
E13	Authority to respond to Home Office consultation on the proposed closure of any churchyard.	Director	

### Planning Matters – Executive Function

Ref No.	Function	Authorised Officer	Consultation/ Limitation
GR1	Authority to make observations on behalf of the Borough Council in respect of non-contentious proposals for planning permission submitted to adjoining District Councils.	Director	
GR2	To authorise the copying of Planning Applications documents pursuant to Section 47 of the Copyright, Design and Patent Act 1988.	Director	
GR3	The serving of Article IV Directions of the Town and Country Planning General Development Order 1988.	Director	
GR4	Authority to obtain a Warrant for the purpose of entering land in accordance with Section 196B of the Town and Country Planning Act 1990.	Director	

### Property Matters – Executive Functions

Ref No.	Function	Authorised Officer	Consultation/ Limitation
RR1	To deal with the letting and day to day management of business centres and other industrial units.	Director	
RR2	Power to approve and vary licence conditions, approve and issue licences and authorisations within the area of his responsibility and insofar as they may relate to executive responsibilities.	Director	
RR3	Authority to take action to terminate any lease or licence where it appears that the unit has been abandoned	Director	In consultation with the Portfolio Holder
RR4	To approve the terms of leases, licences, easements, wayleaves, rights of way, agreements and rent reviews up to a £15,000 annual rental value.	Director	
RR5	To agree terms for the purchase of premises included in a Compulsory Purchase Order made by the Council or a Committee having delegated authority	Director	In consultation with the Chief Executive.
RR6	Authority to grant approval to the assignment of Council shop leases, provided satisfactory references are obtained.	Director	Refusals or cases of difficulty to be referred to and dealt with by the Portfolio Holder

## Gedling Borough Council Constitution

<b>Property Matters – Executive Functions</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
RR7	Authority to appoint Estate Agents.	Director	
RR8	Authority to instruct the Director to submit a planning application for deemed consent in respect of any land or building where an Executive decision has been taken to dispose, or investigate disposal, of the property concerned.	Director	
RR9	Authority to approve plans and give consents on behalf of the Council in its capacity as former land owner, where such approval is required under a covenant in the Conveyance of the land by the Council or a predecessor Authority.	Director	
RR10	Authority to agree to the release of or amendment to restrictive covenants where the consideration does not exceed £20,000	Director	
RR11	Authority to sell acquired properties from the Private Sector	Director	In consultation with the Portfolio Holder In accordance with Rules for dealing with land
RR12	Authority to consider and respond to any appeals submitted to a valuation tribunal.	Director	
RR13	Authority to determine requests for fees and concessionary use of the Civic Centre	Director	
RR14	Authority to determine reviews against listing of an asset by the owner under the Community Right to Bid procedure	Director	
RR15	Authority to determine reviews against the level of compensation awarded or refusal to award compensation under the Community Right to Bid procedure.	Director	
RR16	Power to authorise the Director to seek planning permission for all developments within the respective departmental areas, which developments are included within a currently approved Capital Programme (Section 101 of the Local Government Act 1972 and as provided by Regulation 6(1) of the Town and Country Planning General Regulations 1976).	Director	
RR17	Approval of rents to be charged on newly acquired properties from the private sector and privately-owned dwellings let by the Council with the agreement of the owner.	Director	In consultation with the Portfolio Holder
RR18	To approve the sale and sale price of land up to an estimated value of £20,000.	Director	In consultation with the Portfolio Holder In accordance with Rules for dealing with land
RR19	Authority to determine whether or not assets are listed as Assets of Community Value under the Community Right to Bid procedure.	Director	

## Gedling Borough Council Constitution

<b>Property Matters – Executive Functions</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
RR20	Authority to determine whether or not compensation is payable to an owner of an asset, and if so what amount under the Community Right to Bid procedure.	Director	In consultation with the Chief Financial Officer
E21	Authority to manage the public car parks in accordance with the Council's policy.	Director	
E22	The repair and maintenance of public conveniences, within the policies and the financial limits determined by the Council.	Director	
E23	Authority to enter into such arrangements, annually, as he shall consider appropriate for the supply of electricity and gas to the Council.	Director	In consultation with the Portfolio Holder
RR24	Authority to determine opening hours for council offices and community centres during the Christmas/New year period	Director	In consultation with the PH

<b>Public Protection Matters - Executive Functions</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
PP1	Authority to exercise all the powers of the Council with regard to The Dogs Act 1906 as amended by the Local Government Act 1988, the Environmental Protection Act 1990 in relation to dogs and Part IV and the Dogs (Fouling of Land) Act 1996, the Dangerous Dogs Act 1991 and any associated Orders and Regulations made thereunder.	Director	
PP2	Authority to give a direction under Section 77 of the Criminal Justice and Public Order Act 1994 and to give notice of such a direction to those persons to whom the direction applies.	Director	
PP3	Authority to exercise the powers of the Council under Sections 77 - 79 of the Criminal Justice and Public Order Act 1994. (Removal of unauthorised campers).	Director	
PP4	Authority to agree spending, including grants, from the ABI and Crime and Disorder budgets within the portfolio, up to £1,000.	Director	Subject to subsequent report to the Portfolio Holder.
PP5	To exercise the Council's powers under the Minibus Act 1977 as amended.	Director	
PP6	Authority to authorise urgent repairs to water, gas and electricity apparatus under Section 4 of the Nottinghamshire County Council Act 1985.	Director	
PP7	Authority to authorise the service of notices under Section 9 (defective electrical installations in houses) of the Nottinghamshire County Council Act 1985.	Director	
PP8	In connection with compulsory improvement of dwellings in the private sector – to approve in appropriate cases payments to tenants in connection with the temporary	Director	



## Gedling Borough Council Constitution

<b>Public Protection Matters - Executive Functions</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
	transfer of fixture, fitting and similar items whilst their homes are being improved.		
PP9	Authority to approve all renovations, disabled facilities, home repair assistance and reinstatement grants	Director	
PP10	Authority to serve Statutory Notices under the Environmental Protection Act 1990.	Director	
PP11	To determine grant applications under the Housing Grants Construction and Regeneration Act 1996. (The 1996 Act) and Gedling Borough Council policy as a consequence of the Regulatory Reform (Housing Assistance) Order 2002. a) To serve Statutory Notices under the 1996 Act b) To make reasonable charges for enforcement action and to recover such charges pursuant to Section 87 and 88 of the 1996 Act	Director	
PP12	To deal with the enforcement of Statutory Notices including carrying out works in default	Director	In consultation with the Portfolio Holder
PP13	To enforce the provisions of the Housing Act 2004 with specific reference to private sector housing.	Director	
PP14	Authority to enforce statutory powers to address overcrowding.	Director	
PP15	Power to take decisions on applications under Section 15 of the Clean Air Act 1993 (height of furnace chimneys).	Director	
PP16	Authority to agree that any notice required to be given by the Sunday Trading Act 1994 should take effect within a shorter period than that provided by the Act.	Director	
PP17	Authority to act under Water Act 1989 and Water Industry Act 1991.	Director	
PP18	Authority to deal with applications for Orders prohibiting processions in accordance with Section 3 of the Public Order Act, 1936 after consultation with the Leader of the Council.	Monitoring Officer	
PP19	Authority to approve any additional CCTV equipment acquired by the Council, including, where necessary, authority to submit an application for planning permission in respect of CCTV equipment	Director	In consultation with the Leader of the Council and Portfolio Holder for Public Protection
PP20	To exercise the Council's powers under the Scrap Metal Dealers Act 2013	Director	
PP21	To exercise the Council's powers under the Anti-Social Behaviour, Crime and Policing Act 2014	Director	
PP22	To authorise Legal proceedings under the Anti-Social Behaviour, Crime and Policing Act 2014	Director	In consultation with the Monitoring Officer
E19	The collection and disposal of abandoned vehicles.	Director	



## Gedling Borough Council Constitution

Revenues and Benefits Matters – Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
RR1	Power to grant applications for mandatory rate relief.	Director	
RR2	Power to determine applications for discretionary new build relief.	Director	
RR3	Power to determine applications for discretionary reoccupation relief.	Director	
RR4	Power to determine applications for discretionary retail relief.	Director	
RR5	Power to determine applications for discretionary transitional relief.	Director	
RR6	Power to grant applications for other discretionary rate relief to be submitted to the Portfolio Holder for determination in the first instance and thereafter renewals to be delegated and any new application to be referred to the Portfolio Holder if they are clearly not subject to precedent.	Director	
RR7	Authority to serve a Notice relating to completion of a new dwelling	Director	
RR8	Power to authorise legal action for the recovery of any amounts in arrears and owing to the Council.	Director	
RR9	The powers of the Authority in connection with the billing for and the recovery of Council Tax, national non-domestic rates and sundry debtors including applications for summonses and liability orders and subsequent powers and such other matters as may be required by the Local Government Finance Act 1992 and Local Government Finance Act 1988 and Regulations made thereunder.	Director	
RR10	The determination of the Council's Business Rates base.	Director	
HHW14	Authority to take all decisions on Housing and Council Tax Benefits.	Director	

Waste Matters - Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
E1	Authority to waive or vary charges for the collection of bulky household waste in exceptional circumstances.	Director	
E2	Authority to set the appropriate charges in connection with the collection and disposal of commercially derived waste.	Director	
E3	Authority to set the appropriate charges in connection with the collection and disposal of garden waste.	Director	

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# Gedling Borough Council Constitution

## Section 19b – Scheme of Delegation to Officers – Non - Executive Functions

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### 1.1 Introduction

These delegations are made under the powers contained in Section 101 of the Local Government Act 1972 (as amended) and with reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and all other enabling powers. The Scheme is maintained under section 100G of the Local Government Act 1972.

An officer or other person is authorised to exercise such powers as are set out in this Scheme of Delegation.

### 1.2 When a Post is Vacant or a Post-holder is Absent

For the purposes of this Scheme, if the post of an officer to whom a function is delegated is vacant or if the post-holder is absent on leave (of whatever type), unless the function is exercisable by an officer who has the appropriate sub-delegation or the Council otherwise decides the following shall apply:

- 1.2.1 In the case of the Chief Executive, the delegation shall be exercisable by a Director or an Interim Chief Executive
- 1.2.2 In the case of a Director, the delegation shall be exercisable by the Chief Executive or another Director.
- 1.2.3 In the case of the Chief Financial Officer, the delegation shall be exercisable by a Deputy Chief Financial Officer in relation to matters which are the responsibility of the Chief Financial Officer.

# Gedling Borough Council Constitution

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- 1.2.4 In the case of the Monitoring Officer, the delegation shall be exercisable by a Deputy Monitoring Officer in relation to matters which are the responsibility of the Monitoring Officer.
- 1.2.5 In the case of Service Managers, the delegation shall be exercisable by the Chief Executive or relevant Director, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.2.6 Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

## **1.3 All Decisions made by Officers**

Where decisions are taken by officers under delegated powers the following conditions and rules shall apply:

- 1.3.1 All delegations shall be exercised in accordance with the Constitution, all relevant policies and procedures of the Council and all relevant legislative provisions.
- 1.3.2 Any officer exercising a delegation shall only do so where provision has been made for any expenditure within the relevant budget or otherwise in accordance with the Financial Rules.
- 1.3.3 Any officer exercising a delegation shall not do so in a manner which is contrary to any resolution of Full Council, Executive, an Individual Executive Member or a Committee.
- 1.3.4 Any officer exercising a delegation shall do so having regard to Health & Safety requirements.
- 1.3.5 Any officer exercising a delegation shall do so having regard to Equalities requirements.
- 1.3.6 Any officer exercising a delegation shall do so having regard to Data Protection requirements.
- 1.3.7 Any officer exercising a delegation shall do so having regard to relevant legislative requirements.
- 1.3.8 Any officer exercising a delegation is responsible for carrying out any consultation necessary under this Scheme. Such consultation shall be in writing, unless due to urgency that is not practicable, in which case there may be verbal consultation which must be recorded in writing, as soon as reasonably practicable and, in any event, within 5 working days.
- 1.3.9 Any officer to whom a delegation is given may waive his/her right to exercise the delegation and refer the matter to the original delegate for a decision or to Full Council, or relevant Committee.
- 1.3.10 Where an officer has the authority to take decisions, any action taken to implement such decisions may be taken in the name of (but not necessarily personally by) that officer, or any other officer authorised by that officer in accordance with paragraph 1.5.
- 1.3.11 Any decision which could subject the Council to legal liability or legal proceedings shall be taken in consultation with the Monitoring Officer.
- 1.3.12 Any decision which has financial implications other than those budgeted for shall be taken in consultation with the Chief Financial Officer.
- 1.3.13 The decision as to whether or not legal action should be taken by or on behalf of the Council must be taken in consultation with the Monitoring Officer.
- 1.3.14 Officers shall not have the power to exercise any delegation where an individual officer is required by law to hold a relevant qualification and he/she does not hold that qualification.
- 1.3.15 Officers shall not have the power to exercise any delegations which fall outside the individual's actual authority as determined by his/her post.
- 1.3.16 Officers shall not have the power to exercise any delegations in a situation where doing so would be unlawful or constitute maladministration.

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- 1.3.17 Subject to any express instructions to the contrary from the delegated body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 1.3.18 Functions, matters, powers, authorisations, delegations, duties and responsibilities, shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate, or is conducive, or incidental, to the discharge of anything specified.

## 1.4 Recording Decisions

- 1.4.1 As soon as reasonably practicable after making a decision an Officer must produce a written record of the decision in accordance with regulation 7 of the Openness of Local Government Bodies Regulations 2014.

## 1.5 Sub-Delegations

- 1.5.1 Where an officer is authorised to act under this Scheme of Delegation he/she may further delegate the authority to exercise a specific power to another officer, whilst still retaining the delegation themselves.
- 1.5.2 Before making a sub-delegation, the delegating officer must give consideration to and be satisfied that the officer to whom he/she is sub-delegating is of an appropriate level and has the necessary expertise and knowledge bearing in mind the nature of the delegation.
- 1.5.3 Any such sub-delegation is subject to the existing consultation and limitation requirements.
- 1.5.4 All sub-delegations must be made in writing and a copy provided to the Monitoring Officer within five working days. The Monitoring Officer shall maintain a central register of sub-delegations which shall be available on the intranet.
- 1.5.5 No sub-delegations may be further delegated, unless there is express permission from the original delegating officer that the specific power can be delegated further. Such permission should be included in the written record of the sub-delegation provided under paragraph 1.5.4. When deciding whether to permit further sub-delegation, the same consideration should be given as outlined in paragraph 1.5.2.
- 1.5.6 In the event that a post to which a delegation or function is given ceases to exist and its responsibilities are transferred to another post temporarily or permanently then the delegations given under this Scheme shall be exercisable by the post to which the responsibilities have been transferred. There should be written confirmation of the change in responsibilities from the line manager, which shall be provided to the Monitoring Officer to be retained with the central copy of the scheme of delegations.

## 1.6 Interpretation

- 1.6.1 Any reference to an Act, Order or other legal provision shall include a reference to any modification or re-enactment thereof and any reference to any Directive, Act, Order or other legal provision shall include any Regulations, Orders, Rules, Instruments, Directions, Statutory Guidance or other legal provision made thereunder.
- 1.6.2 'Appropriate Director' shall mean the Director responsible for the function to which the particular exercise of the delegation applies.
- 1.6.3 'Appropriate Service Manager' shall mean the Service Manager responsible for the function/service to which the particular exercise of the delegation applies.
- 1.6.4 'Consultation' shall mean seeking the comments of the person(s) to be consulted. Consultation shall not mean obtaining the consent of the person(s) to be consulted. A written record of the consultation shall be retained by the officer in accordance with paragraph 1.3.8.

## Gedling Borough Council Constitution

- 1.6.5 'Emergency' shall mean a situation where immediate action is necessary and where inaction may lead to loss of life, serious injury to a person or animal, or significant damage to or significant loss of property. A written record of any decision taken in an emergency must still be made in accordance with paragraph 1.4

### Delegations

General Matters – Non-Executive Functions			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
C1	Authority to take all necessary decisions on all urgent matters falling within the remit of the appropriate Committee or Sub-Committee.	Director (within whom the responsibility for the function falls)	After consultation with the appropriate Chair or Vice-Chair
C2	In any case where to wait for instructions would, in her opinion, prejudice the Council's position, to institute, defend and conduct any legal proceedings affecting the rights or interests of the Council.	Monitoring Officer	
A3	Authority to authorise payment of compensation of up to £500.00 in order to settle a complaint made to the Council directly or through the Local Government Ombudsman.	Director	In consultation with the Monitoring Officer

Election Matters			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
C1	Make an Order under Section 39(4) of the Representation of the People Act 1983 in relation to a Parish Council	Chief Executive	
C2	Pay expenses properly incurred by electoral registration officer	Chief Executive	
C3	Fill vacancies in the event of insufficient nominations in relation to a Parish Council	Chief Executive	
C4	Declare a vacancy in office where a member ceases to be qualified, is disqualified or ceases to be a member of the authority	Chief Executive	
C5	Give public notice of a casual vacancy	Chief Executive	
C6	Make temporary appointments to Parish Councils	Chief Executive	
C7	Deal with publicity requirements where the Council has decided on a change of scheme for elections	Chief Executive	

## Gedling Borough Council Constitution

Election Matters			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
C8	Deal with notice to Electoral Commission where the Council has decided on a change of scheme for elections	Chief Executive	
C9	Designate an alternative polling place should one become unavailable at short notice before an election	Chief Executive	
C10	Designate an alternative polling place should one become unavailable at short notice before an election.	Chief Executive	

Licensing Matters – Gambling Act 2005			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
L1	Authority to appoint authorised persons under Section 304 of the Gambling Act 2005	Director	

Environment and Licensing Matters - General			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
EL1.	<p>Power to approve and vary licence conditions, approve and issue licences, registrations, certificates and authorisations in the following matters:</p> <ul style="list-style-type: none"> <li>a) Certificates of Registration of premises for acupuncture, tattooing, ear piercing and electrolysis (Local Government (Miscellaneous Provisions) Act 1982.</li> <li>b) Licences and renewals of licences in respect of:               <ul style="list-style-type: none"> <li>i) Keeping a riding establishment (Riding Establishment Act 1964 and 1970).</li> <li>ii) Keeping an animal boarding establishment (Animal Boarding Establishment Act 1963);</li> <li>iii) Keeping pet shop (Pet Animals Act 1951);</li> <li>iv) Game dealer licences and licence to sell game;</li> <li>v) Public Entertainments (Local Government (Miscellaneous Provisions) Act 1982;</li> <li>vi) dog breeding. (Breeding of Dogs Act 1973);</li> <li>vii) dangerous wild animals. (Dangerous Wild Animals Act 1976);</li> </ul> </li> </ul>	Director	

## Gedling Borough Council Constitution

Environment and Licensing Matters - General			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
	viii) massage and special treatments; ix) late night refreshment houses; x) caravan sites (Caravan Sites and Control of Development Act 1960); xi) cinemas and theatres; xii) Private places of entertainment (Licensing) Act 1967; xiii) food premises (Food Safety Act 1990); and any Order or Regulations or other instruments made thereunder or having effect by virtue of the European Communities Act 1972 and relating to food safety or animal foodstuffs and any modification or re-enactment of them. xiv) authorisations of processes (Environmental Protection Act 1990); xv) zoos (Zoo Licensing Act 1981).		
EL2.	Power to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Powers of Entry, under the following statutes and regulations and orders made thereunder: <ul style="list-style-type: none"> <li>- Public Health Act 1936</li> <li>- Public Health Act 1961</li> <li>- Prevention of Damage by Pests Act 1949</li> <li>- Clean Air Act 1993</li> <li>- Local Government (Miscellaneous Provisions) Act 1976</li> <li>- Local Government (Miscellaneous Provisions) Act 1982</li> <li>- Refuse Disposal (Amenity) Act 1978</li> <li>- Control of Pollution Act 1974</li> <li>- Caravan Sites and Control of Development Act 1960</li> <li>- Building Act 1984</li> <li>- Pet Animals Act 1951</li> <li>- Riding Establishments Act 1964 and 1970</li> <li>- Animal Boarding Establishments Act 1963</li> <li>- Breeding of Dogs Act 1973</li> <li>- Dangerous Wild Animals Act 1976</li> <li>- Food and Environment Protection Act 1985</li> <li>- Environmental Protection Act 1990</li> <li>- Environment Act 1995</li> <li>- Dangerous Dogs Act 1991</li> <li>- Water Act 1989</li> </ul>	Director	



## Gedling Borough Council Constitution

Environment and Licensing Matters - General			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
	<ul style="list-style-type: none"> <li>- The Clean Neighbourhoods and Environment Act 2005</li> <li>- Water Industry Act 1991</li> <li>- Food Safety Act 1990 and any Order or Regulations or other instruments made thereunder or having effect by virtue of the European Communities Act 1972 and relating to food safety or animal foodstuffs and any modification or re-enactment of them.</li> <li>- Public Health (Control of Disease) Act 1984</li> <li>- Public Health (Infectious Diseases) Regulations 1988</li> <li>- Slaughter of Poultry Act 1967</li> <li>- National Assistance Act 1948 (as amended)</li> <li>- Animal Health Act 1981</li> <li>- the Agriculture (Miscellaneous Provisions) Act 1968</li> <li>- Natural Mineral Waters Regulations 1985</li> <li>- Health and Safety (Enforcing Authority) Regulations 1989</li> <li>- Sunday Trading Act 1994</li> <li>- Zoo Licensing Act 1981</li> <li>- Performing Animals Act 1925</li> <li>- The Control of Pesticides Regulations 1986</li> <li>- Criminal Justice and Public Order Act 1994</li> <li>- Noise and Statutory Nuisance Act 1993</li> <li>- Noise Act 1996</li> <li>- Health and Safety at Work Act Etc 1974</li> </ul>		
EL3.	<p>Authority to appoint named Officers as Inspectors and to be entitled to exercise the powers of an Inspector in:</p> <ul style="list-style-type: none"> <li>i) Section 20(2)(a) to (m) inclusive, Sections 21, 22 and 25 of the Health and Safety at Work Act 1974;</li> <li>ii) any Health and Safety Regulations;</li> <li>iii) any of the appropriate provisions of the Acts mentioned in Schedule 1 of the 1974 Act which are specified in the third column of the Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified which may be in force from time to time.</li> </ul>	Director	
EL4.	<p>Power to authorise named Officers to administer the provisions of the Clean Air Act 1993 with respect to offences under Sections 1, 2 and 20 and notification under Section 51.</p>	Director	

## Gedling Borough Council Constitution

<b>Environment and Licensing Matters - General</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
EL5.	Authority to appoint named and suitably qualified Officers to exercise the powers of an Inspector under the Food Safety Act 1990: and any Order or Regulations or other instruments made thereunder or having effect by virtue of the European Communities Act 1972 and relating to food safety or animal foodstuffs and any modification or re-enactment of them.	Director	
EL6.	Authority to appoint such persons as necessary to act as Inspectors within the provisions of Part I of the Environmental Protection Act 1990.	Director	
EL7.	Authority to appoint named Officers to act under the provisions of Part III of the Food and Environmental Protection Act 1985 and Control of Pesticides Regulations 1986 in respect of the advertisement, supply, sale, storage and use of pesticides except where the Health and Safety Executive is the enforcement authority by virtue of Regulation 3 of, and Schedule 1 to the Health and Safety (Enforcing Authority) Regulations 1989, and the use of pesticides in domestic premises by the occupier of those premises, provided such use does not form part of a work activity.	Director	
EL8.	Authority to appoint in writing: <ul style="list-style-type: none"> <li>i) under Section 19 of the Health and Safety at Work Etc. Act 1974 any Specialist or Consultant as may be required as an Inspector and to authorise such appointee to exercise such powers under Section 20 may be required;</li> <li>ii) to authorise any Specialist or Consultant as may be required to accompany an Inspector pursuant to Section 20(2)(c)(i).</li> </ul>	Director	
EL9.	The granting of licences for small lotteries under the Betting, Gaming and Lotteries Act, amusement with prizes, licences for street collections, licences for house to house collections, in accordance with the overall policy of the Council.	Director	
EL10	The approval and refusal of applications for Private Hire and Hackney Carriage Vehicle Licences for vehicles carrying up to eight passengers.	Director	
EL11	Authority to refuse to grant a Hackney Carriage or Private Hire Drivers' Licence, or to revoke an existing licence, where the driver is disqualified from driving and no longer holds a licence under Part III of the Road Traffic Act 1998 authorising him to drive a motor vehicle.	Director	

## Gedling Borough Council Constitution

<b>Environment and Licensing Matters - General</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
EL12	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has no previous convictions or cautions.	Director	After consultation with the Chair or Vice Chair
EL13	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has previous convictions or cautions for Minor Traffic Offences where the number of points endorsed on his/her driving licence is 9 or fewer.	Director	After consultation with the Chair or Vice Chair
EL14	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has previous convictions, cautions or offences which are more than 5 years but less than 10 years prior to the application, except where the applicant has a conviction for Violence or an Indecency Offence, in which case the application must be referred to Committee in the circumstances set out in the approved guidelines.	Director	After consultation with the Chair or Vice Chair and two members of the Committee
EL15	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has previous convictions, cautions or offences which are more than 10 years prior to the application, except in the following circumstances where the application must be referred to the Committee: i) Where the applicant has a conviction for an indictable only offence; and/or ii) Where the applicant has a conviction for a serious sexual offence; or iii) Where the convictions are all more than 10 years old and fall outside of the above but it is felt by the Chair/Vice Chair that the circumstances justify refusal.	Director	After consultation with the Chair or Vice Chair
EL16	Authority to appoint authorised officers to carry out enforcement functions under the Local Government Miscellaneous Provisions Act 1976, in relation to licensed vehicles and drivers operating in the borough which have been licensed by other licensing authorities, subject to those authorities delegating those functions to Gedling Borough Council.	Director	
EL17	Authority to authorise legal proceedings against any person contravening the provisions of the Council's Street Trading Prohibition Order.	Director	In consultation with the Monitoring Officer

## Gedling Borough Council Constitution

### Environment and Licensing Matters - General

Ref No.	Function	Authorised Officer	Consultation/ Limitation
EL18	Authority to deal with complaints about high hedges, any appeals, enforcement and authorisation of powers of entry under Part 8 of the Anti-Social Behaviour Act.	Director	
EL19	The authority to authorise persons whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including powers of entry under the Health Act 2006 and regulations made thereunder to deal with smoke free premises	Director	
EL20	Authorise legal proceedings against any person contravening the provisions of the Health Act 2006 and regulations made thereunder.	Director	In consultation with the Monitoring Officer

### Licensing Matters – Licensing Act 2003

Ref No.	Function	Authorised Officer	Consultation/ Limitation
L1	Delegated authority to carry out the functions and to deal with all decisions which are required to be made under the Licensing Act 2003 and which are not either delegated to the Licensing Panels or reserved to the Licensing Committee.	Director	

### Planning Matters

Ref No.	Function	Authorised Officer	Consultation/ Limitation
P1	<p>In those cases where the proposed development is in accordance with approved Development Plans and where no adverse representations of a valid planning nature have been received, the grant of permission, approval or consent, in respect of application for:</p> <ul style="list-style-type: none"> <li>i) Planning permission;</li> <li>ii) Listed Building Consent;</li> <li>iii) Consent to display advertisements;</li> <li>iv) Approval of reserved matters, or to make observations on behalf of the Borough Council in respect of:</li> <li>v) proposals by Government Departments;</li> </ul>	Chief Executive	

## Gedling Borough Council Constitution

Planning Matters			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
	<ul style="list-style-type: none"> <li>vi) statutory undertakers, or</li> <li>vi) proposals received by other local authorities.</li> </ul>		
P2	Authority to determine that no Tree Preservation Orders should be made where notice of intention to carry out work on a tree in a conservation area is received.	Chief Executive	
P3	Where planning permission has been refused, authority to decide that an appeal to the Secretary of State for the Environment should be resisted and to agree in what form the appeal shall be conducted.	Chief Executive	
P4	Authority to approve requests for minor amendments to planning conditions made under S73 and 96A of the Town and Country Planning Act 1990 in respect of applications previously determined by the Planning Committee.	Chief Executive	
P5	Authority to make observations on behalf of the Borough Council as District Planning Authority in respect of proposals by Nottinghamshire County Council for which deemed permission was being sought under the Town and Country Planning General Regulations.	Chief Executive	
P6	Authority to exercise judgement and discretion as to when consultations with interested bodies should be carried out in connection with planning applications and likewise the question of re-consultation with residents, Parish Councils and other bodies where amendments are negotiated to planning applications as originally submitted.	Chief Executive	
P7	Authority to make observations on behalf of the Borough Council in respect of proposals by statutory undertakers for which deemed permission is being sought under the Town and Country Planning General Regulations.	Chief Executive	
P8	Authority to approve the renewal of a planning permission where there has been no change in circumstances.	Chief Executive	
P9	Authority to make a Tree Preservation Order where no objections have been received.	Chief Executive	In consultation with the Chair of the Planning Committee.
P10	Authority to confirm a Tree Preservation Order where no objections have been received.	Chief Executive	

## Gedling Borough Council Constitution

Planning Matters			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
P11	Authority to determine applications made under Section 198 of the Town and Country Planning Act 1990 for the topping, lopping or cutting down of any tree subject to a Tree Preservation Order.	Chief Executive	
P12	Authority to determine applications for consent under a Tree Preservation Order under Section 198 of the Town and Country Planning Act 1990 for the topping or lopping of trees, after consultation, where necessary.	Chief Executive	
P13	Authority: i) To issue a Hedgerow Retention Notice where he is satisfied that the hedgerow is important and should be retained;  ii) To authorise the Monitoring Officer to make an application for an Injunction where the removal of an important hedgerow is apprehended.	Chief Executive	
P16	Authority to determine applications received under Section 64 of the Town and Country Planning Act 1990 relating to development within the curtilage of dwelling houses.	Chief Executive	
P17	Authority to serve Planning Contravention Notices under Section 171(c) of the Town and Country Planning Act 1990 and to enter into discussions with the recipient of such a Notice about how any suspected breach of control might be remedied.	Chief Executive	
P18	To take decisions with regard to publicity for reserved matters and amendments to planning applications.	Chief Executive	
P19	Authority to deal with requests to withdraw an Enforcement Notice where no objections are received and to serve Breach of Condition Notices	Chief Executive	
P20	Authority to exercise the general powers of entry conferred on a local planning authority by Section 196A of the Town and Country Planning Act 1990.	Chief Executive	
P20	Authority to authorise the Monitoring Officer to discharge Section 106 Agreements and to release Bonds in support of such Agreements upon being satisfied that the Agreement has been fully complied with and that it would be appropriate for such agreement to be discharged if it no longer serves a useful purpose and was not capable of having any effect in the future.	Chief Executive	
P21	Authority to determine in respect of the Town and Country Planning Environmental Impact Assessment Regulations 1999: 1. Whether or not an environmental statement was needed prior to a developer submitting an application; 2. To determine where or not schemes comprising Schedule 2 development require an environmental statement.	Chief Executive	

## Gedling Borough Council Constitution

<b>Planning Matters</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
P23	Within the area of his responsibility, power to authorise the service of Notices and the enforcement thereof in the event of default including recovering costs.	Chief Executive	
P25	To consider all planning applications which do not fall to be decided by them under their other delegations and to decide which of these applications they will determine and which they will refer to the Planning Committee for determination provided that this delegation shall not apply to: a) Applications proposing 5,000 or more square metres of new commercial floor-space, the determination of which is reserved to the Planning Committee. b) Applications proposing ten or more residential dwellings, the determination of which is reserved to the Planning Committee.	Chief Executive	In consultation with the Planning Delegation Panel
P26	Authority to enter land without a warrant under Regulation 12 of the Hedgerows Regulations 1997.	Chief Executive	
P28	Authority to determine all applications of the extension of time limits.	Chief Executive	
P30	Authority to issue and serve a Temporary Stop Notice	Chief Executive	
P31	Authority to exercise the powers to require proper maintenance of land pursuant to Section 215 (i) Town and Country Planning Act 1990, including the power to take action in default.	Chief Executive	
P33	Within the area of his responsibility, power to authorise the service of Notices and the enforcement thereof including the recovery of costs insofar as they may relate to non-executive responsibilities.	Chief Executive	
P34	Authority to delegate to appropriate Officers the service of Notices and taking of action in default insofar as they may relate to non-executive responsibilities.	Chief Executive	
P35	Power to authorise the commencement of legal proceedings within the area of his responsibility insofar as they may relate to non-executive responsibilities.	Chief Executive	In consultation with the Monitoring Officer
P37	Power to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including powers of entry, under statutes and regulations and orders within the area of his responsibility and insofar as they may relate to non-executive responsibilities.	Chief Executive	
P38	Authority to enter into Agreements within the area of his responsibility and to release Bonds in support of such Agreements upon being satisfied that the Agreement has been fully complied with and that it would be appropriate	Chief Executive	



## Gedling Borough Council Constitution

<b>Planning Matters</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
	for such agreement to be discharged if it no longer serves a useful purpose and was not capable of having any affect in the future.		
P39	Within the ambit of the Planning Committee to authorise the advertising of proposals in the press affecting large numbers of people in the Gedling Borough area.	Chief Executive	
P40	Authorised to instruct that proceedings be instituted in cases where unacceptable unauthorised banner advertisement signs are erected.	Chief Executive	In consultation with the Chair or Vice-Chair of Planning Committee
P41	Authority to approve the making and confirmation of a Tree Preservation Order under Sections 197 - 201 of the Town and Country Planning Act 1990	Chief Executive	In consultation with the Chair or Vice-Chair of Planning Committee
P42	Authority to serve Building Preservation Notices.	Chief Executive	In consultation with the Chair or Vice-Chair of Planning Committee
P43	Authority to determine any requests for Revocation Orders and to refer them to Committee only where they would merit consideration by the Committee.	Chief Executive	In consultation with the Chair or Vice-Chair of Planning Committee
P44	Authority to make determinations in relation to whether prior approval is required for development permitted under the Town and Country Planning (General Permitted Development) Order 2015, (as amended) and to agree details and specifications where prior approval is required and give other consents and approvals in relation to that Order.	Chief Executive	
P45	Authority to determine an application for a Certificate of Lawfulness of existing use or development and a Certificate of Lawfulness of proposed use or development of land under Sections 191 and 192 of the Town and Country Planning Act 1990.	Monitoring Officer	In consultation with the Chief Executive
P46	Authority to negotiate and conclude Agreements made under Section 106 of the Town and Country Planning Act 1990. The sealing of any Agreement under the authority of this Section shall be an authorised delegation for the purposes of the Council's Constitution.	Monitoring Officer	In consultation with the Chief Executive
P47	Authority to determine applications under Section 64 of the Town and Country Planning Act 1990 as to whether the carrying out of operations on land or the making of	Monitoring Officer	In consultation with the Chief Executive



## Gedling Borough Council Constitution

<b>Planning Matters</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
	any change in the use of land would constitute or involve development of the land, and if so, whether an application for planning permission in respect thereof would be required having regard to the provisions of the Town and Country Planning General Development Order 1972 or of any amendments thereof.		
P48	Authority for the endorsement of Tree Preservation Orders as to their confirmation, modification, variation or revocation.	Monitoring Officer	
	Authority to modify section 106 agreements which have been previously agreed by the Planning Committee, except where in the opinion of the Head of Development and Place it is of significant public interest, has a significant impact on the environment or is likely to be widely controversial; in which case it will be referred to Planning Committees.	Chief Executive	
	Authority to determine when it is expedient to investigate alleged breaches of planning control	Chief Executive	

<b>Staffing Matters</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
1	The Head of Paid Service, derives the following powers from statute:  a) the manner in which the discharge by the authority of their different functions is co-ordinated; b) the number of grades of staff required by the authority for the discharge of their function; c) the organisation of the authority's staff; and d) the appointment, dismissal and proper management of the authority's staff, other than in relation to Chief Officers.	Head of Paid Service	
ACS2	Implementation of Circulars on national wage and salary awards and other alterations in conditions of service.	Chief Executive	
ACS3	Authority to approve unpaid leave in excess of 13 weeks.	Chief Executive	
ACS4	Designation of posts attracting car user allowance and eligibility for car loans.	Chief Executive	
5	Authority, to give approval to the payment of first class rail fare to Members and Officers in appropriate circumstances.	Chief Executive	

## Gedling Borough Council Constitution

<b>Staffing Matters</b>			
<b>Ref No.</b>	<b>Function</b>	<b>Authorised Officer</b>	<b>Consultation/ Limitation</b>
6	Authority to make agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Chief Executive	
7	Authority to approve honoraria within the terms of the National and Local Schemes	Director	In accordance with the Council's Policy  In consultation with the Director responsible for Personnel.
8	Approval of leave of absence for volunteer members of non-regular forces.	Director	
9	Authority to appoint to established posts.	Director	Following consultation with the Director responsible for Personnel.
10	Authority to approve unpaid leave of up to 13 weeks duration.	Director	
11	Authority to create a temporary post	Director	Provided that this can be accommodated within existing budgets  In consultation with the Director responsible for Personnel.
ACS12	Authority to allow carry over leave beyond the permitted 5 days and additional paid or unpaid compassionate leave	Director	Following consultation with the Director responsible for Personnel.
ACS13	To authorise payment of occasional user car allowance.	Director	
ACS14	Approval of post entry training grants and attendance at training courses in accordance with the Council's policies.	Director	

## Gedling Borough Council Constitution

<b>Staffing Matters</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
ACS15	Authority to allow an appropriate amount of time away from work for family care which can be worked back over a reasonable length of time, the decision to allow time off to take into account both the business needs of the Authority and the individual's personal circumstances.	Director	
ACS16	Authority to make minor adjustments to job descriptions, where they do not involve changes to grade or service conditions and do not give rise to any financial implications.	Director	In consultation with the Director responsible for Personnel
ACS17	Authority to approve applications for a car purchase loan or a contract hire car within the approved scheme.	Director	
AR18	To approve cases of retirement on the grounds of ill-health, including authority to release statutory ill-health pension benefits.	Chief Executive	Subject to necessary medical approval (as defined by regulation) having been obtained.
AR19	Implementation of requirements arising from Pension Act reviews where no discretion is afforded to the Authority.	Chief Executive	
AR20	Authority to approve all cases of dismissal, including by reason of early retirement and compulsory or voluntary redundancy in accordance with any statutory or discretionary arrangements, other than decisions relating to pension release and discretionary payments.	Chief Executive	

<b>Standards Matters</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
S1	Dealing with complaints of breach of the Code of Conduct by Borough Councillors and Parish Councillors	Monitoring Officer	In accordance with Arrangements for Dealing with Complaints and in consultation with Independent Person, where

## Gedling Borough Council Constitution

<b>Standards Matters</b>			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
			required in the Arrangements
S2	<p>Granting dispensations to Borough Councillors who have a disclosable pecuniary interest on any of the following grounds:</p> <p>a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of that business;</p> <p>b) that, without a dispensation, no member of the Cabinet would be able to participate on the matter</p>	Monitoring Officer	
S3	Conducting the recruitment process for the Independent Person, reserve Independent Person and Co-opted Members to the Standards Committee	Monitoring Officer	
S4	Authority to constitute the membership of the hearing panel at any time.	Monitoring Officer	

# Gedling Borough Council Constitution

## Section 20 – Proper Officer Provisions

The Council has approved the appointment of the following officers as proper officers. Any reference to Director below should be interpreted as referring to the Director with responsibility for the relevant function or service.

The Chief Executive has the power to act as proper officer in the absence of the named proper officer below.

The Chief Financial Officer shall act as the proper officer in respect of any other statute where specific arrangements for financial matters have not been made under the following provisions.

The Monitoring Officer shall act as the proper officer in respect of any other statute where specific arrangements for legal matters have not been made under the following provisions.

The Chief Executive shall act as the proper officer in relation to any other enactment (including in relation to elections or referendums) where specific arrangements have not been made under the following provisions.

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STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
<b>Public Health Act 1936</b>		
S.79	Power to require removal of noxious matter	Director
S.84	Certificate relating to cleansing or destruction of filthy or verminous items	Director
S.85(2)	Cleansing of verminous persons or articles	Director
<b>Local Government Act 1972</b>		
S.83 (1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive
S.84	Receipt of notice of resignation of Elected Member	Chief Executive
S.88(2)	Arranging a Council meeting to appoint to Chair of the Council	Chief Executive
S.89(1)	Notice of casual vacancy	Chief Executive

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
S.100B(2)	The officer also may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Chief Executive
S.100B(7)	The officer to supply to newspapers copies of documents supplied to Councillors	Chief Executive
S.100C(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Chief Executive
S.100D(1) and (5)	The officer responsible for identifying and compiling lists of background papers	Director
S.100F(2)	The officer making decisions as to documents disclosing exempt information which are not required to be open to inspection by council members	Chief Executive
S.115(2)	Receipt of money due from officers	Chief Financial Officer
S.137A	Receipt of statement provided in relation to financial assistance	Chief Financial Officer
S.146(1) (a) and (b)	Declarations and certificates with regard to transfer of securities	Chief Financial Officer
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs	Chief Financial Officer
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Director
S.225	Deposit of documents	Chief Executive
S.228(3)	Accounts for inspection by any member of the Council	Chief Financial Officer
S.229(5)	Certification of photographic copies of documents	Monitoring Officer

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
S. 234(1)	Officer who may authenticate documents	Monitoring Officer
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Monitoring Officer
S.238	Certification of byelaws	Monitoring Officer
S.248	Officer who will keep the Roll of Freemen	Director
Para 4(1A)and (1B) of Schedule 12	Signing of summons to Council meeting	Chief Executive
Para 25 of Schedule 14	Certification of resolution passed under this paragraph	Monitoring Officer
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Monitoring Officer
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Monitoring Officer
<b>Representation of the People Act 1983</b>		
S.8	Electoral Registration Officer	Chief Executive
S.35	Returning Officer for local elections (Borough and Parish)	Chief Executive
S. 52	Deputy Electoral Registration Officer	Director of Organisational Development and Democratic Services
S.67	Acting as the appropriate person for the purposes of Part II	Chief Executive
S.128	Publishing a petition questioning a local election	Chief Executive



## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
S.131	Providing suitable accommodation for election court	Chief Executive
S.145	Receipt of High Court Certificate at the conclusion of trial of local election petition	Chief Executive
S.146(2)	Receipt of High Court decision on a special case	Chief Executive
S.200	Posting notices required in relation to local elections	Chief Executive
Paragraphs 3, 6 and 8 of Schedule 4	Receipt of an election expense declarations and returns and the holding of those documents for public inspection	Chief Executive
<b>Public Health (Control of Disease) Act 1984</b>		
S.48	Removal of body to mortuary or for immediate burial	Director
S.60	Receipt of notices and other documents	Director
<b>Building Act 1984</b>		
S.35A	Certifying evidence is sufficient to justify commencing proceedings for contravention of building Regulations	Director
S.61	Access to work to repair drain	Director
S.78	Taking immediate action in relation to dangerous building	Director (or any officer authorised by him)
S.93	Authentication of documents	Director
<b>Nottinghamshire County Council Act 1985</b>		
S.3	Authentication of document	Director
S.6	To receive objections to proposals to designate land	Director

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
<b>The Parish and Community Meetings (Polls) Rules 1987 No. 1</b>		
Rule 4(1)	Returning Officer for Parish Polls	Chief Executive
<b>Local Government Finance Act 1988</b>		
S. 116	Notify auditor of meeting to consider financial report to the authority and decision at that meeting	Chief Financial Officer
S.139A	Receipt of notice from Secretary of State	Chief Financial Officer
<b>Local Government Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	Monitoring Officer
<b>The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 No. 1058</b>		
Regulation 23	Certification of copy of local non-domestic rating list	Director
<b>Food Safety Act 1990</b>		
S. 49	Authentication of documents	Director
<b>Local Government (Committees and Political Groups) Regulations 1990 No.1553</b>		
Regulation 8	Receipt of notices relating to constitution of political groups	Director
Regulation 9	Receipt of notices relating to membership of political groups	Director
Regulation 10	Receipt of notices of cessation of membership of political group	Director
Regulation 13	Receipt of notification of wishes of political group	Director
Regulation 14	Provision of information to Leader of political group for the purposes of the composition of committees	Director

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
<b>Local Government Finance Act 1992</b>		
S.68(1)	Receipt of notice from Secretary of State	Chief Financial Officer
S.68(2)	Provision of information to Secretary of State	Chief Financial Officer
<b>The Local Government (Parishes and Parish Councils) Regulations 1999 No. 545</b>		
Regulation 8(6)	Estimate population	Chief Executive
Regulation 9(7) and (9)	Powers relating to charitable property	Chief Executive
Regulation 14	Sign minutes of last meeting	Chief Executive
<b>Freedom of Information Act 2000</b>		
S. 36	Qualified Person	Monitoring Officer
<b>Local Authorities (Standing Orders) (England) Regulations 2001 No. 3384</b>		
Schedule 1, Part 2, paras 5 and 6	Officer who will give written notice of appointment or dismissal of chief officers	Monitoring Officer
<b>Local Authorities (Members' Allowances) (England) Regulations 2003 No. 1021</b>		
Regulation 32	Receipt of notice to forego entitlement to allowances	Chief Financial Officer
<b>European Parliamentary Elections Regulations 2004 No. 293</b>		
Regulation 19	Discharge of registration duties in absence of Registration Officer	Director of Organisational Development and Democratic Services
<b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006 No. 3305</b>		
Rule 5	Receipt of request to fill a casual vacancy in the office of a parish or community	Chief Executive

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
	councillor.	
Schedule 2, Para 1 England, Part 4, paragraph 50	Receipt of declaration of result in parish or community election	Chief Executive
<b>The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 No.1024</b>		
Schedule 1, Para 1, Part 6, paragraph 54	Receive declaration of result	Chief Executive
<b>Local Government (Parishes and Parish Councils) (England) Regulations 2008 No 625</b>		
Regulation 7	Estimate population	Chief Executive
<b>Localism Act 2011</b>		
S. 33(1)	Receipt of written request to grant a dispensation	Monitoring Officer
<b>Local Authorities (Referendums) (Petitions and Directions)(England) Regulations 2011 No. 2914</b>		
Regulation 4	Publish the number that is equal to 5 per cent. of the number of local government electors for the authority's area	Chief Executive
Regulation 7	Post announcement and post directions – petitions	Chief Executive
Regulation 8	Amalgamation of petitions	Chief Executive
Regulation 11	Procedure on receipt of petition	Chief Executive
Regulation 13	Publicity for valid petitions	Chief Executive
Regulation 14	Publicity for invalid petitions	Chief Executive
<b>Local Authorities (Conduct of Referendums) (England) Regulations 2012 No. 323</b>		
Regulation 4	Publicity in connection with referendums	Chief Executive
Schedule 3, Part 7, paragraphs 41 and 43	Receive declaration of result	Chief Executive

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
<b>Neighbourhood Planning (Referendums) Regulations 2012 No. 2031</b>		
Regulation 4	Making information available in relation to referendums	Chief Executive
Regulation 16	Acting as proper officer where the referendum is not arranged by the local planning authority	Chief Executive
Schedule 3, Para 1, Part 7, paragraph 42	Receipt of declaration of result of the referendum	Chief Executive
Schedule 3, Para 1, Part 7, paragraph 43	Receipt of declaration of result of the referendum (cross boundary referendum)	Chief Executive
Schedule 5, Para 1, Part 7, paragraph 42	Receipt of declaration of result of the referendum	Chief Executive
Schedule 5, Para 1, Part 7, paragraph 43	Receipt of declaration of result of the referendum (cross boundary referendum)	Chief Executive
Schedule 7, Para 1, Part 9, paragraph 69	Receipt of declaration of result of the business referendum	Chief Executive
Schedule 7, Para 1, Part 9, paragraph 70	Receipt of declaration of result of the business referendum (cross boundary referendum)	Chief Executive
<b>The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 No. 2089</b>		
Regulation 7	Access, to agenda and connected reports for public meetings	Monitoring Officer
Regulation 10	Notice that publicity in connection with key decisions is impracticable	Monitoring Officer
Regulation 12	Recording of Executive decisions made at meetings of the Cabinet	Monitoring Officer
Regulation 13	Recording of executive decisions made by individual members	Monitoring Officer
Regulation 14	Making documents available for inspection following executive decisions	Monitoring Officer
Regulation 15	Compiling list of background papers for inspection	Monitoring Officer
Regulation 16	Members' rights of access to documents	Monitoring Officer

## Gedling Borough Council Constitution

STATUTE OR REGULATIONS	ACTION	PROPER OFFICER
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Monitoring Officer
<b>Local Audit and Accountability Act 2014</b>		
S. 11	Attend a meeting of the auditor panel of a parish meeting to answer questions	Chief Financial Officer
S. 22	Provide information to local auditor of the accounts of a parish meeting	Chief Financial Officer
<b>Openness of Local Government Bodies Regulations 2014 No. 2095</b>		
Regulation 9	Confidential and exempt information	Chief Executive
<b>Byelaws (Alternative Procedure)(England) Regulations 2016 No. 165</b>		
Regulation 12(4)	Receipt of byelaw from the Parish Council and placing on deposit	Director
<b>Local Government (Boundary Changes) Regulations 2018 No. 1128</b>		
Regulation 16	Returning officer and proper officer for shadow authority	Chief Executive
Regulation 23	Receipt of reports of statutory audits, inspections and investigations	Chief Financial Officer

## **Section 21 – Budget and Policy Framework Rules**

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### **Part 1 - General**

#### **1 The framework for Executive decisions**

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

##### **1.1 Meaning of Policy Framework**

The Policy Framework means the following three categories of plans and strategies:

- a) Those required by law to be adopted by the Council, namely:
  - Development Plan documents
  - Licensing Authority Gambling Statement of Policy
  - The Capital Strategy and any plan or strategy for the control of the Authority's borrowing and investments.

# Gedling Borough Council Constitution

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- b) Those which the Council has chosen to adopt as part of the Policy Framework, namely:
  - Gedling Plan
- c) Any plan or strategy required by law to be sent to a Minister of the Crown for approval.

The Executive will be responsible for adopting all other plans and strategies, unless reserved to Council or specified as a non-executive function by law.

## **1.2 Budget**

The Budget includes the allocation of financial resources to the delivery of the Gedling Plan and different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of expenditure and virement limits.

## **2 Process for developing the Policy Framework**

### **2.1 Development of the Policy Framework**

The process by which the Policy Framework shall be developed is:

- i. The Executive will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the Policy Framework, and its arrangements for consultation after publication of the initial proposals. The Chair of the Overview and Scrutiny Committee will also be notified.
- ii. At the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to the consultation. If the Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing its own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period, having particular regard not to duplicate any consultation carried out by the Executive. The Overview and Scrutiny Committee shall report to the Executive on the outcome of its deliberations.
- iii. The Executive will take any response from the Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- iv. Once the Executive has approved the firm proposals, it will refer them at the earliest opportunity to the Council.



## 2.2 Dispute Resolution - Policy Framework

2.2.1 Where the Executive has submitted a draft plan or strategy that forms part of the Policy Framework to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out below.

2.2.2 Before the Council:

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

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

2.2.3 Where the Council gives such instructions it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may:

- a) submit a revision of the draft plan or strategy as amended by the Executive (the "revised draft policy or strategy") with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

2.2.4 When the period specified by the Council, in its instructions to the Leader has expired, the Council must, when:

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

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

### **3 Process for developing the Budget**

#### **3.1 Development of the Budget**

The process by which the Budget shall be developed is:

- i. The Executive will publicise by including in the Forward Plan, a timetable for making proposals to the Council for the adoption of the budget and its arrangements for consultation after publication of the initial proposal. The Chair of the Overview and Scrutiny Committee will also be notified.
- ii. The Executive can, if it wishes, invite views from the Overview and Scrutiny Committee on priorities and suggestions for growth prior to preparation of the budget. The Executive can, if it wishes, invite comment from the Overview and Scrutiny Committee on the draft budget prior to its consideration by Cabinet.
- iii. At the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to the consultation. If the Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. The Overview and Scrutiny Committee shall report to the Executive on the outcome of its deliberations.
- iv. The Executive will take any response from the Overview and Scrutiny into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- v. Firm proposals will be approved by the Executive no later than 21<sup>st</sup> February relating to the budget for the following financial year. Once the Executive has approved the firm proposals, it will refer them at the earliest opportunity to the Council for adoption.
- vi. Subject to paragraph 3.2.4, where, before 8<sup>th</sup> February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year:
  - (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF and 52ZJ of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;

- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them; it must take the action set out in paragraph 3.2 below.

### **3.2 Dispute Resolution - Budget**

3.2.1 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 3.1(vi), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Executive's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

3.2.2 Where the Council gives instructions in accordance with paragraph 3.2.1, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may:

- (a) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
- (b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

3.2.3 When the period specified by the Council, referred to in paragraph 3.2.2, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 3.1(vi) or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the Executive's reasons for those amendments;
- (c) any disagreement that the Executive has with any of the Council's objections; and

(d) the Executive's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

3.2.4 Paragraphs 3.2.1 – 3.2.3 shall not apply in relation to:

(a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T, or 52U of the Local Government Finance Act 1992; and

(b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

#### **4 Decisions outside the Budget or Policy Framework**

a) Subject to the provisions of paragraph 6 (virement) the Executive, committees of the Executive, individual members of the Executive and any officers discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4(b) below.

b) If the Executive, committees of the Executive, individual members of the Executive and any officers want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the budget and policy framework) shall apply.

#### **5 Urgent decisions outside the Budget and Policy Framework**

a) The Executive, a committee of the Executive, an individual member of the Executive or officers discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

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- i. if it is not practical to convene a quorate meeting of the full Council; and
  - ii. if the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.
- b) The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the Chair of the Overview and Scrutiny Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee the consent of the Mayor or, in the absence of both, the Deputy Mayor, will be sufficient.
- c) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **6 Virement**

Steps taken by the Executive, a committee of the Executive an individual member of the Executive or officers discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads in accordance with Financial Rules. Beyond limits specified in the Financial Rules, Virement across budget heads shall require the approval of Council.

### **7 In-year changes to the Policy Framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, committees of the Executive, individual Members of the Executive and officers, discharging Executive functions must be in line with it. No change to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:-

- a) Which will result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint;
- b) Which are necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) In relation to the policy framework which would normally be agreed by the Council following consultation, but are required because the existing policy document is silent on a matter under consideration.

Any such changes to any plan or strategy which make up the policy framework must be reported to the next ordinary Council meeting.

### **8 Call-in of decisions outside the Budget or Policy Framework**

- a) Where the Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.
- c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may request the Mayor to call an extraordinary meeting of the Council to consider the matter. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Overview and Scrutiny Committee, at the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
  - (i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
  - (ii) amend the Council's Financial Rules, having regard to advice from the Chief Financial Officer, or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing

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framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

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## Section 22 – Contracts and Procurement Rules

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## 1 Purpose

1.1 The purpose of these Contracts and Procurement Rules (**Rules**) are to:

- achieve value for money by achieving the optimum combination of whole life costs and quality of outcome;
- to provide a legal and auditable framework for the Council's procurement activities;
- ensure fairness, transparency and the highest standards of integrity in awarding public contracts;
- comply with legal requirements;
- ensure that non-commercial considerations do not influence any contracting decision; and
- prevent fraud and corruption.

1.2 These Rules safeguard the interests of the Council, its members and employees and tax payers and sets clear procedural rules to ensure a system of transparency, fairness, integrity and accountability.

## 2 Compliance

2.1 Every relevant contract made by or on behalf of the Council shall comply with:

- any relevant EU Treaties and Directives of the EU at the time in force in the United Kingdom or such replacement domestic legislation;
- any relevant UK legislation; and
- the Council's Constitution including, but not limited to, these Contracts and Procurement Rules, the Council's Financial Regulations and relevant Council policies.

2.2 A waiver from any of the following provisions of these Contracts and Procurement Rules may only be made by direction of the Council where it is satisfied that the exemption is justified in special circumstances. A waiver cannot be given where the contract value exceeds the statutory thresholds set out pursuant to the Public Contracts Regulations 2015 (the **2015 Regulations**), the Concession Contracts Regulations 2016 or any replacement regulations. A record of such waiver shall be made in the minutes of the Council meeting.

2.3 Where the Council acts as agent for another organisation or authority then if that principal shall so require, the contractual and tendering procedures of the principal shall be used in substitution, in whole or in part, for these Rules.

## 3 Relevant Contracts

3.1 All relevant contracts must comply with these Rules.

3.2 A relevant contract is any arrangement by or on behalf of the Council to procure the carrying out of works or provision of supplies or services. This includes arrangements for:

- purchasing goods, supplies or materials;
- the hiring, renting or leasing of goods or equipment;
- executing works, including building or engineering works;
- purchasing of any services, including consultancy services; and
- concession contracts (e.g. operating commercial ventures at the Council's premises such as vending machines).

3.3 Relevant contracts do not include:

- contracts of employment with individual employees;
- land and property transactions (sales, purchases, leases, licenses etc.). These are governed by the Rules for Dealings with Land and Buildings;
- the payment of grants to third parties. However contracts with voluntary organisations for supplies, services or works are covered by these Rules; and
- Treasury management deals for borrowing or investment which will be dealt with in accordance with the approved Treasury Strategy.

## 4 Officer Responsibilities

4.1 Every Council officer responsible for procuring relevant contracts on behalf of the Council must comply with these Rules, the Council's Financial Regulations, Officers' Code of Conduct, all relevant legal requirements or guidance and any relevant policies of the Council. It is the responsibility of officers to ensure that they are aware of and fully understand the requirements under these Rules.

4.2 Prior to commencing any procurement process the lead officer for the procurement (the **Contract Officer**) must:

- ensure there is sufficient time to complete the procurement process, including contract completion and mobilisation, and establish a procurement timetable;
- ensure there is a sufficient budget established or approval has been obtained from the Chief Financial Officer in accordance with Rule 5 below;
- consider what procurement method in accordance with these Rules is most likely to achieve the purchasing objectives;

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- obtain Director approval for the procurement including the procurement method;
  - prepare a robust specification of requirements;
  - if the contract will be procured competitively, prepare a written evaluation criteria;
  - consider whether a written contract is required by these Rules and, if one is required, the form of contract that is appropriate for the particular procurement and seek appropriate advice from Legal Services prior to seeking quotations/tenders;
  - consider contract management arrangements including nomination of a suitable officer to manage the contract once it has been completed; and
  - for contracts for services which are valued in excess of the statutory threshold, consider how the procurement may improve the economic, social and environmental well-being of the borough in order to demonstrate compliance with the Public Services (Social Value) Act 2012.
- 4.3 The Contract Officer is responsible for ensuring that an appropriate audit trail, through written and / or electronic records, is made to evidence that the procurement process has been carried out in accordance with these Rules, including decisions relating to the method of procurement, evaluation of tenders and contract award.
- 4.4 All records must be retained by the Contract Officer in accordance with the Council's Records and Retention Policy.
- 4.5 All completed contracts must be passed to Legal Services for retention in accordance with the Council's Records and Retention Policy.

## **5 Funding**

In accordance with the Council's Financial Regulations, an order must not be placed or a formal process for letting a contract commenced unless expenditure has been included in approved capital or revenue budgets or the prior approval of the Chief Financial Officer has been obtained.

## **6 Soft Market Testing**

- 6.1 Potential suppliers may be consulted prior to the issue of a request for quotation or invitation to tender in general terms about the nature, level, standard and packaging of the supplies, services or works and other relevant matters so as to best ensure competition and value for money, provided that this does not distort competition or prejudice any potential supplier.
- 6.2 When carrying out soft market testing, it must be made clear to potential suppliers that they will not receive preferential treatment in the quotation or

tender process and that there is no guarantee that any procurement exercise will take place.

- 6.3 Soft market testing does not negate the need to undertake a formal procurement process such as a request for quotations or tender.

### **7 Procurement Requirements**

- 7.1 The nature of the procurement process to be undertaken will depend on the estimated total value of the contract.
- 7.2 When establishing the total value of the contract, the whole life costs and any possible extension periods which may be awarded must be included. Contracts must not be artificially under or over-estimated or divided into separate contracts to avoid the application of the Contracts and Procurement Rules or statutory procurement rules.
- 7.3 Where the estimated total value of the proposed contract is within the values in the second column of the table below, the procurement process in the third column and the requirements set out in the fourth column must be followed unless a waiver under Rule 2.2 has been granted or an exception under Rule 34 applies.

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	Total aggregate contract value (whole life cost including possible extension periods)	Procurement Route	Other essential requirements
<b>A</b>	Up to £9,999.99 (inc VAT)	One written quotation <b>OR</b> price confirmed in writing	<ul style="list-style-type: none"> <li>▪ The price must be confirmed in writing</li> <li>▪ The price/quotation must represent value for money</li> <li>▪ A formal order shall be placed in accordance with the Council's Financial rules unless additional terms and conditions are required, in which case advice should be sought from Legal Services on the form of contract</li> <li>▪ Three quotations must be sought in accordance with Rule 8 where the Director considers it is desirable in the interests of economy or efficient management</li> </ul>
<b>B</b>	£10,000 to £24,999.99 (inc VAT)	Three written quotations in accordance with Rule 8 unless using framework or dynamic purchasing system (DPS) in accordance with Rule 13	<ul style="list-style-type: none"> <li>▪ <u>Procurement &amp; Legal Services must be instructed</u></li> <li>▪ The Council's eTendering system must be used</li> <li>▪ The contract must be concluded formally in writing before the works, supplies or services are delivered, see Rule 22.2</li> <li>▪ The contract must be signed by Director or officer authorised by the Director in writing</li> </ul>
<b>C</b>	£25,000 to £74,999.99 (inc VAT)	Three written quotations in accordance with Rule 8 unless using framework or DPS in accordance with Rule 13	<ul style="list-style-type: none"> <li>▪ As per B above</li> <li>▪ Unless a framework or DPS is used, the contract opportunity must be advertised on the Government's Contracts Finder website</li> </ul>
<b>D</b>	£75,000 to below statutory threshold* (inc VAT)	Tender in accordance with Rules 9 – 12 <b>OR</b> A framework or DPS in accordance with Rule 13 <b>OR</b> e-Auction in accordance with Rule 14	<ul style="list-style-type: none"> <li>▪ As per C above</li> <li>▪ For tenders, an advertisement must be placed on SourceNottinghamshire and SourceDerbyshire websites. The contract must be executed under seal, see Rule 22.1</li> </ul>
<b>E</b>	Greater than statutory threshold*	Tender in accordance with Rules 9 – 12 <b>OR</b> A framework or DPS in accordance with Rule 13 <b>OR</b> e-Auction in accordance with Rule 14	<ul style="list-style-type: none"> <li>▪ As per D above</li> <li>▪ All statutory procurement rules must be followed</li> </ul>

\*Statutory thresholds at 1<sup>st</sup> January 2022 (thresholds reviewed bi-annually and published by the Cabinet Office):  
 Supplies and services - £213,477 (inc VAT)    Works - £5,336,937 (inc VAT)    Concessions - £5,336,937 (inc VAT)

## 8 Quotations

- 8.1 When seeking quotations the Director must ensure that:
- a) The selection process used to determine which suppliers will be invited to quote is fair and equitable;
  - b) The Request for Quotation specifies the supplies, services or works to be procured;
  - c) The Request for Quotation states that the Council is not bound to accept any quotation;
  - d) All suppliers invited to quote are issued with the same information at the same time and subject to the same conditions. Any supplementary information shall be given on the same basis;
  - e) All suppliers invited to quote are given an adequate period of time to prepare and submit a proper quotation;
  - f) All quotations are opened together after the specified return date; and
  - g) A written record of the reasons is made on file if the lowest price is not accepted.
- 8.2 If the value of the contract exceeds £25,000 the contract opportunity must be advertised in accordance with the 2015 Regulations and on the Council's eTendering system.
- 8.3 Where it is not possible to obtain three written quotations, due to lack of suitable firms prepared to quote or for some other valid reason, the quotation to be accepted can be approved by the Director, in consultation with the Chief Financial Officer and Monitoring Officer. Such approval to be recorded in writing in a form approved by the Chief Financial Officer and Monitoring Officer and must be kept on the file.
- 8.4 There is no requirement to consult Chief Financial Officer and Monitoring Officer and formally record the reasons under Rule 8.3 above where:
- a) the quotation proposed to be accepted has been obtained through a framework or DPS; or
  - b) the Request for Quotation was openly advertised in accordance with Rule 8.2 and less than three suppliers submitted written quotations.

## 9 Open Procedure

- 9.1 The open procedure can be authorised by the Director. This is a one stage procedure where the contract is advertised openly and anyone interested can submit a tender.
- 9.2 The Council's eTendering system must be used. Notice of the contract opportunity shall be advertised in accordance with the 2015 Regulations on the Government's Contracts Finder website, on SourceNottinghamshire and SourceDerbyshire websites and, where the Director considers it appropriate to generate additional interest in the contract, in such newspaper, journal or website as they see fit.



9.3 The notice/advert shall:

- a) specify details of the contract into which the Council wishes to enter;
- b) invite tenders for the contract;
- c) state how the tenderers should respond;
- d) state the date and time (being not less than 14 calendar days from the date of the publication of the notice or such longer period where required by the 2015 Regulations) when tenders must be received by the Council.

### **10 Restricted Procedure**

10.1 The restricted procedure can be authorised by the Director. This is a two stage procedure where the contract opportunity is advertised and anyone who expressed an interest must complete a pre-qualification questionnaire. These are then evaluated and a number of potential suppliers are shortlisted and invited to submit a formal tender.

10.2 The procedure rules as set out in the 2015 Regulations must be complied with and advice from Procurement and Legal Services must be sought.

### **11 Competitive Procedure with Negotiation**

11.1 This procedure can only be used when authorised by the Director with the approval of the Monitoring Officer where the nature of the contract is such that specifications cannot be drawn up with sufficient precision to enable the contract to be awarded using the open procedure. This procedure may be appropriate for complex technical IT contracts, for example.

11.2 The procedure rules as set out in the 2015 Regulations must be complied with and advice from Procurement and Legal Services must be sought.

### **12 Competitive dialogue**

12.1 This procedure can only be used where authorised by the Director with the approval of the Monitoring Officer where the Council is unable to define the design, technical, financial or legal elements of the project. It is intended for complex procurement projects. Competitive dialogue is a two stage procedure where firstly the contract is advertised and anyone who expressed an interest must complete a pre-qualification questionnaire. These are then evaluated and a number of potential suppliers are shortlisted and invited to enter into a dialogue with the Council.

12.2 The procedure rules as set out in the 2015 Regulations must be complied with and advice from Procurement and Legal Services must be sought.

## **13 Framework Agreements and DPSs**

- 13.1 A Framework Agreement is a general term for an agreement with appointed suppliers that sets out terms and conditions under which a contract can be awarded or specific purchases (call-offs) can be made throughout the term of the agreement without the need to enter into a separate full procurement process. A DPS is similar to an electronic framework however new suppliers can join at any time and the procedure must be run as a completely electronic process.
- 13.2 Framework agreements and DPSs procured by other local authorities, public bodies or purchasing consortiums may only be used where the Council is either a named participant or where the Council is considered a recognisable class of contracting authority under the terms of the framework agreement or DPS.
- 13.3 Contracts based on framework agreements and DPSs may only be awarded by either:
- a) applying the terms laid down in the framework agreement or DPS (where such terms are sufficiently precise to cover the particular call-off); or
  - b) where the terms laid down in the framework agreement or DPS are not sufficiently precise for the particular call off, by holding a mini-competition in accordance with the procedure set out in the framework agreement or DPS.

## **14 e-Auction**

- 14.1 An e-Auction (an electronic auction) may be used where authorised by the Director with the approval of the Chief Financial Officer and Monitoring Officer. This is a procurement tool where potential suppliers can complete online in real time to give prices for supplies or services under auction.
- 14.2 Advice must be sought from Procurement and Legal Services.

## **15 Specifications and Standards**

- 15.1 All tenders shall, except to the extent that the Council in a particular case or specified categories of contract otherwise decides, be based on a definite specification that describes the Council's requirements in sufficient detail to enable the submission of competitive bids and objective evaluation.
- 15.2 Where an appropriate British Standard Specification or British Standards Code of Practice is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship

shall be at least of the standard required by the appropriate British Standards Specification or Code of Practice.

- 15.3 Specifications should not include product names and can only reference trade names and marks where it is necessary to adequately specify the Council's requirements and equivalent products must be accepted.

### **16 Evaluation Criteria**

- 16.1 The evaluation criteria must be defined and clearly set out in a request for quotation or invitation to tender. Such criteria must be that which is best suited to the procurement exercise and designed to secure value for money for the Council.
- 16.2 The following criteria are available:
- a) lowest price where payment is made by the Council;
  - b) highest price where payment is to be received by the Council (e.g. in respect of concession contracts); or
  - c) most economically advantageous tender (**MEAT**) where considerations other than price apply.
- 16.3 The request for quotation or invitation to tender must clearly outline the criteria which will be used to evaluate tenders received and, in the case of MEAT, the overall weightings to be attached to each element.
- 16.2 In the latter case, the Council will use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous for the Council. Such criteria may include: price, service, quality, technical merit, aesthetic and functional characteristics, accessibility, environmental characteristics, running costs, cost effectiveness, safety, organisational qualification and experience of staff assigned to perform the contract, after-sales service, technical assistance, delivery process, delivery date, delivery period and period of completion.
- 16.3 Issues that are important to the Council in terms of meeting corporate objectives can be used to evaluate bids. The criteria can include for example: sustainability considerations and support for the local economy and social value. All criteria must relate to the subject matter of the contract and must be objectively quantifiable and non-discriminatory. The criteria must not include non-commercial considerations, matters which discriminate against suppliers or matters which are anti-competitive.

### **17 Submission of Quotations and Tenders**

- 17.1 The entire quotation and tender process shall be conducted electronically through an e-Tendering system approved by the Council for this purpose. Quotations and tenders must be submitted via the approved system and in

accordance with instructions given in the request for quotation or invitation to tenders.

- 17.2 No quotation or tender received after the time and date specified in the invitation to tender shall be accepted or considered. Any late quotation or tender must be notified promptly to the bidder (if applicable).
- 17.3 Quotations and tenders shall not be opened until the time and date specified for their opening.

### **18 Opening of Tender**

- 18.1 Tenders received shall be opened one at a time by a representative of the Monitoring Officer in the presence of a representative of the Director who invited the tenders.
- 18.2 The relevant Cabinet Member, Chair of the Overview and Scrutiny Committee, the Chief Financial Officer and the Monitoring Officer must be notified of the time and place appointed for the opening and be afforded the opportunity to attend the tender opening. Any Member of the Council who wishes may be present at the opening of tenders.
- 18.3 All tenders received shall be recorded by the representative of the Monitoring Officer and a record of the tender shall be signed by all persons present.

### **19 Clarification of Bids**

- 19.1 Where examination of quotations or tenders reveals errors or discrepancies which would affect the price in an otherwise successful bid, the bidder is to be given details of such errors and discrepancies and accorded an opportunity of confirming or withdrawing their offer. The bidder cannot amend their quotation or tender. If the bidder withdraws, the Council may award the contract to the next quotation or tender in competitive order.
- 19.2 Seeking clarification of a quotation or tender is permitted but must be conducted in a manner which does not distort competition. The bidder cannot amend or alter their bid.
- 19.3 Where clarification results in a fundamental change to the specification or contract terms, the contract must not be awarded and contract opportunity must be re-tendered.
- 19.3 Except when following a specific procedure under the 2015 Regulations, negotiation with bidders is not permitted. Discussions with bidders after submission of a quotation or tender and before the award of a contract with a

view to obtaining adjustments in price, delivery or content, must not be carried out in a way which distorts competition, particularly with regard to price.

### **20 Evaluation and Acceptance**

- 20.1 Quotations and tenders shall be promptly examined for adequacy, completeness and accuracy.
- 20.2 Quotations and tenders must be evaluated and contracts awarded in accordance with the evaluation criteria set out and published in the request for quotation or invitation to tender. Where the criteria is other than the lowest or highest price, a written record must be kept of the evaluation with scores given for each bidder on each of the stated evaluation criteria.
- 20.3 Where a quotation or tender is within the budgetary provision previously approved by the Council, the Director may accept the lowest quotation / tender if payment is to be made by the Council or the highest quotation / tender if payment is to be made to the Council or the most economically advantageous quotation / tender.
- 20.4 Quotations or tenders not within the budgetary provision shall be referred to Cabinet and Council (if necessary) for approval in accordance with the Financial Regulations.
- 20.4 Bidders shall be notified promptly of the result of the procurement exercise in accordance with relevant legislation.

### **21 Nominated Sub-Contractors and Suppliers**

- 21.1 Where a sub-contractor or supplier is to be nominated to a main-contractor, the following provisions shall have effect:
- a) Where the estimated value of the sub-contract or the estimated value of the goods to be supplied by the nominated sub-contractor does not exceed £75,000 then, unless the appropriate Director is of the opinion in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders, quotations shall be invited for the nomination in accordance with Rule 8.
  - b) Where the estimated value of the sub-contract or the estimated value of the goods to be supplied by the nominated sub-contractor exceeds £75,000 but is less than the statutory threshold then, unless the Director determines in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders, tenders shall be invited for the nomination in accordance with these Rules unless a framework or DPS is utilised.
  - c) Where the estimated value of the sub-contract or the estimated value of the goods to be supplied by the nominated sub-contractor exceeds the statutory threshold, tenders shall be invited for the nomination in accordance with these Rules unless a framework or DPS is utilised.
  - d) The provisions of Rules 15 to 20 shall apply to tenders received under

this Rule.

### **22 Contracts to be in writing**

- 22.1 Every contract which exceeds £10,000 in value or amount shall:
- a) be in writing;
  - b) be executed in accordance with Section 17 of the Constitution. For contacts valued under £75,000, the contract shall be signed by the Director, and
  - c) specify the supplies or services to be provided or the work to be carried out; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties.
- 22.2 All contracts exceeding £10,000 in value or amount must be concluded formally in writing before the supplies, services or works are delivered or commenced except in exceptional circumstances and then only with the written consent of the Monitoring Officer.

### **23 Prevention of Bribery**

- 23.1 Except in exceptional circumstances and then only with the prior written consent of the Monitoring Officer, there shall be inserted in every written contract, a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation:
- a) if the contractor shall have offered, promised or given a financial or other advantage to another person; and either the contractor intends the advantage to induce a person to perform improperly, or reward a person for the improper performance of a relevant function or activity in relation to obtaining or execution of the contract or any other contract with the Council; or the contractor knows or believes that the acceptance of the advantage would itself constitute the improper performance of the relevant function or activity in relation to the obtaining or execution of the contract or any other contract with the Council; or
  - b) if the like acts shall have been done by any person associated with the contractor or acting on his/her behalf (whether with or without the knowledge of the contractor); or
  - c) if in relation to any contract with the Council the contractor or any person associated with him/her or acting on his/her behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

## **24 Assignments and Novation**

- 24.1 Every contract which is estimated to exceed £10,000 in value or amount must contain a clause prohibiting the contractor from transferring, novating, assigning or sub-letting the contract without the written permission of the Council.
- 24.2 A contract shall only be transferred, novated, assigned or sub-let with the prior written permission of the Director.

## **25 Payments**

- 25.1 Every contract which is estimated to exceed £25,000 in value or amount must contain a clause requiring payment of undisputed invoices within 30 days as required by the 2015 Regulations.

## **26 Liquidated damages**

- 26.1 Every works contract which is estimated to exceed £50,000 in value or amount and provides for completion by a particular date or series of dates shall provide for liquidated damages of an amount to be determined in each case by the Director where he is able to arrive at a realistic estimate of the loss likely to be incurred in the event of the non-performance of the contract in the time specified.

## **27 Performance Bonds or Parent Company Guarantees**

- 27.1 Where a contract is estimated to exceed £100,000 in value or amount and is for the execution of works or for the provision of supplies or services, the Director concerned shall consider whether the Council should require security for its due performance of the contract and shall in consultation with the Monitoring Officer and the Chief Financial Officer either specify in the invitation to tender the nature and amount of the security to be given or certify that no such security is necessary. In the former event, the Council shall require and take a bond, parent company guarantee or other sufficient security for the due performance of the contract. As a minimum this should usually be for at least 10% of the total value of the contract.
- 27.2 The form of the bond, guarantee or security shall be in a form approved by the Chief Financial Officer.

## **28 Data Protection**

- 28.1 Where a contract requires the processing or sharing of personal data, any requirements under the data protection legislation relevant to the handling of personal data, its use, storage and destruction under the contract, including data processing clauses, must be included in the written contract.



## **29 Contract Clauses**

29.1 Where relevant, all written contracts should also include the following additional contract requirements:

- a) any insurance requirements;
- b) health and safety requirements;
- c) audit requirements;
- d) FOI requirements;
- e) safeguarding requirements;
- f) IR35;
- g) tax;
- h) any carbon reduction requirements;
- i) compliance with equality and diversity legislation;
- j) compliance with Modern Slavery legislation;
- k) business continuity arrangements; and
- l) contract management and KPIs.

## **30 Engagement of Consultants**

30.1 It shall be a condition of the engagement of the services of any architect or of any engineer, surveyor or other professional consultant (not being an officer of the Council) who is to be responsible to the Council for the supervision of a contract on its behalf, that in relation to the contract they shall:

- a) comply with these Rules as though they were a Director subject to the modification that the procedure to be followed in inviting and opening tenders shall be approved in advance by the appropriate Director;
- b) at any time during the carrying out of the contract, produce to the appropriate Director or their representative on request all the records maintained by them in relation to the contract; and
- c) on completion of the contract, transmit all such records to the appropriate Director.

## **31 Publication contract award**

31.1 Where a contract which exceeds £25,000 in value or amount is awarded, information about the contract must be published in accordance with the 2015 Regulations.

## **32 Register of Contracts**

32.1 A register of all contracts exceeding £10,000 shall be kept and maintained by the Chief Financial Officer. Such register shall for each contract specify the name of the supplier, the works to be executed or the supplies or services to be provided and the contract value. The register shall be open to inspection by any member of the public and published on the Council's website.



## **33 Declaration of Interests and Avoidance of Corruption**

- 33.1 Any officer who has a conflict of interest or any material interest, financial or otherwise which may affect the procurement process must declare that interest to the Director in writing and shall take no further part in the procurement process unless the Monitoring Officer gives written approval to that officer's continued involvement.
- 33.2 No officer shall accept any gift, fee, hospitality or reward in return for favourable treatment in a procurement exercise.

## **34 Contract Extensions**

- 34.1 Where a contract includes an option to extend the term of a contract, the option to extend may, subject to budget approval, only be exercised by a Director in writing.
- 34.2 The term of a contract may not be extended unless the original contract contains provisions which permits the contract to be extended.

## **35 Exceptions**

- 35.1 Where a proposed contract exceeds the statutory thresholds, the procedures set out in the 2015 Regulations apply and none of the following exceptions can be relied upon.
- 35.2 Reliance on an exception set out at Rule 35.3 can only be approved by the Director, in consultation with the Chief Financial Officer and Monitoring Officer. Such approval must be obtained before the contract is entered into and be recorded in writing in a form approved by the Chief Financial Officer and Monitoring Officer. This record must be kept on the file.
- 35.3 Nothing in these Contracts and Procurement Rules shall require a request for quotation or tenders to be invited if:
- i) in the case of contracts for supplies:
    - (a) the goods or materials are patented, of such special character or are sold only at a fixed price and no reasonably satisfactory alternative is available;
    - (b) the prices of the goods or materials are wholly controlled by trade organisations or Government procedures and no reasonably satisfactory alternative is available;
    - (c) for other reasons, there would be no genuine competition;
  - ii) the contract is for the execution of works or the provision of supplies or services where a related contract award was procured via a competitive tender exercise during the previous twelve months and the extension does not exceed a maximum of 50% of the value of the original contract, subject to it not exceeding the statutory procurement thresholds. Where a

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supplier will not maintain the original tender price in respect of such extension, any variation in such price shall only be agreed with the prior approval of the Chief Financial Officer. "Related" shall be defined as having a direct relationship to the original project in the case of works, or, for additional quantities of the services or supplies (or associated components) previously delivered in the case of services and supplies.

- iii) the contract is for works, supplies or services certified as being required so urgently as not to permit the request for quotations or invitation of tenders;
  - iv) the contract is funded by time limited grant funding from an external body and the time limitations will not allow a full tender process to be completed;
  - v) the contract relates to repairs to or the supply of parts for existing proprietary machinery or plant;
  - vi) the contract is for a works order placed with a utility company where only provider can be used (e.g. for the rerouting of cables or pipework);
  - vii) the supplies are purchased at a public auction;
  - viii) the execution of works or provision of supplies or services involves specialist or unique knowledge or skills or are only available from one organisation;
  - ix) the works, supplies or services can be supplied only by a particular supplier because:
    - (a) the aim is the creation or acquisition of a unique work of art or artistic performance;
    - (b) there would be no competition for technical reasons; or
    - (c) the supplier has exclusive rights, including intellectual property rights
- but only in the case of paragraphs (b) and (c) where no reasonable alternative or substitute exists and the absence of genuine competition is not as a result of an artificial narrowing down of the parameters of the procurement;
- x) tenders or quotations have been invited on behalf of any consortium, collaboration or similar body of which the Council is a member, provided that such tenders or quotations shall have been invited in accordance with the provisions of the Contracts and Procurement Rules of the said body or lead authority;
  - xi) the contract is to be awarded to an entity controlled by the Council; or

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xii) the contract to be awarded is for legal counsel and other legal and financial advisors (excluding consultants).

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**Section 23 – Rules for Dealings with Land and Buildings**

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## **DISPOSALS**

The following Rules apply to all 'relevant disposals' of land and buildings by the Council.

For the purposes of these Rules, a 'relevant disposal' means:

- The sale / transfer of a freehold interest;
- The sale / grant of a leasehold interest (excluding a tenancy not exceeding seven years);
- The assignment of any unexpired term of a lease which at the date of the assignment has not more than seven years to run;
- The grant of an easement;
- The grant of an option to purchase a freehold interest; and
- The grant of an option to purchase a leasehold interest (excluding a tenancy not exceeding seven years).

In these Rules 'the Executive' means the relevant decision maker which shall be Cabinet or the relevant Cabinet member or Director in accordance with the Council's approved Scheme of Delegation for Officers – Executive Functions as set out in this Constitution.

### **1. Best Consideration**

- 1.1 The Executive shall ensure that land and/or buildings are not disposed of for consideration less than the best that can be reasonably obtained on the open market except with the express consent of the Secretary of State or where the General Disposal Consent (England) 2003, the General Housing Consents 2013 or other Ministerial Consent applies and following consultation with the Chair of the Overview and Scrutiny Committee.
- 1.2 Where the disposal is for less than best consideration, the Executive shall also be satisfied that all subsidy control rules applicable at the time of the disposal are complied with.

### **2. Notification**

- 2.1 The Executive shall notify all relevant ward members before making any decision to dispose of any land or building to which these Rules apply.

### **3. Disposal of Open Space Land**

- 3.1 No disposal of open space land shall be effected until the statutory procedures set out in section 123(2A) of the Local Government Act 1972 and section 233(4) of the Town and Country Planning Act 1990 have been complied with. Open space land means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. The Director shall ensure that the Council advertises its interest to dispose of the land in a local

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newspaper for at least two consecutive weeks and consider any objections received before any final decision to dispose of the land is taken.

- 3.2 Land which is designated as public open spaces will not be disposed of unless the prospective purchaser / lessee has first obtained the necessary planning consent or it is a condition of the sale or lease that the necessary planning consent is obtained.

## **4. Disposal of Land Held on Trust**

- 4.1 Land held on trust shall not be disposed of under delegated powers and must be disposed of in accordance with the terms of the trust.

## **5. Valuation and Use of External Advisors**

- 5.1 Before the disposal of any land or building is authorised by the Executive, a valuation shall be prepared by the Council's surveyor or an independent qualified valuer ("the Valuation").
- 5.2 The Valuation shall be obtained from an independent qualified valuer in all cases where the anticipated value of the land or building exceeds £500,000 or where it is considered necessary due to the complexity or uniqueness of the land or building.
- 5.3 Where it is considered necessary to use the services of external advisers (for example where a disposal is complex or not a typical sale), the instruction given to the adviser shall ensure, so far as may be appropriate, compliance with these Rules.

## **6. Methods of Disposal**

- 6.1 The Executive shall authorise the method of disposal of any land or building.
- 6.2 A report to the Executive to obtain agreement in principle to the disposal and to approve the method of disposal to be used shall include (but not limited to) the following:
- identity of the land and legal extent of ownership, including a plan;
  - any legal requirements relating to the disposal including compliance with its duty to obtain the best consideration that can reasonably be obtained pursuant to s123 of the Local Government Act 1972 (see para 2.1 above);
  - the valuation as prepared by the Council's surveyor or an independent qualified valuer;
  - the key terms and conditions that the disposal should be subject to including any restrictions upon and / or covenants required from a purchaser to be contained in any contract for sale;

- any representations from consultees;
- confirmation whether the disposal includes land consisting or forming part of public open space and, if so, that the requirements of paragraph 3 above must be complied with; and
- the recommended method of disposal and the justification for it.

6.3 Disposal shall be by one of the following methods:

### **A Private Treaty**

A.1 Disposal by private treaty may be either through the open market or off market.

#### **Open Market**

A.2 Disposal by private treaty through the open market is likely to be appropriate where the level of interest is unknown and the land and / or buildings are easily marketable.

A.3 With such disposal, the sale shall first be marketed, including by public advertisement or through use of an estate or lettings agent, to generate interest with the aim of achieving an offer which represents the best consideration that can usually be obtained. The Director shall approve the terms of any sale / letting before the disposal is marketed.

A.4 Where disposal by private treaty through open market is authorised, the Director shall, if the level of interest is sufficiently high, require best and final offers to be made by a specified date.

#### **Off Market**

A.5 Disposal by private treaty off market is likely to be appropriate where the nature of the land and / or buildings or other special circumstances have been identified which indicates that there is likely to be only one potential purchaser or tenant or where the disposal is to a public sector partner / stakeholder. Such circumstances may include the following:

- the land is small in size or value;
- the only realistic purchaser is an adjoining landowner; or
- where there is a purchaser for whom the land has a higher value than anyone else i.e. ransom strips.

A.6 Disposal by private treaty off market may only be authorised following consultation with the Chair of the Overview and Scrutiny Committee.

A.7 Where disposal by private treaty off market is authorised, file notes shall be kept of all negotiations with prospective purchasers or tenants and, in relation to higher value disposals, two officers should be present during any negotiations.



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### **B Public Advertisement and Tender**

- B.1 Where there is likely to be interest on the open market, disposal by public advertisement and tender is likely to be the appropriate method of disposal to ensure best value is obtained.
- B.2 Written sales particulars shall be prepared which include full details of the land and / or building and of any rights or obligations by which the parties to the transaction are intended to be bound. The contract, conditions of sale, searches, replies to enquiries and any other supporting documentation shall also be prepared.
- B.3 The intention to dispose of the land and / or building shall be advertised in at least one local newspaper or a local property advertising service and, in cases where the land or building is estimated to have a value in excess of £100,000, the land and / or building shall also be advertised in the property pages of at least one or more national newspaper or journal or such other national property advertising service, including online services, as the Executive considers to be appropriate.
- B.4 The advertisement shall state the nature of the property and where further information can be obtained and either give at least fourteen days' notice by which parties wishing to be invited to tender should advise the Council of their interest or, where tenders have been invited, give at least fourteen days for interested parties to submit a tender.
- B.5 Where expressions of interest are first sought, tenders shall be invited from all of the persons who stated that they wished to be invited to tender. Details of the conditions of sale, contract and all supporting documentation, including any searches and replies to enquiries, shall be included in the invitation to tender along with the approved criteria for evaluating bids.
- B.6 Every invitation to tender shall state that all tenders must be submitted in hardcopy in a plain sealed envelope bearing the words "Tender For" followed by the description of the land and / or building to which it relates or by using an electronic system approved by the Council. Where submitted in hardcopy, each such envelope shall be addressed to the Council's Monitoring Officer. All tenders received must be stamped with the date and time they were received and shall be kept securely in the custody of the Monitoring Officer until the time and date specified for their opening.
- B.7 Every invitation to tender must state that a tender will only be considered if it is submitted in accordance with the instructions provided, and received by the date and time specified in the invitation to tender. The invitation to tender must also state that tenders which do not comply fully may be rejected and that the Council reserves the right not to accept the highest or any tender received.

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- B.8 Sealed bids shall be opened by a representative of Legal Services in the presence of a representative of the relevant Director. The relevant Cabinet member, the Monitoring Officer and the Chair of the Overview and Scrutiny Committee shall be notified of the time and place appointed for the opening of tenders and any Member of the Council who wishes may be present at the opening. A formal record of all tenders received must be made and include the tenderer's name and the tendered value. The record shall be signed by those persons present at the tender opening.
- B.9 Any tender received that is not in accordance with paragraph B.6 above or is received after the deadline for receipt of tenders shall not be accepted. The tender may be opened to ascertain the identity of the tenderer and shall be returned to the tenderer without any details of such tender being revealed to any party.
- B.10 All parties submitting a tender, whether successful or unsuccessful, shall be promptly notified of the outcome.

### **C Public Auction**

- C.1 Sale by public auction is likely to be appropriate where speed and certainty is required. This method of disposal may generate wide interest and it is easy to allocate a reserve price.
- C.2 Should the disposal be undertaken by public auction, an auctioneer(s) shall be instructed to conduct the sale. Any reserve price shall be set by the Executive, which shall not be less than the Valuation.
- C.3 Legal Services shall prepare the contract, conditions of sale, searches, replies to enquiries and any other supporting documentation. The contract documentation must be ready for exchange at the auction where a binding contract will be made on the acceptance of the highest bid which exceeds the reserve price.

### **7. Acceptance**

- 7.1 In respect of tenders or sealed bids, the highest tender/bid or the tender/bid scoring highest against the approved evaluation criteria should be accepted. In any case where it is intended that the highest tender should not be accepted a report shall be submitted forthwith on the matter to the Executive who may authorise acceptance of another tender if they are satisfied for good reasons that such lower tender should be accepted and, in which case, the reasons for any such decision shall be given and any necessary Ministerial consent shall be obtained before a binding contract for the sale shall be entered into.

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- 7.2 No tender for or offer to purchase any land and / or building shall be accepted unless the prospective purchaser will be able to complete the transaction within a reasonable time from the date of acceptance.
- 7.3 If no tender or offer is accepted, a report shall be prepared for the Executive to consider whether any further efforts should be made to dispose of the land and / or building and, if so, what further efforts should be made.
- 7.4 A prospective purchaser or tenant shall not be permitted to occupy the land and / or building prior to completion of the disposal unless some other written agreement approved by the Monitoring Officer has been entered into.

### **ACQUISITIONS**

- 8.1 All acquisitions of land and / or building shall be the subject of a valuation report prepared by the Council's surveyor or an independent qualified valuer. A valuation of the land and / or building and any relevant terms must be included in the report to the Executive when seeking authorisation for the acquisition.
- 8.2 All acquisitions must be made in accordance with the Council's Financial Regulations and be approved by the Executive. There must be an approved budget for the acquisition.
- 8.3 Land and / or building may be acquired via public auction. Legal Services must be consulted on the conditions of sale prior to the auction taking place.

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## **Section 24 – Staffing Rules**

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### **Recruitment and appointment**

#### **1    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 senior officer of the Council, or of the partner of such persons.

(ii) No candidate so related to a councillor or senior officer will be appointed without the authority of the Chief Executive or an officer nominated by him/her.

#### **2    Seeking support for appointment**

(i) Subject Rule 2(iii) any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council shall be disqualified. The content of this Rule will be included in any recruitment information.

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(ii) Subject to Rule 2(iii), no councillor will seek support for any person for any appointment with the Council.

(iii) Nothing in Rules (2)(i) and (ii) will prevent a councillor from giving a written reference for a candidate for submission with an application for appointment.

### **3 Recruitment of Head of Paid Service and Chief Officers**

When the Council proposes to appoint a chief officer as defined in the Local Authorities (Standing Orders) Regulations 1993 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 3(a) to be sent to any person on request.

**4** (1) Where a post has been advertised as provided in Rule 3(b), the Council shall -

(a) interview all qualified applicants for the post, or

(b) select a short list of such qualified applicants and interview those included on the shortlist.

(2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 3(b).

**5** Where the duties of a chief officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972 -

(i) The steps taken under Rules 3 and 4 may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned;

(ii) Any chief officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or subcommittee of any of those authorities.

### **6 Appointment and dismissal**

In this Part—

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“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“executive” and “Leader” have the same meaning as in the Articles of the Constitution;

“member of staff” means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means an officer appointed by the council for the purposes of the provisions in this Part.

**7** Subject to the following Rules the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by him/her.

**8** Rule 7 shall not apply to the appointment or dismissal of, or disciplinary action against “Chief Officers” namely—

(a) the officer designated as the Head of Paid Service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts), namely the Chief Financial Officer;

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act, namely officers reporting directly to or directly accountable to the Head of Paid Service;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act, namely officers reporting directly to or directly accountable to a statutory or non-statutory chief officer; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

Officers who solely provide secretarial, clerical or support services are not regarded as a non-statutory chief officer or a deputy chief officer.

### **9 Appointment of Head of Paid Service and Chief Executive**

(a) The full Council will approve the appointment of the Head of Paid Service and Chief Executive following the recommendation of such an appointment by the Appointments and Conditions of Service Committee. That committee must include at least one member of the Executive.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service and Chief Executive where the procedure set out in Annex 1 has been completed.

### **10 Appointment of Statutory Chief Officers**

- (a) The Appointments and Conditions of Service Committee will appoint the Statutory Chief Officer, namely the Chief Financial Officer. That committee must include at least one member of the Executive.
- (b) An offer of employment as a Statutory Chief Officer shall only be made where the procedure set out in Annex 1 has been completed.

### **11 Appointment of non-Statutory Chief Officers and Deputy Chief Officers**

- (a) The Appointments and Conditions of Service Committee will appoint the following non-Statutory Chief Officers and Deputy Chief Officers:
- Directors
  - Heads of Service

That committee must include at least one member of the Executive.

- (b) The appointment of all other non-Statutory Chief Officers and Deputy Chief Officers is the responsibility of the Chief Executive or an officer nominated by him/her.
- (c) An offer of employment as a non-Statutory Chief Officer or Deputy Chief Officer (whether appointed by Appointments and Conditions of Service Committee or the Chief Executive or an officer nominated by him/her) shall only be made where the procedure set out in Annex 1 has been completed.

### **12 Appointment of Assistants to political groups**

- (a) The Council has not approved the appointment of assistants to political groups. Should the Council agree to the introduction of such posts, the appointment must be in accordance of sub-paragraph (b).
- (b) Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group. An offer of employment as an Assistant to a political group shall only be made where the procedure set out in Annex 1 has been completed.

### **13 Disciplinary action**

- (a) Chief Officers listed in Rule 8 may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months unless the investigator determines that it should



continue beyond that date; any such suspension would not exceed six months on full pay.

- (b) The procedure set out at Annex 3 must be followed in relation to any disciplinary action against the Head of Paid Service, Monitoring Officer or Chief Financial Officer.

### **14 Dismissal of Head of Paid Service, Chief Financial Officer and Monitoring Officer**

- (a) The Appointments and Conditions of Service Committee will discharge the function of the dismissal of the officer designated as the Head of Paid Service, Chief Finance Officer, or Monitoring Officer. That committee must include at least one member of the Executive.

The full Council must approve that dismissal before notice of dismissal is given.

- (b) The full Council may only approve the dismissal where the procedure set out in Annex 2 and 3 has been completed.

### **15 Dismissal of other non-Statutory Chief Officers and deputy Chief Officers**

- (a) The Appointments and Conditions of Service Committee will discharge the function of the dismissal of the following non-Statutory Chief Officers and Deputy Chief Officers:

- Directors
- Heads of Service

That committee must include at least one member of the Executive.

- (b) The dismissal of all other non-Statutory Chief Officers and Deputy Chief Officers is the responsibility of the Chief Executive or an officer nominated by him/her.
- (c) Notice of dismissal of a non-Statutory Chief Officer or Deputy Chief Officer (whether dismissed by Appointments and Conditions of Service Committee or the Chief Executive or an officer nominated by him/her) can only be given where the procedure set out in Annex 2 has been completed.

### **16 Dismissal of Assistants to political groups**

- (a) Dismissal of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **ANNEX 1 - APPOINTMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

1. This procedure applies to the appointment of the officers as listed in Rule 8(a)-(d). It has been incorporated into these Standing Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

2. (1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of Rule 8 must not be made by the appointor until—

(a) the appointor has notified the Monitoring Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(b) the Monitoring Officer has notified every member of the Executive of the Council of—

(i) the name of the person to whom the appointor wishes to make the offer;

(ii) any other particulars relevant to the appointment which the appointor has notified to the Monitoring Officer; and

(iii) the period within which any objection to the making of the offer is to be made by the executive Leader on behalf of the executive to the Monitoring Officer; and

(c) either—

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;

(ii) the Monitoring Officer has notified the appointor that no objection was received by him within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

## **ANNEX 2 - DISMISSAL OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

1. This procedure applies to the dismissal of the officers as listed in Rule 8(a)-(d). It has been incorporated into these Standing Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

2. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of Rule 8 must not be given by the dismissor until—

- (a) the dismissor has notified the Monitoring Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the Monitoring Officer has notified every member of the Executive of the Council of—
  - (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Monitoring Officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Monitoring Officer; and
- (c) either—
  - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
  - (ii) the Monitoring Officer has notified the dismissor that no objection was received by him within that period from the executive leader; or
  - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

### **ANNEX 3 - DISCIPLINARY ACTION AGAINST THE HEAD OF PAID SERVICE, MONITORING OFFICER OR CHIEF FINANCIAL OFFICER**

1. This procedure applies to disciplinary action taken against the Head of Paid Service, Monitoring Officer or Chief Finance Officer. It has been incorporated into these Standing Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

2. In the following paragraphs—

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

3. A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

4. The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

5. In paragraph 4 “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or authorities as the Council considers appropriate.

6. Subject to paragraph 7, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 4 in accordance with the following priority order—

## Gedling Borough Council Constitution

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- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the Council;
- (c) a relevant independent person who has been appointed by another Council or authorities.

7. The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 6 but may do so.

8. The Council must appoint any Panel at least 20 working days before the relevant meeting.

9. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular—

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

10. Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

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## **Section 25 – Financial Regulations**

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## Financial Regulations

- 1.1 The Financial Regulations establish the system of control for financial decisions. They are an integral part of the Council's Constitution. The rules reflect the responsibilities arising from being entrusted with public money.
- 1.2 The Financial Regulations consist of 2 parts:
  - Part One sets the context within which the Financial Regulations operate and defines the roles and responsibilities of Members and Officers;
  - Part Two contains the overarching Financial Regulations, and provides the details on how those regulations are implemented.
- 1.3 Detailed guidance notes and practices generally support the Financial Regulations. Whilst such guidance is regularly updated, where there is any difference between the Financial Regulations and the detailed guidance, the Finance Regulations will have precedence in all cases.

## Status of the Financial Regulations

- 2.1 The Council must conduct its business efficiently and ensure it has sound financial management policies in place, including arrangements to monitor compliance. The Council's Chief Financial Officer, the statutory responsible officer under Section 151 of the Local Government Act 1972, is charged with ensuring that proper financial management processes are in place.
- 2.2 The Chief Financial Officer, in consultation with the Chief Executive and Directors, is responsible for the preparation and maintenance of financial procedures.
- 2.3 The Financial Regulations, together with the Budget and Policy Framework Procedure Rules, provide the basis for managing the Council's financial affairs and are part of the Council's Constitution. They apply to every Member and Officer of the Council and to anyone acting on its behalf. The Council's Scheme of Delegation will be taken account of in all matters relevant to these procedure rules.
- 2.4 In the absence of a Director, the Chief Executive and/or other Directors have authority to deal with matters within the responsibility of the Director.

## Part One – Context, Roles and Responsibilities

### 1 Financial Management

- 1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the budget and policy framework.
- 1.2 The processes of financial management involve:
- Complying with statutory requirements;
  - Ensuring that the Council receives value for money;
  - Development and approval of protocols, standards and financial plans (including the revenue and capital budgets);
  - Implementing policies, protocols and standards;
  - Monitoring compliance;
  - Maintaining records;
  - Reporting and providing advice;
  - Specific financial techniques and functions e.g. virement, year end balances, statements of account.
- 1.3 All Members and Officers must abide by the highest standards of probity in dealing with financial issues. This is achieved by ensuring everyone is clear about the standards to which they must work and the controls in place to check that the standards are met. The Financial Regulations must be kept up to date and consistently applied by all Members and Officers.

### 2 Financial Advice

- 2.1 Sound financial advice is fundamental to ensuring the maintenance of basic standards of financial management. Only persons qualified to do so should provide such advice.
- 2.2 Persons giving financial advice must have been authorised to do so by the Chief Financial Officer.
- 2.3 The Chief Financial Officer has the right to attend all meetings of the Council, committees and sub-committees, working groups, boards or other forums where decisions or recommendations potentially having financial implications may be taken. This is often discharged through Officers within the Finance function.
- 2.4 All reports include a financial implications section, the contents of which must be agreed with the Chief Financial Officer, prior to submission to the Senior Leadership Team, Cabinet, Council or other forums where decisions will be made.

## **3 Accounting Policies**

- 3.1 The Code of Practice on Local Authority Accounting in the United Kingdom (the Code), supported by International Financial Reporting Standards (IFRS), requires the Council to declare, in the form of accounting policies, how they treat specific items within the annual accounts. These policies take account of current accounting concepts and standards. The Chief Financial Officer is responsible for determining appropriate Accounting Policies which can be found in the Annual Statement of Accounts.
- 3.2 Key elements of accounting policies are that:
- Systems of internal control must be in place to ensure that financial transactions are lawful;
  - Accounting policies must be applied consistently;
  - Proper accounting records must be maintained;
  - Financial statements must present a true and fair view of the financial position of the Council, including assets and liabilities, expenditure and income.

## **4 Internal Control**

- 4.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2 The Chief Financial Officer is responsible for advising on effective systems of internal control, an essential part of which is the Internal Audit function. These arrangements ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.3 Directors must establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- 4.4 Key controls must be reviewed annually and the outcome reported in an Annual Governance Statement commenting on the effectiveness of the systems of internal control and corporate governance.

## **5 Audit Requirements**

- 5.1 The Accounts and Audit Regulations 2015 (Regulation 4) require that "A relevant authority 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 and guidance".

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- 5.2 The Central Government appointed representative appoints external auditors to each local Council. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998. The external auditor reviews and reports upon the Councils governance arrangements, the financial statements and arrangements for securing value for money.
- 5.3 The Council may, from time to time, be subject to audit, inspection or investigation by other external bodies such as HM Revenues and Customs, who have statutory rights of access.
- 5.4 The Chief Financial Officer has overall responsibility for Internal Audit throughout the Council, whilst the Audit Committee oversees the performance and effectiveness of Internal Audit.
- 5.5 Both internal and external audit have the right of access to all records, assets and personnel and premises of the Council.

## **6 Roles and Responsibilities**

### **6.1 Role of the full Council:**

The Council's functions include the following:

- Adopting and changing the Constitution (including the Budget and Policy Framework and the Financial Regulations);
- Approving or adopting the policy framework (including the Council Plan);
- Approving the budget;
- Approving the Capital Strategy;
- Approving the Treasury Management Strategy (including the Borrowing, Investment and MRP Policy, and Prudential Indicators);
- Setting the Council Tax;
- Approving the scheme of budget virement.

### **6.2 Role of Cabinet (The Executive):**

- The Cabinet makes key day to day decisions and recommendations on policy and budgetary matters.

### **6.3 Role of the Overview & Scrutiny Committee:**

- Scrutinise Cabinet decisions before or after they have been implemented, and to hold the Cabinet to account;
- Make recommendations on future policy options;
- Review the general policy and service delivery of the Council.

## 6.4 Role of the Audit Committee:

- Consider and approve the Council's Statement of Accounts;
- Approve the Council's internal audit strategy;
- Monitor and review the Council's counter fraud and corruption strategy;
- Review internal audit reports and recommend appropriate actions in response to issues raised;
- Consider the reports of external audit and inspections agencies;
- Monitor and review the Council's risk management arrangements;
- Monitor and review the Council's corporate governance arrangements;
- Monitor and review the Council's assurance statements.

## 6.5 Role of the Chief Financial Officer (Section 151 Officer)

The Chief Financial Officer has statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Local Government Act 1972 (Section 151);
- Local Government Finance Act 1988 (Section 113-114);
- Local Government and Housing Act 1989;
- Local Government Act 2000, 2003;
- Accounts and Audit Regulations.

These statutory responsibilities cannot be overridden or subject to direction by the Council.

The Chief Financial Officer is responsible for:

- Ensuring the proper administration of the Council's financial affairs;
- Setting the financial management standards and monitoring compliance with them;
- Ensuring proper professional practice is adhered to and acting as head of profession in relation to the standards, performance and development of finance Officers throughout the Council;
- Advising on the key strategic controls necessary to secure sound financial management;
- Ensuring that appropriate financial management information is available;
- Maintaining strong financial management underpinned by effective financial controls;

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- Contributing to corporate management and leadership;
- Supporting and advising democratically elected representatives;
- Supporting and advising Officers in their operational roles;
- Leading and managing an effective and responsive financial service.

Section 114 of the Local Government Finance Act 1988 requires the Chief Financial Officer to inform the Cabinet and External Auditor if the Council or one of its Officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
- Is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Chief Financial Officer to nominate a properly qualified Officer to deputise should they be unable to perform the duties under Section 114 personally;
- The Council to provide the Chief Financial Officer with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

The Chief Financial Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting to the Council any additions or changes. The Chief Financial Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Members, Officers and others acting on behalf of the Authority are required to follow, and must approve the content of all such guidance and any amendments, prior to their adoption. The Chief Financial Officer must be consulted in respect of all reports to elected members.

## 6.6 The Monitoring Officer

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct, including conduct in relation to financial issues, by both Councillors and Officers. In conjunction with the Chief Financial Officer the Monitoring Officer is responsible for advising the Cabinet or the full Council about whether a decision, or intended decision, is likely to be considered contrary to, or not wholly in accordance with, the Council's budget and policy framework. Such decisions might include:

- Initiating a new policy without specific budget approval;
- Committing expenditure in future years above the approved budget level;
- Incurring expenditure without proper approval of virement;
- Causing total expenditure to increase beyond a specified level.

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The Monitoring Officer must be consulted in respect of all reports to Elected Members.

## 6.7 Head of Internal Audit

The Head of Internal Audit is responsible for managing the internal audit function in the Council in full compliance with the standards laid down by professional bodies and in particular with the UK Public Sector Internal Audit Standards and the CIPFA application note applicable to these standards.

Internal audit is an assurance function that provides an independent and objective opinion to the organisation on risk management, internal control and governance by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

The Head of Internal Audit also has a role in advising managers in relation to risk and control issues such as appropriate controls in new projects/development.

The function of the Head of Internal Audit can be provided internally via an Internal Audit Manager or externally through a competitive procurement exercise.

## 6.8 Directors

Directors are responsible for ensuring that all Officers in their service areas are aware of the existence of, and have access to, the content of the Financial Regulations and other internal regulatory documents and that they comply with them. In particular they will:

- Ensure that a scheme of delegation has been established in their service area. The scheme of delegation should identify Officers authorised to act on the Director's behalf in respect of payments, income collection and the requisitioning of goods and services.
- Promote the financial management standards set by the Chief Financial Officer in their Directorate or service area and monitor adherence to them, liaising as necessary with him/her;
- Promote sound financial practices in relation to the standards, performance and development of Officers in their Directorate or Service area;
- Ensure, within their Directorate or service area, compliance with the Financial Regulations and associated guidance;
- Ensure that all Service financial procedure guidance, and amendments thereto, are approved by the Chief Financial Officer before adoption;
- Ensure Officers in their Directorate or service area are aware of their responsibilities for devising and implementing systems of internal control;
- Maintain a written record where decisions have been delegated or devolved to other responsible Officers;
- Ensure appropriate training of Officers with financial or budget responsibilities.



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6.9 All Elected Members and Officers 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, provides value for money and is correctly recorded in line with Council policies.

### 7 Failure to Comply

7.1 Failure to comply with the Financial Regulations:

- May amount a breach of the Code of Conduct for Elected Members and may result in referral to the Standards Committee;
- May amount to a breach of the Code of Conduct for Officers that is covered by the Council's Disciplinary Procedures and Rules in the Employee Handbook.

7.2 Elected Members must report any apparent breach of the Financial Regulations to the Chief Executive.

7.3 Officers must report apparent breaches to an appropriate Director, Head of Service or the Head of Internal Audit. The Director, Head of Service or Head of Internal Audit should report breaches of these Rules to the Chief Financial Officer and the Monitoring Officer.

## Part Two – Financial Regulations

### Regulation 1 - Financial Planning

#### 1.1 Financial Planning Policy Framework

- 1.1.1 The Council is responsible for the adoption of the Council's budget and policy framework.
- 1.1.2 The Council's Budget and Policy Framework includes various service and corporate plans and strategies. All such plans and strategies must be consistent with the Council's Financial Strategy and Medium Term Financial Plan, or indicate their reliance on resources not yet approved or secured by the Council.
- 1.1.3 The key elements of the financial planning process are:
  - a) The Gedling Plan;
  - b) The Financial Strategy and Medium Term Financial Plan;
  - c) The Capital Investment Strategy;
  - d) The Treasury Management Strategy;
  - e) The Revenue Budget and the Capital Programme;

#### 1.2 Preparation of the Budget and Gedling Plan

- 1.2.1 The Executive is responsible for proposing the budget and Gedling Plan to full Council for approval. It will contain a statement of the priorities of the Council.
- 1.2.2 The Council requires that each item of expenditure, whether revenue or capital, is intended to further one or more of the Council's stated priorities or, if that is not the case, is required to discharge a specific statutory obligation on the Council.

#### 1.3 The Financial Strategy and Medium Term Financial Plan

- 1.3.1 The Chief Financial Officer is responsible for recommending the Financial Strategy to the Council and for preparing a Medium Term Financial Plan (MTFP), covering a minimum period of 4 years and updated at least annually for consideration by the Cabinet and approval by the Council. The Financial Strategy and the MTFP will be consistent with, and designed to further the achievement of, the Council's priorities.
- 1.3.2 The Financial Strategy sets out the Council's objectives for, and principles adopted in, the management of its financial position. It includes Council Tax levels, the overall position for the Council's reserves and balances, and funding, investment and risk considerations.
- 1.3.3 The MTFP looks strategically beyond the current budget to give a clear and concise view of future sustainability and decisions that need to be made in order to address any gaps in long-term financing. It:
  - a) Sets out how the Council's performance plans can be resourced in both capital and revenue terms;

- b) Identifies how resources are to be re-allocated over time and what the Council's priorities are for resource allocation;
- c) Other aspects of financial management will also be included in the MTFP e.g. levels of balances, reserves and provisions.

1.3.4 The MTFP that turns the Financial Strategy into practice must be prepared for at least a four year period plus the current financial year. This is updated throughout the year as events and the budget timetable dictate.

### 1.3.5 Key Controls

The key controls are:

- 1.3.5.1 It covers a number of forward years and is approved annually;
- 1.3.5.2 It is monitored and updates are reported to Cabinet during the year;
- 1.3.5.3 It is clearly linked and aligned to the Gedling Plan;
- 1.3.5.4 It is based on a sustainable financial position and approved policies.

## 1.4 The Capital Investment Strategy

1.4.1 The Chief Financial Officer is responsible for ensuring that a Capital Investment Strategy is prepared and integrated into the Medium Term Financial Plan ensuring an affordable programme of investment that is consistent with Council priorities. It will be updated annually for consideration by the Cabinet and approval by full Council.

1.4.2 The Capital Investment Strategy:

- 1.4.2.1 Define how the capital programme is to be formulated and designed;
- 1.4.2.2 Identify the issues and options that influence capital spending;
- 1.4.2.3 Set out how the resources and capital programme will be managed.

### 1.4.3 Key Controls

The key controls are:

- 1.4.3.1 It is clearly linked and aligned to the Gedling Plan;
- 1.4.3.2 It provides a framework for the review and management of existing and future assets through the development of Property Asset Management Plans;
- 1.4.3.3 It provides, as a minimum, a medium-term investment programme linked to the Medium Term Financial Plan;
- 1.4.3.4 It is reviewed at least annually.

## 1.5 The Treasury Management Strategy

1.5.1 The Chief Financial Officer is responsible for ensuring that the requirements of the Local Government Act 2003 are met, and that the Council has regard to the Prudential Code. This requires that Prudential Indicators are set for a minimum period, currently 3 years, to ensure that the Council's capital investment plans are affordable, prudent and sustainable. The Council will set Prudential Indicators for a period that is consistent with the Medium Term Financial Plan and in compliance with the Prudential Co. It also requires that the Council's policies for managing its investments give due priority to the security of those investments over liquidity and yield. This will be updated annually for consideration by the Cabinet and approval by the Council.

### 1.5.2 Key Controls

The key controls are:

- 1.5.1.1 Annual approval by full Council of the Treasury Management Strategy (including Borrowing and Investment Strategies, Prudential Indicators for the following four years as a minimum, linked to the period of the Medium Term Financial Plan, and the existence of an Authorised Limit and Operational Boundary to ensure affordable borrowing);
- 1.5.1.2 Regular monitoring of Treasury activity and Prudential Indicators;
- 1.5.1.3 The operation of Treasury Management Practices (TMP's) and Treasury Management Practice Schedules.

## Regulation 2 – Financial Management - Capital

### 2.1 The Capital Programme

- 2.1.1 Capital expenditure involves the acquisition or enhancement of fixed assets such as buildings and major items of plant, equipment or vehicles, with a long-term value to the Council. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and running costs.
- 2.1.2 The Government places controls on the Council's capital financing capacity requiring local authorities to have regard to CIPFA's Prudential Code under the Local Government Act 2003. All capital expenditure must be demonstrated to be affordable and sustainable in terms of financing costs and therefore capital expenditure should be carefully prioritised in order to maximise the benefit of scarce resources in accordance with the Capital Investment Strategy.
- 2.1.3 The Senior Leadership Team, on behalf of the Leader, is responsible for preparing a capital programme, in accordance with the Prudential Code, which covers a period consistent with the MTFP, and is fully integrated within the MTFP and reports the

# Gedling Borough Council Constitution

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expenditure and funding implications of the programme to Cabinet for consideration. Cabinet will make recommendations to full Council, which will approve the full Capital Programme.

- 2.1.4 The Chief Financial Officer is responsible for ensuring that adequate records are kept for all capital contracts.

## 2.2 Determining the Capital Programme

- 2.2.1 The Chief Financial Officer, in conjunction with Directors, is responsible for the initial consideration of capital spending proposals and the comparative ranking by priority of these proposals. The Chief Financial Officer will issue guidance regarding capital schemes, and will determine the definition of 'capital' having regard to government regulations and accounting requirements.
- 2.2.2 The Council operates a de-minimus level of £10,000 for the capital spending proposals. All new spending proposals less than £10,000 will be treated as revenue proposals.
- 2.2.3 The ranking process is based on the completion of a Resource Development Bid (Business Case) which, as well as a project definition, includes the background and business case for the project, the strategic objectives and outcomes, and the key risks and project costs including associated revenue expenditure implications. A scoring mechanism specified by the Chief Financial Officer and approved by Council in the Capital Investment Strategy will then be applied ensuring projects meet corporate objectives and providing a ranking of schemes to prioritise resource allocation.
- 2.2.4 Heads of Service are responsible for submitting the Resource Development Bids (Business Case), which have been approved by their Director, and complying with any guidance issued by the Chief Financial Officer.
- 2.2.5 The Senior Leadership Team, on behalf of the Leader, will recommend the full Capital Programme and its funding to Cabinet in accordance with the Prudential Code. Cabinet's recommendation will be referred to Council for approval.

## 2.3 Amendments to the Capital Programme

- 2.3.1 Any in-year amendments to the Capital Programme as approved by Council must be approved:

By Cabinet and referred to Council for approval where:

- additional Council funding is required to add a new scheme or add to the budget of an existing scheme i.e. is not funded by external grants, contributions, or earmarked reserves. The proposed amendment will confirm the affordability of the project in the context of the MTFP and its contribution to the Council priorities detailed in the Gedling Plan.

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By Cabinet where:

- a) It is proposed to add a new scheme to the programme, or add to the budget of an existing scheme, which is funded entirely by external grants, contributions or earmarked reserves;
- b) A scheme is to be deleted from the capital programme;
- c) Re-profiling of an approved scheme to or from a later year is proposed.

2.3.2 The Chief Financial Officer must approve any in-year amendment to the approved Capital Programme before a report is submitted to Cabinet. This also applies to re-profiling requests i.e. where the amendment involves a change in the timing of the spending over the life of the project, but there is no change in the total cost or funding.

2.3.3 The Chief Executive may take decisions in an emergency, subject to the delegation and budget and policy framework provisions of the Constitution, in consultation with the Chief Financial Officer.

2.3.4 With the exception of emergency decisions, expenditure must not be incurred or committed on any capital scheme until Council or Cabinet has given approval, neither should expenditure be incurred until funding is in place. For external funding, this means that a formal approval of funding has been received rather than a conditional offer or a bid that has been given provisional approval.

## 2.4 Capital Monitoring

2.4.1 For each approved scheme the relevant Director will appoint a project manager, who will be responsible for the progress (financial and otherwise) of the scheme.

2.4.2 Quarterly capital budget monitoring will be carried out in accordance with guidance issued by the Chief Financial Officer and will be reported to Cabinet including the reporting of any in-year amendments and request for appropriate approvals as detailed at 2.3.

2.4.3 If there is any anticipated re-profiling of a scheme that will affect the allocation of resources over future financial years the procedures outlined under Regulation 2.3 (amendments to the capital programme) must be followed. Any loss of external funding arising from re-profiling must be reported to Cabinet and approval sought for the alternative funding required, or for other corrective action.

2.4.4 Where in-year spending is likely to exceed the profiled budget and this has an impact on the financial year, the Director must report this to the Chief Financial Officer who will then review the overall capital financing arrangements for that year and make appropriate recommendations to Cabinet for amendments to the capital financing.

2.4.5 Where the total cost of a scheme exceeds, or is expected to exceed the budget approved in the Capital Programme, the Director must report this to the Chief Financial Officer as soon as possible. In the first instance, overspends will fall on the relevant service area's revenue budget, unless alternative funding is identified and approval sought under 2.3 above. In respect of any overspending in excess of

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£10,000 or 20% whichever is lesser these shall be reported to the Executive in accordance with 6.4.26.

2.4.6 Directors must notify the Chief Financial Officer of applications for grants and all receipts or offers of grant awards, or any other offer of financial support for capital expenditure in accordance with the requirements of Regulation 7.3.

2.4.7 Capital receipts will be regarded as corporate resources, and may only be ring-fenced to schemes on the express approval of Cabinet. The Council operates a de-minimus level of £10,000 for the recognition of capital receipts, all receipts below £10,000 will be treated as revenue.

## 2.5 Capital Year-End and Carry Forwards

2.5.1 The Chief Financial Officer will report all overspends and underspends on service estimates to the Executive as soon as practical after the financial year-end.

2.5.2 Underspending on capital estimates may be carried forward to the new financial year to enable the delivery of the approved capital project, subject to consultation with the Chief Financial Officer who will confirm available resourcing and administer the scheme in accordance with the following parameters:

- All contractually committed capital schemes can be approved by the Chief Financial Officer and will be subsequently reported to the Executive for information;
- Non-contractually committed capital schemes up to £50,000 can be approved by the Chief Financial Officer and will be subsequently reported to the Executive for information;
- Non-contractually committed capital schemes above £50,000 require the approval of Cabinet.

## 2.6 Key Controls

The key controls are:

- a) Approval by full Council of the Capital Programme;
- b) Completion of a Resource Development Bid for all schemes to be included in the Capital Programme;
- c) A prioritisation process in accordance with the Capital Investment Strategy and corporate priorities;
- d) A project manager is responsible for each capital project (delivery and budget);
- e) Appropriate project management techniques are used and project managers are trained to carry out their responsibilities;
- f) Contracts and Procurement Rules are adhered to at all times;
- g) The requirements imposed by funding bodies are followed;
- h) Monitoring and reporting requirements on schemes are implemented.
- i) In-year additions and amendments to the budget are appropriately approved.





## Regulation 3 – Financial Management Revenue

### 3.1 The Revenue Budget

- 3.1.1 Revenue resources must be aligned to the corporate objectives of the Council and the Council will agree a Medium Term Financial Plan (MTFP) annually.
- 3.1.2 The MTFP will include the Revenue Budget for the coming year, plus forecasts for the next four subsequent years. The budget will be published on the Council's website and in the internal electronic Budget Book. The approved Revenue Budget may be amended during the year in compliance with the Financial Regulations.

### 3.2 Revenue Resources

- 3.2.1 Funding for revenue will come from government grants, fees and charges, calls on revenue reserves and balances, and local taxation. Capital resources **cannot** be used to fund revenue expenditure.

#### 3.2.2 Key Controls

The key controls are:

- a) Resources are allocated in accordance with legislation using an approved authorisation process (i.e. the budget setting process);
- b) Resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- c) Professional guidance in relation to the adequacy of reserves and minimum level of balances is followed;
- d) The budget, which sets out how the Council is resourced, is approved annually by the Council;
- e) The MTFP ensures that the year on year sustainability of resources is considered in setting spending plans,

### 3.3 Determining the Revenue Budget

- 3.3.1 The Chief Financial Officer is responsible for ensuring that the MTFP and Budget are prepared and submitted for approval by Council (upon the recommendation of Cabinet) on or before the statutory date for such approval. The adoption of the budget by the Council is to be accompanied by a Resolution as to the level of Council Tax required for the coming financial year in order to sustain the budget. The MTFP should set out forward projections of council tax increases for at least the four subsequent years.
- 3.3.2 The Chief Financial Officer will recommend the overall quantum of revenue resources available to the Council, based on potential increases in the Council Tax, affordable calls on reserves, and best estimates of grant income and fees and charges income. The Chief Financial Officer advises what would constitute a prudent and necessary minimum level of uncommitted balances/reserves for the Council to retain, and whether the budget being proposed is consistent with such a requirement. In forming such a judgement, the Chief Financial Officer will have regard to all available statutory and professional guidance.

- 3.3.3 The Council will approve an overall MTFP and budget that matches the available resources with its corporate priorities, and statutory requirements.
- 3.3.4 The annual revenue budget agreed by Council sets Cabinet's maximum budget for the forthcoming year and, as a minimum, allocates spending to:
- 3.3.4.1 Each Portfolio and service area, showing gross expenditure and income, and net budget;
- 3.3.4.2 Each levy payable;
- 3.3.4.3 The net cost of borrowing.
- 3.3.5 Directors must ensure that all fees and charges are reviewed as part of the annual budget process in line with the Corporate Charging Policy (see Regulation 3.9).
- 3.3.6 The level of reserves is reviewed annually in line with the Financial Strategy and Medium Term Financial Plan, and must be determined before the budget and the Council Tax can be fixed. Reserves are amounts set aside by the Council as a result of surpluses, deferred expenditure, or policy decisions to save towards future expenditure. Reserves can be either earmarked (specific) or general (non-specific).
- 3.3.7 The General Fund Balance will be maintained at a minimum level agreed by Cabinet having regard to the advice of the Chief Financial Officer. The budget report to the Council will include a statement showing the estimated addition to, or withdrawal from, balances, and the estimated year-end balance. Consideration should be given to the extent to which reserves are to be used to finance recurrent expenditure.
- 3.3.8 The Council's approved budget is published in an electronic Budget Book, which breaks down Portfolio budgets into budgets for each service area within the Portfolio.
- 3.3.9 Key Controls
- The key controls are:
- a) Clear and timely guidance from the Chief Financial Officer;
  - b) An effective timetable and project management of the budget setting process;
  - c) A consistent format used across all service areas that reflects the relevant level of accountability for service delivery and enables comparison over time, and with other local authorities;
  - d) Reflection of the content of the Financial Strategy and Medium Term Financial Plan for the appropriate year;
  - e) A balanced budget that is affordable and sustainable;
  - f) Prudent risk assessment of the possible implications in terms of both affordability and service delivery.

## 3.4 Amendments To The Revenue Budget

- 3.4.1 The overall revenue budget is recommended by Cabinet and approved by full Council. Directors are authorised to incur expenditure in accordance with the estimates and service levels that make up the budget. A budget head is considered to be a line in the approved Budget report.
- 3.4.2 Quarterly revenue budget monitoring, as detailed at 3.5, will be carried out in accordance with guidance issued by the Chief Financial Officer and proposed amendments will be reported to Cabinet for approval.
- 3.4.3 Any in-year amendments to the Revenue Budget as last approved by Council must be approved by either:
- (a) Cabinet and referred to Council for approval where:  
  
It is proposed to add a new ongoing service commitment that cannot be contained within the approved budget and MTFP and does not comply with the Scheme of Virement as detailed at section 3.7. The proposed amendment will confirm the affordability of the proposal in the context of the MTFP and its contribution to the Council priorities detailed in the Gedling Plan; or
  - (b) In accordance with the Scheme of Virement as detailed at section 3.7 enabling use of resources to be optimised within Cabinet's maximum budget as set by Council.

## 3.5 Budget Monitoring

- 3.5.1 Quarterly revenue budget monitoring will be carried out in accordance with guidance issued by the Chief Financial Officer and will be reported to Cabinet including the reporting of any in-year amendments and request for appropriate approvals as detailed at 3.4. More frequent monitoring for use by Officers may also be required by the Chief Financial Officer.
- 3.5.2 Each Director is required to manage their own expenditure within the cash-limited budget allocated to them. The Chief Financial Officer will ensure that appropriate financial information is available to Directors to enable them to monitor their budgets and the financial aspects of their Service Plans effectively.
- 3.5.3 Directors will maintain budgetary control within their service areas and ensure that all income and expenditure is properly recorded and accounted for.
- 3.5.4 Directors will ensure that an accountable budget holder is identified for each cost centre under their control. Budget managers should be responsible only for income and expenditure that they can influence, and will accept accountability for their budgets and the level of service to be delivered.
- 3.5.5 By continuously identifying and explaining variances against budgets the Council can identify changes in trends and resource requirements at the earliest opportunity.

- 3.5.6 The approved budget is the financial extent of the Council's commitment to a service each year. Any breach of that limit is therefore an ultra vires act. Depending upon the severity and circumstances of any overspend, it may lead to disciplinary action, as Officers have exceeded their delegated authority.

### 3.6 Revenue Year-End and Carry Forwards

- 3.6.1 The Carry forward of an underspending on revenue estimates will only be considered for contractually committed expenditure or non-contractually committed one-off revenue budgets, and requests must show the source of the underspend, or additional income, and confirm the intention to continue to use the resource for the purpose initially approved.
- 3.6.2 There is no automatic right to carry forward revenue budgets and all requests will be considered by the Chief Financial Officer in the context of the overall outturn position for the budget and the impact on the General Fund Balance.
- 3.6.3 The Chief Financial Officer will report all overspends and underspends to Executive and will administer the scheme of carry forward in accordance with the following parameters:
- All contractually committed revenue schemes can be approved by the Chief Financial Officer and will be subsequently reported to the Executive for information;
  - Non-contractually committed one-off revenue schemes up to £10,000 can be approved by the Chief Financial Officer and will be subsequently reported to the Executive for information;
  - Non-contractually committed one-off revenue schemes above £10,000 require the approval of Cabinet.

### 3.6.4 Key Controls

The key controls are:

- a) Each Director nominates a responsible budget holder for each cost centre within his/her service area's revenue estimates and ensures that mechanisms are in place to provide early warnings of anticipated under or overspending;
- b) All named budget holders are accountable for their budgets and the level of service to be delivered, and understand their financial responsibilities;
- c) Services are delivered within the net budget allocated in the annual Budget Book and in line with the Service Delivery Plan;
- d) Income and expenditure are properly recorded and accounted for on a timely basis within the Council's general ledger;
- e) The budget and service plans are monitored together and necessary action is taken to align service outputs and budget;
- f) Budget holders are appropriately trained to carry out their budgetary control and financial management responsibilities.
- g) Carry Forward of revenue budget is appropriately approved and reported.

## 3.7 Amendment to the Revenue Budget - Scheme of Budget Virement

- 3.7.1 The annual capital and revenue budgets are agreed by Cabinet and approved by full Council. Directors are authorised to incur expenditure in accordance with the estimates and service levels that make up the budget. A budget head is considered to be a line in the approved Budget report.
- 3.7.2 The scheme of Virement is intended to enable the Cabinet and Portfolio holders to manage budgets with a degree of flexibility, within the overall budget and performance plan approved by Council i.e. Cabinet's maximum budget, to optimise the use of resources.
- 3.7.3 The switching of resources between approved budget heads is known as "Virement". Virement does not create an additional budget liability but allows resources to be transferred between services within limits. For example, where a potential overspend in one service budget has been identified through monitoring this overspend could be funded by transferring from a service budget where an underspend has been identified subject to the scheme provisions detailed in paragraphs 3.7.4 to 3.7.7 below. Future monitoring will be against these budgets post virement approval.
- 3.7.4 Virement within controllable revenue budgets may be made provided that:
- No significant change in policy is involved;
  - No continuing future commitment is made;
  - Consultation is undertaken with the Chief Financial Officer for all virement.

Virement between revenue and capital budgets is not allowed.

Virement between capital budgets is not allowed

- 3.7.5 Virement is subject to the following:
- Portfolio Holders can authorise virements up to the value of £50,000;
  - Cabinet can authorise all virements and must approve those over £50,000;
- 3.7.6 The establishment, by virement, of expenditure budgets funded by the in-year allocation of lump-sum fund budgets can be authorised by the Chief Financial Officer, and the usage of earmarked reserves can be authorised in accordance with Financial Regulation 3.11.7, for the purpose for which the reserve or fund was initially established and approved by Cabinet. Items outside of the above criteria must be determined by Council.
- 3.7.7 The approval of Cabinet is required for any virement, of whatever amount, where it is proposed to:
- Vire between the budgets of different Portfolio Holders;
  - Vire between budgets managed by different Directors.

3.7.8 The Chief Financial Officer will determine whether a change to budgets is a virement (e.g. the budget is reallocated to a purpose other than intended) or a re-presentation or restructure where there is no change to the purpose of spending. The virement rules set out above shall not apply to restructure or re-presentational change, instead they will be managed by the Chief Financial Officer.

### 3.7.9 Key Controls

Key controls are:

- Virement of resources between one budget head and another, whether within or between service areas, is subject to approval;
- Virement does not create additional overall budget liability. Directors are expected to manage their budgets responsibly, prudently, and within approved service levels. They should not support recurring revenue expenditure from one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets;
- Virement to provide a fundamentally different service level to that approved in Directorate and Service Plans can only be approved by Cabinet.

## 3.8 Contract and Windfall Savings

3.8.1 Unless the specific agreement of the Chief Financial Officer is obtained, contract savings and windfall savings (i.e. unanticipated income or unanticipated savings on expenditure including any figure relating to previous years) will revert to General Fund Balance.

## 3.9 Fees and Charges

3.9.1 The corporate charging strategy forms the basis of all fees and charges set within the Council. The strategy establishes clear principles for charging, integrates charging into service management linking with corporate objectives, and sets clear objectives and targets. The strategy will be reviewed by the Chief Financial Officer and reported to Cabinet as a minimum every three years.

3.9.2 The total annual income to be generated from discretionary Fees and Charges should be reviewed and reported to Cabinet for approval as part of the MTFP and revenue budget and setting process.

3.9.3 Fees and charges fall into two categories:

- Statutory;
- Discretionary (including both commercial and non-commercial services).

3.9.4 Statutory Charges

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Statutory charges are those determined by organisations external to the Council, and over which the Council has no discretion.

## 3.9.5 Discretionary Charges

- Where charges are not prescribed, the Director or Head of Service is able to propose the charge by reference to a number of factors e.g. cost of service provision, demand trends, local competition, etc.;
- Charges should be set on an appropriate basis, with reference to available legal powers and to reflect the nature of the service and delivery of corporate objectives e.g. full cost recovery, to make a profit or at less than cost recovery i.e. subsidy.
- Directors must have sound systems in place to support the fee-setting process, including the allocation of overheads;
- Where decisions on increases in fees and charges are taken outside the budget process for administrative reasons (e.g. where there is a statutory regulation or a duty of consultation, for example, car parking where notices have to be served) due regard must be given to the financial strategy;
- Concessions and discounts will be considered in accordance with the charging strategy.
- Directors to seek Executive or Committee approval, as appropriate, for individual Fee and Charges in accordance with delegation arrangements and following any statutory requirement to consult.

## 3.9.6 Key Controls

The key controls are:

- Clear and consistent fees and charges strategy;
- Annual review of the strategy and levels of charges;
- All fees should be considered as part of the Service Planning process;
- Approval of all fees and charges by the Executive or relevant Committee.

## 3.10 Internal Charging

3.10.1 Internal charges are made between services within the Council in accordance with the CIPFA Service Reporting Code of Practice or equivalent as updated. Whilst they do not directly generate external income, they do affect the total cost of individual services and ensure accountability and transparency of financial performance.

3.10.2 Internal charges include central support service recharges which are completed as a full reallocation of costs to other services on the basis of demand.

3.10.3 Where internal use is made of the Council's chargeable services they should be set in accordance with the Corporate Charging Policy, for example to recover the full cost of services, and may be set at a unit/volume based amount linked to demand, or on a commercial basis if legal powers allow.

## 3.10.4 Key Controls

The key controls are:



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- Clear and consistent internal charging strategy;
- Annual review of strategy and basis, and level of charges with specific reference to Value for Money;
- All charges should be considered as part of the Service Planning process.

## 3.11 Reserves

3.11.1 Reserves are amounts set aside by the Council as a result of surpluses, deferred expenditure or policy decisions to meet future expenditure plans. Reserves can be either specific (earmarked) or general. For each reserve established, the amount, purpose and origin of funding must be clearly identified.

3.11.2 The levels and requirements for reserves are reviewed annually in setting the budget and in the context of the MTFP.

3.11.3 The establishment of new earmarked reserves is subject to approval on a case by case basis except where such a reserve (e.g. the pension reserve) is specifically required by statute or by CIPFA's Accounting Code of Practice.

3.11.4 New earmarked reserves, or additions to earmarked reserves, may be approved by Cabinet as part of the budget setting or budget monitoring process, or by Cabinet as part of the accounts closure process on the recommendation of the Chief Financial Officer.

3.11.5 Contributions to reserves will be managed as a budgeted call on resources, which could otherwise have been spent on services or taken to the General Fund Balance or used to reduce Council Tax. The timing and size of contributions will be considered in the context of the Council's MTFP and reviewed when each year's accounts are closed.

3.11.6 Earmarked reserves will generally fall into four categories:

- Trading account balances;
- Time limited programmes and projects;
- To meet specific risks of a non-insurable nature or self-insured risks;
- To carry forward under spending as a ring fenced amount.

**Trading account balances** will be allowed where real or quasi trading accounts are used to manage costs. Balances will be maintained to allow flexible response to changes to demand and/or to meet defined future capital expenditure needs.

**Time limited programmes** may be pre-funded by the establishment of reserves. Reserves will be useful where the pace of spending is difficult to predict and where the spending will run over a number of budget years. However, the creation of a reserve results in a call being made on the taxpayer before the benefits of the programme are received by the taxpayer. Pre-funding therefore requires careful consideration of the benefits of the use of a reserve rather than normal annual revenue budgets. In all cases the purpose of a reserve must be clearly established at the outset and the scope and cost of the programme defined to ensure the adequacy of the reserve.



**Reserves to meet specific risks or contingencies** should have regard to a reasonable estimate of the potential costs involved, should be held only while the risk remains, and should be reviewed at least annually. The Insurance Fund falls within this category, representing cover for excess payments and a contingency in respect of any past insurance claims yet to be settled.

**Transfer of a general under-spending to earmarked reserves for use in the subsequent year.**

The Council may determine that a general under-spending may be used to contribute to earmarked reserves if the Council's financial situation does not require the sum to be returned to the General Fund Balance. The sum retained should be identified for a purpose that does not give rise to an ongoing commitment which will be determined by the Chief Financial Officer.

- 3.11.7 Approval to use earmarked reserves will be subject to formal release by the Chief Financial Officer, in consultation with the relevant Director, who will confirm that planned spending is for the purpose the reserve was established by Cabinet and remains affordable when considering any mixed funding including call on reserves, current budgets and/or external funding packages. Monitoring of spending against reserves must be subject to corporate budget monitoring arrangements.
- 3.11.8 Cabinet may approve the closure of an earmarked reserve (except where there is a statutory requirement to maintain it) at any time and appropriate any remaining balance to the General Fund Balance.

3.11.9 Key Controls

The key controls are:

- The establishment of reserves must be authorised by Cabinet;
- The use of reserves must be authorised by the Chief Financial Officer in consultation with the relevant Director, and in accordance with the scheme of virement, ensuring the use of the reserve is for the purpose it was established by Cabinet;
- Reserves will only be established for a defined purpose;
- The level and requirement of each reserve is reviewed annually.

## Regulation 4 – Financial Management - Accounting Records

### 4.1 Accounting Records

- 4.1.1 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for the stewardship of public resources. To enable reliance to be placed on financial management information all the Council's transactions, commitments, contracts and other essential accounting information must be recorded completely, accurately, on a timely basis and in corporately approved systems.
- 4.1.2 The Chief Financial Officer is responsible for determining the accounting procedures and records for the Council. Where these are maintained outside Financial Services the Director should consult the Chief Financial Officer when implementing or making changes to accounting procedures and records.
- 4.1.3 Any financial systems and records used within Directorates and service areas that do not interface with the corporate financial ledger must be in a form agreed by the Chief Financial Officer, and must be regularly reconciled to the corporate financial ledger by the relevant Director. Directors must maintain adequate records to provide a management trail leading from the source of income and expenditure through to the accounting system.
- 4.1.4 The Chief Financial Officer and Directors will comply with the following principles when allocating accounting duties:
- Segregation of the duty of providing information about sums due to or from the Council and the calculation, checking and recording of these sums, from the duty of collecting or disbursing such sums;
  - Prompt completion of all claims for funds, including grants, by the due date;
  - Retention of financial documents is in accordance with the Council's document retention schedule.

### 4.1.5 Key Controls

The key controls are:

- All Executive Members, finance staff and those authorised to incur expenditure operate within the required accounting standards and timetables;
- All the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- Procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- Reconciliation procedures are carried out to ensure that transactions are correctly recorded;

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- Prime documents are retained in accordance with legislative and other requirements.

## 4.2 Annual Statement of Accounts

### General

4.2.1 The Council has a statutory responsibility to prepare accounts that present a true and fair view of its operations during the year. This must be done in accordance with The CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

4.2.2 The Accounts will be produced within the statutory timescales.

4.2.3 Each year the Chief Financial Officer will draw up a detailed timetable and issue guidance and instructions for final accounts preparation, approval and audit.

4.2.4 The timetable and guidance will cover all areas relating to the closure of accounts, the deadlines by which each task should be completed, and the format in which key information should be submitted. Directors will ensure compliance with the timetable and guidance.

### 4.2.5 Key Controls

The key controls are:

- The Council's Statement of Accounts is prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom;
- Clear and consistent advice and instructions are issued for dealing with all year-end processes, such as accruals, prepayments, treatment of year-end balances, and analytical review;
- Accounts are kept up to date during the year, reconciliations are carried out on a regular basis, the revenue and capital budgets are compiled and monitored effectively, and year-end processes are completed in accordance with the timetable issued;
- Year-end variances and balances are reported within the parameters agreed with the external auditor;
- There is a clear policy for the setting up and maintenance of reserves;
- Comprehensive working papers are compiled and maintained.

### Accounting Policies

4.2.6 The Chief Financial Officer is responsible for the selection of suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts which cover such matters as:

- The requirement for separate accounts for capital and revenue transactions;
- The basis on which debtors and creditors at year-end are included in the accounts;
- Fixed assets;

- Pensions.

## 4.2.7 Key Controls

The key controls are:

- Systems of internal control are in place to ensure that financial transactions are lawful;
- Suitable accounting policies are selected and applied consistently;
- Proper accounting records are maintained;
- Financial Statements are prepared which present a true and fair view of the financial position of the Council and its expenditure and income.

## 4.3 Retention of Accounting and Financial Documents

4.3.1 The Council's Records Retention and Disposal Policy is available on the Information Governance section of the intranet. Most financial records should be retained for the current year plus six additional years.

4.3.2 Retention in electronic format (e.g. document imaging) will often be acceptable, subject to the agreement of appropriate authorities, such as External Audit, HMRC.

4.3.3 No documents or records should be disposed of until notification has been received from the External Auditor of the completion of the audit of accounts for the year to which the records relate.

4.3.4 If in doubt, Officers should contact the Chief Financial Officer for advice on specific cases.

## Regulation 5 - Risk Management and Resource Control

### 5.1 Risk Management and Insurance

#### Introduction

Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. It is essential that robust systems are developed and maintained for identifying, evaluating and controlling all of the operational risks to the Council on an integrated basis in accordance with the Council's Risk Management Strategy.

#### Risk Management

- 5.1.1 The Cabinet is responsible for approving the authority's Risk Management Strategy and Audit Committee is responsible for reviewing the effectiveness of risk management and promoting a culture of risk management awareness throughout the Council.
- 5.1.2 Senior Leadership Team will review the Risk Management Strategy every three years for consideration by Cabinet.
- 5.1.3 Senior Leadership Team will complete and monitor on a quarterly basis the strategic Corporate Risk Register, which records all strategic and high level/impact risks together with an action plan to show how the risks are being addressed. The Chief Financial Officer will develop risk management controls in conjunction with other Directors.
- 5.1.4 Directors will undertake the regular identification, review and management of risk within their Service areas having regard to advice and instructions from the Chief Financial Officer and other specialist officers (health and safety, crime prevention, fire prevention etc.). Each Director must assess risk on an ongoing basis and record them in their Departmental Operational risk registers and monitor then on a quarterly basis. Any risks identified that are corporate in nature should be reported to the Chief Financial Officer.
- 5.1.5 The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.

#### Insurance

- 5.1.6 The Chief Financial Officer will ensure that appropriate insurance is in place for all items identified as falling within the framework of insurable risks, will determine insurance policy excesses, and will deal with all claims, in consultation with other Directors where necessary.
- 5.1.7 The Chief Financial Officer will determine which risks must be covered by external insurances or internal insurance provision.

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- 5.1.8 Directors will immediately notify the Chief Financial Officer of all new risks, properties, vehicles and other assets or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
- 5.1.9 Directors will notify the Chief Financial Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and will provide such information and explanations required by the Chief Financial Officer or the Council's insurers.
- 5.1.10 Directors must ensure that employees, or anyone else covered by the Council's insurances, does not admit liability or make any offer to make compensation that may prejudice the assessment of liability in respect of a future insurance claim.
- 5.1.11 Directors will consult the Chief Financial Officer and the Monitoring Officer concerning the terms of any indemnity which they are requested to give on behalf of the Council.
- 5.1.12 Before entering into any arrangement involving a legal relationship, the Director involved must ensure that the Council has adequate legal powers and where appropriate that there is adequate professional indemnity insurance to cover and minimise any risk to the Council and to those individuals involved (advice should be obtained from the Chief Financial Officer and/or the Monitoring Officer where necessary before proceeding).
- 5.1.13 The Chief Financial Officer will review insurance requirements at each annual renewal date, and as part of the re-tendering process at the end of the insurance contract period.
- 5.1.14 Contact with the Council's insurers must only be completed by officers authorised to do so by the Chief Financial Officer

### **Self-Insurance**

- 5.1.15 For some risks not covered by external insurance policies, the Chief Financial Officer will operate an internal insurance account (the Insurance Fund) and is authorised to charge the various Council service budgets with the cost of contributions to this account. The Insurance Fund covers amounts of settled claims not covered due to an insurance policy excess.
- 5.1.16 Risk Management is the responsibility of every Director, having regard to advice from the Chief Financial Officer and other specialist officers. In general, costs and losses not insured externally and not covered by the Insurance Fund will fall as a charge upon the budget of the Directorate to which the item relates. Also, claims for insured risks could result in increased levels of future premiums, and this emphasises the need for effective preventive measures against all risks.

#### 5.1.17 Key Controls

The key controls are:

- Procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority;
- A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
- Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- Provision is made in the accounts for losses that might result from the risks that remain;
- Procedures are in place to investigate claims within the required timescales;
- Acceptable levels of risk are determined and insured against where appropriate.
- The Council has identified business continuity plans for implementation by Directors in the event of disaster that results in significant loss or damage to its resources.

## 5.2 Preventing Fraud and Corruption

5.2.1 The Chief Financial Officer is responsible for the development and maintenance of a Counter-Fraud and Corruption Strategy and the related Whistleblowing policy for approval by Cabinet. These, in conjunction with Member and Officer Codes of Conduct and registers of interest, determine the overall policy of the Council with regard to the prevention of fraud and corruption.

5.2.2 Any suspected irregularities should be reported to internal audit and if necessary, the Chief Financial Officer, the Monitoring Officer, or the Chief Executive. Investigations will be undertaken in accordance with the Counter-Fraud and Corruption Strategy.

### 5.2.3 Key Controls

The key controls are:

- The Council has an effective Counter-Fraud and Corruption Strategy and maintains a culture that will not tolerate fraud or corruption;
- Codes of conduct exist for Members and Officers and these are regularly reviewed;
- A Register of Interests is to be maintained to enable Members and Officers to record any financial or non-financial interests that may bring about conflict with the Council's interests;
- A register of Gifts and Hospitality is maintained to enable Members and Officers to record gifts and hospitality either received, or offered and declined, from the Council's contractors and suppliers;
- Whistle blowing procedures are in place and operate effectively;
- The Counter-Fraud and Corruption Strategy and the Whistleblowing policy can be found on the internet ensuring both members of public and Members and Officers can access the required procedures for reporting allegations.

## 5.3 Gifts and Hospitality

5.3.1 The Constitution sets out the Council's Codes of Conduct for Elected Members including requirements in respect of Gifts and Hospitality. The Employee Handbook sets out the requirements for Officers in respect of Gifts and Hospitality. These must be adhered to at all times.

5.3.2 A Register of Gifts & Hospitality is maintained by the Legal Section to enable Officers to record gifts and hospitality either received, or offered and declined, from the Council's existing or potential contractors and suppliers.

### 5.3.3 Key Controls

The key controls are:

- Relevant Codes of Conduct must be adhered to at all times;
- Registers of gifts and hospitality must be maintained and kept up to date;
- Regular monitoring of the Register of Gifts and Hospitality to be considered by SLT and an annual report presented to Standards Committee.

## 5.4 Fixed Assets

### **Security of Assets**

5.4.1 The Chief Financial Officer maintains an up-to-date asset register, which is a prerequisite for proper fixed asset accounting and sound asset management. The Chief Financial Officer will ensure that assets are valued in accordance with the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

5.4.2 The Chief Financial Officer will be responsible for ensuring that a rolling revaluation of all Council property, plant and equipment is undertaken, to ensure that all items are valued at least every two years.

5.4.3 Directors will ensure the proper security of all buildings and other assets under their control and that no asset is subject to personal use by an employee without proper authority.

5.4.4 The Chief Financial Officer should be notified in any case where the security of assets is thought to be defective or where it is considered that special security arrangements may be needed.

5.4.5 The Head of Services responsible for Legal Services will have custody of all title deeds and be responsible for ensuring their safety.

5.4.6 The appropriate Director will ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter land until a lease or agreement in a form approved by the Monitoring Officer is executed.



## 5.4.7 Key Controls

The key controls are:

- Assets and resources are used only for the purposes of the Council and are properly accounted for;
- Assets and resources are available for use when required;
- Assets and resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
- An asset register is maintained for the Council's land, property and fleet - assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset. Other equipment is recorded on an inventory list (see below);
- All Officers are aware of their responsibilities with regard to safeguarding the Council's assets including software copyright legislation;
- All Officers are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's information security, internet security and data protection policies;
- Proper security arrangements are in place for all buildings and other assets belonging to the Council;
- Cash holdings on Council premises will be kept to a minimum;
- Keys to safes and similar receptacles are held securely and the loss of any such keys must be reported to the Chief Financial Officer as soon as possible.

## **Inventories**

5.4.8 Each Director will maintain an inventory list, in a form approved by the Chief Financial Officer, to record all assets with life expectancy of more than one year whose single replacement values exceeds £500, to include items of furniture, fittings, equipment, plant and machinery under their control. This list must record descriptions, values, relevant dates, expected life, and location. Inventories must be checked at least annually to verify the details.

5.4.9 The Director with responsibility for Information Communications Technology shall be responsible for maintaining an inventory of all computer hardware and software held by the Council, a copy of which must be provided to the Chief Financial Officer.

5.4.10 All electrical equipment must be recorded on the inventory list to enable suitable Portable Appliance Testing (PAT) testing regimes to be established.

5.4.11 All attractive/portable items must be security marked as belonging to the Council and wherever possible kept securely.

5.4.12 Property is only to be used in the course of the Council's business unless the Director concerned has given permission otherwise.

5.4.13 Equipment held to enable investigations to be completed under the Regulation of Investigatory Powers (RIPA) must only be used with the authorisation in accordance with the Council's RIPA Policy.

### **Stocks and Stores**

5.4.14 All Directors must make arrangements for the care and custody of stocks and stores, and ensure that they maintain adequate records and controls over stock movements. All receipts and issues of stock must be properly recorded and accounted for in the Council's financial records.

5.4.15 Stocks and stores comprise the following categories:

- Goods or other assets purchased for resale;
- Consumable stores;
- Raw materials and components purchased for incorporation into products for sale;
- Products and services in intermediate stages of completion;
- Long-term contract balances;
- Finished goods.

5.4.16 Independent stock checks must be undertaken periodically and at least annually at year-end. All discrepancies should be investigated and pursued to a satisfactory conclusion.

5.4.17 Any variations must be reported to the relevant Director for removal from the Council's records (written off) and all variations over £2,000 must be reported to the Chief Financial Officer for investigation and approval prior to write-off. Portfolio Holder approval must be obtained for the write-off of any redundant stock and equipment in excess of £20,000.

5.4.18 A certificate of stock held at 31 March each year must be issued to the Chief Financial Officer.

5.4.19 The Chief Financial Officer is entitled to check stocks, if necessary requiring closure of the store for that purpose, after consultation and agreement with the Director concerned.

### **Intellectual Property**

5.4.20 Intellectual property is a generic term that includes inventions and writing. If these are created by an Officer during the course of employment, then as a general rule they are the property of the Council rather than of the Officer. Examples include software and product development.

5.4.21 Key Controls

The key controls are:

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- In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved intellectual property procedures;
- Directors will ensure that controls are in place to ensure that staff do not carry out private work in the Council's time, and that staff are aware of an employer's rights with regard to intellectual property.

## **Disposal of Assets by Sale**

5.4.22 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Surplus, obsolete or non-repairable assets should be disposed of in accordance with the law and the Council's regulations. Assets for disposal will be identified and disposed of at the most appropriate time, and only when it is in the best interests of the Council, and at the best price.

5.4.23 Disposals of Land and property are subject to the relevant Asset Management Plan process and the Council's Standing Orders for Dealings with Land.

5.4.24 The Chief Financial Officer will issue guidance on the best practice for the disposal of surplus or obsolete assets, including the method of sale (e.g. public tender, public auction, Council-wide invitations for personal bids) and the proper banking and coding of disposal proceeds.

5.4.25 For items of significant value, as determined by the Chief Financial Officer, disposal should be by way of competitive tender or public auction

5.4.26 The Director shall prepare and certify a list of items disposed of, showing the amount received. This will be reflected in the inventory, the asset register and/or stock account and be appropriately recorded in accounting statements. All sales over £2,000 must be reported to the Chief Financial Officer, who will decide if a report to Cabinet is necessary.

### 5.4.27 Key Controls

The key controls are:

- Land and property assets are disposed of in accordance with the Asset Management Plan and the Council's Standing Orders for Dealings with Land;
- Disposal of assets is fully documented;
- Annual stock valuation identifies obsolete stock;
- Procedures protect staff involved in the disposal of assets from accusations of personal gain.

## **Disposal of Assets by Write-Off**

5.4.28 Assets will only be written off after all other economic and social solutions have been considered. Prior to the write off of IT assets, the Head of Service responsible for IT must confirm to the Chief Financial Officer that the equipment has no residual value.

5.4.29 Directors may authorise the write-off of income, stocks and equipment in consultation with the Chief Financial Officer up to the value of £2,000. Write-offs in excess of this amount must be agreed with the Chief Financial Officer, and amounts in excess of £20,000 must also be approved by the relevant Portfolio Holder.

### 5.4.30 Key Controls

The key controls are:

- Specific write-off limits;
- Disposal of assets by write off is fully documented;
- Annual stock valuation identifies obsolete stock.

## 5.5 Treasury Management

5.5.1 Council has adopted the CIPFA Code of Practice on Treasury Management and the Cross Sectoral Guidance Notes. These aim to provide assurance that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum. Borrowing and Investment will be arranged in such a manner as to comply with The Code.

5.5.2 The Chief Financial Officer will create and maintain, as the cornerstone for effective Treasury Management:

- A treasury management policy statement stating the policies, objectives and approach to risk management of its treasury management activities;
- Suitable Treasury Management Practices (TMPs) setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

The Chief Financial Officer will produce reports on the Council's treasury management policies, practices and activities including, as a minimum, a report to Council on an annual strategy and plan in advance of the forthcoming year (The Treasury Management Strategy Statement or TMSS), a mid-year review, and an annual report after its close.

5.5.3 Full Council is responsible for:

- Receiving and reviewing reports on Treasury Management policies, practices and activities;
- Approval of the annual Strategy (the TMSS);
- Annual budget approval.

5.5.4 Cabinet is responsible for:

- Approval of and amendments to the Council's adopted clauses, Treasury Management Policy Statement and Treasury Management Practices;
- Budget consideration and virement approval for Treasury Management issues;
- Approval of the division of responsibilities;

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- Receiving and reviewing regular Treasury Management monitoring reports and acting on recommendations.

5.5.5 Audit Committee is responsible for :

- Reviewing the Treasury Management policy and procedures, and for making recommendations to the Cabinet.

5.5.6 The Chief Financial Officer is responsible for:

- Recommending clauses, Treasury Management Policy and Practices for approval, reviewing these regularly, and monitoring compliance;
- Submitting regular Treasury Management policy reports;
- Submitting budgets and budget variations;
- Receiving and reviewing management information reports;
- Reviewing the performance of the Treasury Management function;
- Ensuring the adequacy of Treasury Management resources and skills, and the effective division of responsibilities within the Treasury Management function;
- Ensuring the adequacy of internal audit, and liaising with external audit;
- Approving the selection of external service providers and agreeing terms of appointment.

5.5.7 All executive decisions on borrowing, investment or financing (including leasing) are delegated to the Chief Financial Officer who will act in accordance with the Council's agreed Treasury Management Strategy Statement (TMSS).

5.5.8 The Chief Financial Officer must report any decisions on borrowing strategy to Cabinet at the next available opportunity.

5.5.9 The Chief Financial Officer must report any debt rescheduling activity to Cabinet at the next available opportunity.

5.5.10 The Chief Financial Officer is responsible for acting as the Council's registrar of stocks, bonds, mortgages (where applicable), and to maintain records of all borrowing by the Council.

5.5.11 Directors are responsible for ensuring the prior approval of the Chief Financial Officer and the Monitoring Officer before leasing any assets.

5.5.12 Directors are responsible for ensuring that no loans are made to third parties or interests acquired in companies, joint ventures, or other enterprises without consulting the Chief Financial Officer and obtaining approval from Cabinet.

5.5.13 Directors are responsible for ensuring that any potential under-writing of events are consulted with the Chief Financial Officer, seeking Cabinet approval if deemed necessary.

## 5.5.14 Key Controls

The key controls are:

- Adoption of the CIPFA Code of Practice on Treasury Management and the Cross Sectoral Guidance Notes, CIPFA Prudential Code and Government guidance on Investments and Minimum Revenue Provision
- Creation and maintenance of the Treasury Management Policy Statement (TMPS) and Treasury Management Practices (TMP);
- Agreement of the Treasury Management Strategy Statement for each forthcoming year (the TMSS);
- Quarterly activity and performance monitoring reports;
- The Annual Report;
- An annually agreed Minimum Revenue Provision (MRP) Policy;
- The role of the Audit Committee.
- Appropriate training for Officers and Members of Cabinet and Audit Committee

## 5.6 STAFFING

- 5.6.1 In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre and knowledgeable staff, who are qualified to the appropriate level.
- 5.6.2 The Chief Executive is the Head of the Paid Service and is responsible for providing overall management to Officers. The Head of Paid Service is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 5.6.3 The Director responsible for Human Resources is responsible for maintaining an approved list of Officer posts (known as the Establishment List) which have been approved by the Council or Head of Paid Service under delegated powers as being required to provide the Council with the services and advice, which it requires from time to time. Additions, amendments and deletions in relation to this list will be kept up to date at all times and be reconciled to payroll and budget records.
- 5.6.4 The Chief Financial Officer will ensure that annual budget provision exists for all approved roles on the Establishment List and will act as advisor to Directors on areas such as National Insurance and pension contributions, as appropriate.
- 5.6.5 No appointments of permanent Officers will be made unless there is a post on the Establishment List for which current budgetary provision has been made.
- 5.6.6 The Establishment List will not preclude the appointment of temporary or agency staff, or direct works employees in respect of which special budgetary provision is available.

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5.6.7 Directors are responsible for:

- Producing annual staffing budgets that reflect an accurate forecast of the required staffing levels within the approved Establishment List and includes all relevant overheads;
- Monitoring staff activity to ensure control over costs such as sickness, overtime, training and temporary staff;
- Ensuring that the staffing budget is not exceeded without due authority and that it is managed to ensure that the agreed level of service is provided;
- Ensuring that Officers are aware of their responsibilities under the Financial Regulations, Contracts and Procurement Rules, Declaration of Interests, Gifts and Hospitality, Whistleblowing Policy etc.

5.6.8 All Officers are responsible for complying with the Council's Human Resources Policies to protect the Council against losses and minimise risk exposure.

5.6.9 Key Controls

The key controls are:

- An appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;
- Procedures are in place for forecasting staffing requirements and cost;
- Controls are implemented that ensure that staff time is used efficiently and to the benefit of the Council, including a process for performance review and identification of development needs;
- Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

## 5.7 UNOFFICIAL NON-COUNCIL FUNDS

5.7.1 An unofficial fund is one where the income and expenditure does not form part of the Council's accounts, but which is controlled wholly or in part by an Officer employed by the Council, for example the Mayor's Charitable Donations Account and the Returning Officer Account.

5.7.2 Unofficial funds may only be established by the Chief Financial Officer who will approve the use of separate bank accounts if appropriate, and issue and update accounting instructions for them where necessary.

5.7.3 All unofficial funds must be properly accounted for, and be subject to independent audit (Council or other provider) as required.

5.7.4 Key Controls

The key controls are:

- Accounts must be subject to an audit if required;
- Accounts must be identified and recorded centrally.
- Bank accounts must be appropriately authorised



## 5.8 INTERNAL CONTROLS

- 5.8.1 The Council is complex and beyond the direct control of individuals and therefore requires internal controls to manage and monitor progress towards strategic objectives in a manner that secures value for money and safeguards the Council's assets. The Council also has statutory obligations and requires internal controls to identify, meet and monitor compliance with these obligations.
- 5.8.2 The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 5.8.3 The system of internal controls is established in order to provide measurable achievement of:
- Efficient and effective operations;
  - Reliable financial information and reporting;
  - Compliance with laws and regulations
  - Risk management
- 5.8.4 The Chief Financial Officer is responsible for assisting Directors to put 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 laws and regulations.
- 5.8.5 Directors are responsible for managing processes to check that established controls are being adhered to and evaluating their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 5.8.6 Directors are responsible for the review of existing controls in the light of changes affecting the Council, and for establishing and implementing new ones in line with guidance from the Chief Financial Officer. Directors should also remove controls that are unnecessary or not cost or risk effective, e.g. because of duplication.
- 5.8.7 Directors will ensure that staff have a clear understanding of the consequences of lack of control.
- 5.8.8 Key Controls

The key controls are:

- Controls are reviewed on a regular basis and the Council makes an Annual Governance Statement commenting on the effectiveness of the system of internal control.
- Managerial control systems in place include defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.



- Financial and operational control systems are in place, including physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- An effective internal audit service that is properly resourced and operating in accordance with all relevant audit guidelines and any other statutory obligations and regulations.

### **5.9 INTERNAL AUDIT**

- 5.9.1 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit regulations more specifically require that a “relevant authority 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 guidance”.
- 5.9.2 Accordingly, Internal Audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- 5.9.3 The provision of a full Internal Audit service requires total accessibility to records and staff employed either by, or on behalf of, the Council. The Chief Executive will ensure that the internal auditors have the authority to:

Access Council premises at reasonable times;

- Access all assets, records, documents, correspondence and control systems;
  - Receive any information and explanation necessary concerning any matter under investigation;
  - Require any employee of the Council to account for cash, stores or any other asset of the Council under his/her control;
  - Access records belonging to third parties, such as contractors, when required;
  - Directly access the Chief Executive, Cabinet, and the Audit Committee.
- 5.9.4 The Chief Financial Officer is responsible for approving the strategic and annual audit plans prepared by the Head of Internal Audit and ratified by Audit Committee which takes account of the characteristics and relative risks of the activities involved.
- 5.9.5 The Chief Financial Officer will ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- 5.9.6 Directors will ensure that internal auditors are given access at all reasonable times to all premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work, and will ensure that auditors are provided with any information and explanation that they seek in the course of their work.

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- 5.9.7 Directors will consider and respond promptly to recommendations in audit reports and will ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 5.9.8 Directors will notify the Chief Financial Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 5.9.9 Directors will ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Financial Officer prior to implementation.

### 5.9.10 Key Controls

The key controls are:

- It is independent in its planning and operation;
- The Head of Internal Audit has direct access to the Chief Executive, all levels of management, and directly to Elected Members;
- Internal Auditors comply with the Public Sector Internal Audit Standards (PSIAS).
- All officers to cooperate and engage with Internal Audit.

### 5.10 EXTERNAL AUDIT

- 5.10.1 The Council's accounts are scrutinised by external auditors appointed by Central Government's representative body. The external auditors must be satisfied that the Statement of Accounts presents a true and fair view of the Council's financial position and its income and expenditure for the year in question, and that it complies with the legal requirements.
- 5.10.2 Senior Leadership Team will ensure that external auditors are given access at all reasonable times to all premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 5.10.3 The Chief Financial Officer will ensure that there is effective liaison between internal and external audit, and will work with the external auditor and advise full Council, Cabinet and Directors on their responsibilities in relation to external audit.
- 5.10.4 Directors will ensure that all records and systems are up to date and available for inspection.
- 5.10.5 Key Controls

The key controls are:

- External auditors are appointed by Central Government's representative body and follow relevant code of audit practice;

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- The appointing body's objectives include ensuring that public money is properly spent and accounted for.

## Regulation 6 – Accounting Systems and Procedures

### 6.1 Accounting Systems and Procedures

- 6.1.1 The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. No changes are to be made to existing financial systems, and no new systems are to be established without the prior approval of the Chief Financial Officer.
- 6.1.2 The Chief Financial Officer will establish arrangements for the audit of the Council's accounting systems and a complete audit trail must be maintained, allowing financial transactions to be traced from the accounting records to the original document. Vouchers and documents, including electronic documents, with financial implications must not be destroyed except in accordance with arrangements set out in the Council's Records Retention and Disposal Policy.
- 6.1.3 Directors are responsible for the proper operation of financial processes in their own Directorates and Service areas, and for ensuring that their Officers receive relevant financial training, approved by the Chief Financial Officer.
- 6.1.4 Directors must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation, and that Officers are aware of their responsibilities under Freedom of Information legislation and the General Data Protection Regulations (GDPR). Accounting records must be properly maintained and held securely.
- 6.1.5 The development, purchase, and implementation of all computer systems must be in accordance with the Council's ICT plans, managed by the Director responsible for ICT and the Head of Service responsible for ICT. Due regard will be given to the issue of intellectual property rights.
- 6.1.6 The Director responsible for ICT and the Head of Service responsible for ICT will be able to identify, and hold copies of, all relevant software licences employed by the Council. No software may be loaded onto the Council's computer equipment without the prior permission of these Officers.
- 6.1.7 All passwords must remain confidential in accordance with the Council's Information Security Policy.
- 6.1.8 All computer equipment and software must be protected from loss through damage, theft, vandalism etc.
- 6.1.9 The Director responsible for ICT will ensure that contingency arrangements, including back-up procedures, are maintained for all computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building or other buildings.
- 6.1.10 Any service specific procedures should be followed by the service in question; any changes made to agreed procedures by Officers to meet specific service needs should be agreed with the Chief Financial Officer. These procedures will incorporate appropriate controls to ensure that, where relevant:

- All input is genuine, complete, accurate, timely and not previously processed;
- All processing is carried out in an accurate, complete and timely manner;
- Output from the system is complete, accurate and timely;
- There is an appropriate segregation of duties providing for adequate internal controls and to minimise the risk of fraud or other malpractice;
- There is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

## 6.1.11 Key Controls

The key controls are:

- Basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- Performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- Early warning is provided of deviations from target, plans and budgets that require management attention;
- Operating systems and procedures are secure;
- Data is backed up on a regular basis;

## 6.2 **Banking Arrangements**

- 6.2.1 The Council operates a number of bank accounts for the receipt and payment of money. The Chief Financial Officer is responsible for the opening of all bank accounts in the name of, and on behalf of, the Council. No other Officer of the Council may open any bank (or equivalent) account without the explicit agreement of the Chief Financial Officer.
- 6.2.2 The Chief Financial Officer will ensure that adequate arrangements are in place for the safe and efficient operation of all the Council's bank accounts, and will ensure that proper and timely reconciliations are undertaken.
- 6.2.3 All bank accounts will bear the name of the Council and in no circumstances will an account be opened in the name of an individual, with the exception of the Returning Officers Account for election expenses and the Mayors Charitable Donations Account.
- 6.2.4 The Chief Financial Officer will make arrangements concerning overdraft facilities as appropriate.
- 6.2.5 All Creditor payments are made by BACS. In addition to the authorisation system in the Financial Management System, for each Creditor Run a schedule of individual supplier payments exceeding £10,000 will be prepared, and is to be subsequently reviewed and agreed by an authorised officer before the Run is finalised.

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6.2.6 Where used (Mayor's Account, Returning Officer Account), chequebooks must be held securely and cheque stubs retained to identify both issued and spoilt cheques.

6.2.7 Bank accounts will be reconciled with financial records and cashbooks at least once in each month and any discrepancies identified and appropriate action taken.

6.2.8 As far as is reasonably practical, the following tasks will not be undertaken by the same Officer:

- Where used (Mayor's Account, Returning Officer Account) control of chequebooks/preparation of cheques;
- Posting of cash from bank statements/reconciliation of bank balances;
- Processing of creditors/reconciliation of bank balances.

### 6.2.9 Key Controls

The key controls are:

- Where used (Mayor's Account, Returning Officer Account), all cheques must be signed by the Chief Financial Officer;
- Bank accounts can only be opened by the Chief Financial Officer;
- Separation of duties is ensured as far as reasonably practical.

## 6.3 Salaries, Pensions and Other Remuneration

6.3.1 The Chief Financial Officer is responsible for all payments of remuneration and expenses to Officers and for the payment of allowances and expenses to Elected Members. The Chief Financial Officer is also responsible for all payments made under payroll Service Level Agreements or commercial agreements.

6.3.2 Effective controls are needed to ensure that payments are accurate, made only when they are due, and that they comply with all relevant conditions of service. Members' allowances and expenses must be authorised in accordance with the scheme adopted by full Council.

6.3.3 Payments must only be made through the Council's or authorised contractor's payroll system. The Council's payroll system must be reconciled regularly. All appropriate payroll documents are retained and stored for the defined period in accordance with the records retention and disposal policy.

6.3.4 All approved procedures in respect of starters, leavers, variations and enhancements must be rigorously adhered to, including compliance with corporate timetables

6.3.5 The Chief Financial Officer will:

- arrange the secure and reliable payment of salaries and other remuneration and expenses in accordance with procedures prescribed by him/her, on the due date;
- record and make arrangements for the accurate and timely payment and administration of tax, superannuation and other deductions;

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- will ensure that adequate arrangements are made to review individuals to be paid via the Creditors System for the requirements of IR35, whereby it may be necessary for the Council to account for tax and national insurance on behalf of that individual and to pay their invoices net of these amounts.

### 6.3.6 Directors will:

- ensure that appointments are made in accordance with the Council's approved policies, the approved establishment and grades of pay, and that adequate budget provision is available;
- notify the Director responsible for Human Resources of all appointments and terminations which may affect the pay or pension of an employee or former employee, in a form and to the timescale required;
- ensure that they operate adequate and effective systems to ensure that payments are only authorised to bona fide employees for a valid entitlement;
- ensure conditions and contracts of employment are correctly applied;
- employees names listed on the payroll are checked at regular intervals to verify accuracy and completeness;
- ensure that payroll transactions are processed only through the payroll system. HMRC applies a tight definition for employee status and in cases of doubt, advice should be sought from the Chief Financial Officer;
- provide a schedule of Officers authorised, including specimen signature, to approve records, timesheets and other claims to the Chief Financial Officer;
- certify all expense claims on approved forms/systems. Claims must be supported by VAT receipts where applicable and these should be attached to the claim. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and the Chief Financial Officer should be informed where appropriate;
- In the case of mileage claims, officers will be required to confirm that the vehicle used is covered by insurance (business use), a valid MOT certificate and Driving Licence. Members do not have to produce these documents.
- Notify the Chief Financial Officer of the details of any employee benefits-in-kind, to enable full and complete reporting within the income tax self- assessment system.

### 6.3.7 Key Controls

The key controls are:

- Conditions and contracts of employment must be correctly applied to ensure accurate and appropriate payments;
- Proper authorisation procedures are in place and that there is adherence to corporate processes and timetables in relation to: starters, leavers, variations and enhancements;
- Payments are made on the basis of appropriately authorised timesheets or claims;

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- Claims for expenses will only be paid in accordance with approved schemes;
- Frequent reconciliation of payroll expenditure against approved budgets and bank accounts;
- All appropriate payroll documents are retained and stored for the defined period, in accordance with guidance issued by the Chief Financial Officer and the record retention and disposal policy;
- HMRC regulations are complied with and required records are maintained for pension, income tax and national insurance.

### 6.4 Creditors (Ordering and Paying for Works, Goods and Services)

- 6.4.1 The Council has a statutory duty to achieve best value in its procurement through economy and efficiency, and public money must be spent with demonstrable probity, and in accordance with the Council's policies. The Council's procedures should ensure that services obtain value for money from their purchasing arrangements, and these procedures should be read in conjunction with the Council's Contracts and Procurement Rules.
- 6.4.2 Every Officer and Elected Member of the Council has a responsibility to declare any links or personal interests that they may have with purchases, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with the appropriate Codes of Conduct, the Contracts and Procurement Rules and the Procurement Strategy.
- 6.4.3 The Chief Financial Officer is responsible for ensuring the operation and maintenance of effective systems for the ordering of works, goods and service and payment of creditor invoices.

#### Ordering

- 6.4.4 All orders must comply with the Council's Contracts and Procurement Rules and Procurement Strategy.
- 6.4.5 Where it would be advantageous for supplies to more than one Service area to be ordered from one source, the Chief Financial Officer via the Procurement Team shall be responsible for co-ordinating the arrangements.
- 6.4.6 The Chief Financial Officer will approve the form of official orders and the associated standard terms and conditions. An order must be generated on the electronic system and issued for all works, goods or services to be supplied to the Council, except for supplies from public utility services, for periodic payments such as rent or rates, petty cash purchases, or such other exceptions specified by the Chief Financial Officer. Standard terms and conditions must not be varied without the prior approval of the Chief Financial Officer. Where non-standard contract terms and conditions are required these should be agreed with Legal Services and the official order number, excluding standard terms and conditions, issued to the supplier upon signature of the contract.
- 6.4.7 Orders can only be authorised by officers delegated by the Director. Directors will periodically review and certify their Directorate list of authorised officers and submit



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this to the Chief Financial Officer for inclusion in the corporate electronic ordering and payment system.

The following monetary limits apply to authorising orders and payments for works, goods and services:

Officers	Authorise Orders/ Payments (Maximum Value)
Chief Executive and Chief Financial Officer	Unlimited
Directors	£1,000,000
Others – as included on authorisation list certified by Director:	£100,000

- 6.4.8 The authoriser of the order must be satisfied that the works, goods or services are appropriate and needed, that there is adequate budgetary provision, and that quotations or tenders have been secured in accordance with values required by the Contracts and Procurement Rules.
- 6.4.9 Official orders must be completed in advance and issued to the supplier and not retrospectively after goods have been received. An exception to this rule may be applied only in exceptional circumstances for minor repairs not exceeding £1,000 in value, which are required in an emergency, and in the event the exception is applied an official order must be completed retrospectively.
- 6.4.10 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.
- 6.4.11 The officer generating the order on the electronic system will be deemed a “requisitioner”. Heads of Service will notify Financial Services of officers who will be requisitioners and provide updates of changes in a timely manner. The order must then be authorised by an Officer delegated by the relevant Director in accordance with 6.4.7. **An Officer may not be a requisitioner and an authoriser.**
- 6.4.12 Goods and services must be checked upon receipt to verify that they are in accordance with the order and the details should be recorded in the ordering system in a timely manner. This check should, where practical, be carried out by a different Officer from the Officer who authorised the order and **must be done prior to payment**. Appropriate entries should be made in inventories or stores records as appropriate.
- 6.4.13 The Chief Financial Officer will ensure that the budgetary control system enables commitments incurred by placing orders are shown against the appropriate budget allocation so that they can be taken into account in the budget monitoring reports.

## Payment

- 6.4.14 No creditor will be paid other than through systems operated by the Chief Financial Officer or otherwise specifically approved by him/her.
- 6.4.15 No payment will be made to any organisation in advance of goods or services being ordered and receipt rendered to the Council except in instances of subscriptions, memberships, training courses or appropriate use of credit cards in accordance with 6.5.
- 6.4.16 The Chief Financial Officer will provide advice on making payments by the most economical means. The default method of payment from the Council will be by BACS. The use of direct debit is subject to the prior agreement of the Chief Financial Officer.
- 6.4.17 Payment must not be made unless a proper VAT invoice has been received, checked, coded and certified for payment.
- 6.4.18 In most cases where an order has been raised and an appropriate invoice scanned and registered, a matching exercise will ensure seamless payment for goods and services requiring no additional authorisation, provided that any discrepancy is within an agreed tolerance. Invoices received that are outside of tolerance levels will require authorisation by the delegated officer prior to payment.
- 6.4.19 In cases where orders and invoices are not automatically matched, payment will not be made until an authorised officer at 6.4.7 above has ensured that a proper VAT invoice has been received, checked, coded and certified for payment. They must confirm:
- The receipt of goods or services;
- That the invoice has not previously been paid;
  - That expenditure has been properly incurred and is within budget provision;
  - That prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
  - The correct accounting treatment of tax;
  - That the invoice is correctly coded;
  - That discounts have been taken where available;
  - That appropriate entries will be made in accounting records.
- 6.4.20 Directors must ensure that payment is not made on a copy invoice (unless the original invoice has been mislaid), a statement or other document other than the formal invoice. Where appropriate a copy should be certified as a bona-fide copy of the original invoice.
- 6.4.21 An internal Payment Voucher in a format approved by the Chief Financial Officer can be used for payments where an invoice would not be expected, for example, refunds.

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- 6.4.22 For payments originating via feeder systems e.g. refunds, a list of approved authorisers including specimen signatures must be provided to the Chief Financial Officer.
- 6.4.23 The Chief Financial Officer will make payment whether or not provision exists within the estimates where the payment is specifically required by statute or is made under a court order.
- 6.4.24 Directors will notify the Chief Financial Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the Accounts Closedown Timetable.
- 6.4.25 The Chief Financial Officer will make payments to contractors on the certificate of the appropriate Officer, which must include details of the value of work, retention money, amounts previously certified, and amounts now certified. The value of work completed should be processed in the electronic system to the level certified and recorded in a register of contracts.
- 6.4.26 With regard to variations and extra work in respect of contracts:
- Subject to the provisions of the contract in each case, every extra or variation will be authorised in writing by the responsible Officer. The reason for any individual extra or variation exceeding £10,000 will be reported to the Portfolio Holder as soon as is practical and if not contained within the overall budget will be subject to securing additional budget approval in accordance with Regulations 2.3 or 3.7 as appropriate;
  - Any addition, omission or substitution which, in the opinion of the responsible Officer, will significantly alter the approved scheme will first be authorised by the appropriate Director following consultation with the Portfolio Holder;
  - If the actual expenditure on any contract at any time exceeds the amount of the accepted tender plus agreed amounts of £10,000 (or more than 20%, whichever is lesser) the responsible Officer will, in conjunction with the Chief Financial Officer, report to the Executive giving salient particulars and an estimate of the amended final cost. Further reports on such contracts will be made at appropriate intervals with regard to further variations, and after final payment has been made;
  - Where the Council acts as agent for another organisation or authority, if that principal so requires, the contractual and tendering procedures of the principal shall be used in substitution, in whole or in part, for this Regulation as required by Contracts and Procurement rules.
- 6.4.27 With regard to final certificates in respect of contracts:
- Before the certificate for final payment is issued on completion of a contract, the Director will examine the contractor's final account together with such other relevant documents as may be necessary;
  - In the context of this Financial Regulation, final payment will be regarded as being the instalment which is due to be paid on completion of the work and not the release of the retention at the completion of the maintenance period.

## 6.4.28 CIS Register:

- For all contracts, the responsible Director will notify the Chief Financial Officer, who will arrange for the keeping of a CIS Register to show the state of accounts on each contract between the Council and the Contractor.

## 6.4.29 Key Controls

The key controls are:

- Orders for works, goods and services are completed only by authorised persons and are correctly recorded;
- All works, goods and services will be ordered in accordance with the Council's Contracts and Procurement Rules and Procurement Strategy;
- Orders will only be issued where budgetary provision exists to pay for the goods and services to be supplied;
- Goods and services received are checked to ensure they are in accordance with the order. Goods should not be receipted by the person who authorised the order;
- Payments are not made unless works, goods and services have been appropriately ordered and received by the Council, to the correct price, quantity and quality standards;
- All payments are made to the correct person or supplier, for the correct amount and are properly recorded, regardless of the payment method;
- All appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the Records Retention and Disposal Policy;
- All expenditure is accurately recorded against the right budget, any exceptions are corrected, and VAT is recorded against the relevant VAT code;
- In addition, the use of e-business, e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically;

## 6.5 Credit Cards

- 6.5.1 The Chief Financial Officer is responsible for the issue of credit cards to Officers of the Council, including setting card limits.
- 6.5.2 All credit cards must be held securely. Card details and PIN numbers must not be disclosed other than for the purposes of using the card for payments. Cardholders will be held personally liable for any expenditure they cannot account for.
- 6.5.3 Credit cards will only be used for authorised purchases i.e. items that are only available online, for emergency purposes and hospitality related items. Under no circumstances are they to be used for personal expenditure, direct debit payments, periodic payments or subscriptions.
- 6.5.4 Each individual cardholder will keep full records of all card purchases and provide these to the Chief Financial Officer promptly, on a monthly basis. All purchases should be authorised by the budget holder via completion of an internal payment

voucher. These records will be used in the reconciliation of the statement provided by the card issuer.

6.5.5 No cash withdrawal is allowed, and each card will block any attempt to do so.

6.5.6 Every purchase subject to VAT will require a VAT receipt. It is the responsibility of each cardholder to ensure that this is obtained and provided to the Chief Financial Officer.

### Key Controls

The key controls are:

- Individual cardholders have a monthly transaction limit;
- Cardholders are required to keep records and receipts for every transaction and provide these promptly to the Chief Financial Officer on a monthly basis;
- The credit card statement is reconciled to the cardholder records by the Chief Financial Officer.

### 6.6 Reimbursement of Minor Expenditure (Formerly Petty Cash)

6.6.1 Minor items of expenditure incurred by an officer to secure goods and services in the course of their duties will be reimbursed via an online minor expenses claim system.

6.6.2 No expenditure is to be incurred without prior approval of a supervisor in accordance with the following limits and should only be used in exceptional circumstances where an official order, as required under 6.4 above, cannot be accepted by the supplier:

Up to £25 by the Officer's line manager;

Up to £100 by a Director or Head of Service;

In excess of £100 by the Chief Financial Officer.

6.6.3 A receipt must be obtained for all items of expense and should be scanned into the minor expenses claim system, or equivalent, as soon as possible.

6.6.4 By submitting a claim the officer is confirming that the expenditure has been approved by a supervisor and subsequently incurred. If upon investigation this is found not to be the case the officer may face disciplinary action.

6.6.5 A summary of claims will be submitted to appropriate managers at the end of each month and will require authorisation before they can be paid.

6.6.6 Payment of appropriately authorised claims will be made via the payroll system.

6.6.7 Key Controls

The key controls are:

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- Minor expenditure to be approved by a supervising officer in advance of the expenditure being incurred.
- Provision of receipts for minor expenses to evidence the expenditure has been incurred.
- Payments are made on the basis of appropriately authorised claims.

## 6.7 Income

- 6.7.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure all income due is identified, collected, receipted and banked properly.
- 6.7.2 Wherever possible, charges for the use of council services should be collected in advance of service delivery, reducing the need to raise debtor invoices and avoiding the time and cost of administering debts.
- 6.7.3 The Chief Financial Officer will agree the arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection. All income due to the Council must be processed accurately through one of the primary income systems (e.g. Debtors, Council Tax, Income System)
- 6.7.4 The Chief Financial Officer will approve the format of all receipts to be issued for income received by the Council.
- 6.7.5 The Chief Financial Officer will ensure that appropriate accounting adjustments are made following all write-off action. Formal approval for individual debt write-off is to be obtained in line with the following limits:
- Chief Financial Officer up to £10,000;
  - Chief Executive up to £25,000;
  - Executive – all other amounts
- 6.7.6 Directors will establish a charging policy for the supply of goods and services, including the appropriate VAT treatment, and will review it regularly in line with corporate policies.
- 6.7.7 Directors will separate the responsibility for identifying amounts due to the Council and the responsibility for collection, as far as is practical.
- 6.7.8 Directors will ensure that at least two employees are present when post is opened to ensure that money received by post is properly identified and recorded.
- 6.7.9 Directors will hold securely all receipts, tickets and other records of income for the appropriate period.
- 6.7.10 Directors will lock away all income to safeguard against loss or theft, and to ensure the security of cash handling. Only up to approved levels of cash will be held on the premises.
- 6.7.11 Directors will ensure that income is paid fully and promptly into the appropriate bank account of the Council in the form in which it is received. Appropriate details should

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be recorded onto the paying-in slips to provide an audit trail. Money collected must be counted and reconciled by at least two employees and deposited to the bank account on a regular basis.

6.7.12 Directors will ensure that income is not used to cash personal cheques or other payments.

6.7.13 Directors will supply the Chief Financial Officer with details relating to work done, goods supplied, services rendered or other amounts due to enable the correct recording of sums due to the Council, and to ensure that accounts are sent out promptly. To do this, Directors should use established performance management systems to monitor recovery of income, and flag up areas of concern to the Chief Financial Officer. Directors have a responsibility to assist the Chief Financial Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.

6.7.14 Directors will keep a record of every transfer of money between employees of the Council. The receiving Officer must sign for the transfer and the transferor must retain a copy.

6.7.15 Directors will recommend to the Chief Financial Officer all debts to be written off. Once raised, no bona-fide debt may be cancelled, except by full payment or by its formal write-off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or an administrative error in the calculation and/or billing of the original debt.

6.7.16 Directors will notify the Chief Financial Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the Closedown Timetable determined by the Chief Financial Officer.

### 6.7.17 Key Controls

The key controls are:

- All income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
- All income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery or electronic records;
- All money received by an employee on behalf of the Council is paid without delay to the Chief Financial Officer or, as the Chief Financial Officer directs, to the Council's bank and properly recorded;
- Wherever practical, the responsibility for cash collection will be separated from that for identifying the amount due, and for reconciling the amount due to the amount received;
- Effective action is taken to pursue non-payment within defined timescales;
- Formal approval for debt write off is obtained per 6.7.5 above and appropriate write-off action is taken within defined timescales;
- Appropriate accounting adjustments are made following write-off action;



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- All appropriate income documents are retained and stored for the defined period in accordance with Record Retention and Disposal Policy;
- Money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.
- Payment in advance, wherever possible.

## 6.8 Taxation

- 6.8.1 The Chief Financial Officer is responsible for ensuring that adequate procedures are in place, and adequate advice is available to Directors, to ensure that the Council is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 6.8.2 The Chief Financial Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 6.8.3 The Chief Financial Officer will complete all HMRC returns regarding PAYE, and submit a monthly return of VAT inputs and outputs to HMRC, in such format and to such timetables as may be required.
- 6.8.4 The Chief Financial Officer will provide details to HMRC regarding the Construction Industry Tax Deduction Scheme (CIS) including the Domestic Reverse Charge (DRC) where applicable.
- 6.8.5 The Chief Financial Officer will maintain up-to-date guidance for the Council's employees on taxation issues.
- 6.8.6 Directors will ensure that the correct VAT liability is attached to all income due to the Council (output tax) and that all VAT recoverable on purchases (input tax) complies with HMRC's regulations.
- 6.8.7 Directors will ensure that where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax Deduction requirements.
- 6.8.8 Directors will ensure that all persons employed by the Council are added to the payroll and tax deducted from any payments to them, except where the individuals are bona-fide self-employed or are employed by a recognised staff agency. Due consideration will also be given to the requirements of IR35.
- 6.8.9 Directors will follow all relevant guidance on taxation issued by the Chief Financial Officer.

### 6.8.10 Key Controls

The key controls are:

- Budget managers are provided with relevant information and kept up to date on tax issues;
- Budget managers are instructed on required record keeping;



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- All taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- Records are maintained in accordance with instructions;
- Returns are made to the appropriate authorities within the stipulated timescale.

## 6.9 Change Floats

- 6.9.1 The Chief Financial Officer will provide such change floats as considered appropriate to Officers of the Council to undertake their official duties.
- 6.9.2 Under no circumstance may payments of any kind be made out of change floats. Any breach of this regulation may result in disciplinary proceedings being taken against the Officer concerned.
- 6.9.3 If circumstances arise where the amount of a change float becomes excessive, the responsible Officer shall make appropriate arrangements to pay the excess amount back to the Chief Financial Officer.
- 6.9.4 Key Controls

The key controls are:

- Change floats can only be established with the approval of the Chief Financial Officer;
- No payments should go either in or out of the change float.

## Regulation 7 - External Arrangements

### 7.1 Introduction

- 7.1.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### 7.2 Partnerships

- 7.2.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Council will work in partnership with others – public agencies, private companies, community groups and voluntary organisations to deliver some services, and its distinctive leadership role is to bring together the contributions of the various stakeholders to deliver a shared vision of services based on user wishes.
- 7.2.2 The Council will mobilise investment, bid for funds, champion the needs of the area and harness the energies of local people and community organisations. The Council will be measured by what it achieves in partnership with others.
- 7.2.3 The main reasons for entering into a partnership are:

- The desire to find new ways to share risk;
- The ability to access new resources;
- To provide new and better ways of delivering services; and
- To forge new relationships.

7.2.4 A partner is defined as either:

- An organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
- A body whose nature or status give it a right or obligation to support the project.

7.2.5 Partners participate in projects by:

- Acting as a project deliverer or sponsor, solely or in concert with others;
- Acting as a project funder or part funder;
- Being the beneficiary group of the activity undertaken in a project.

7.2.6 Partners have common responsibilities:

- To be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- To act in good faith at all times and in the best interests of the partnership's aims and objectives;
- Be open about any conflict of interests that might arise;
- To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
- To act wherever possible as ambassadors for the project.

### **Roles and Responsibilities**

7.2.7 Cabinet is responsible for overseeing an effective partnership approach throughout the Council and is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

7.2.8 Cabinet can delegate functions, including those relating to partnerships, to Officers. Where functions are delegated, Cabinet will remain accountable for them to the full Council.

7.2.9 Senior Leadership Team is responsible for ensuring the effective scrutiny of the Partnership Register.

7.2.10 The Chief Financial Officer will maintain a Partnerships Register of all contracts entered into with external bodies.

7.2.11 The Chief Financial Officer:

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- is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;
- must ensure that accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory;
- must ensure that risks have been fully appraised before agreements are entered into with external bodies;
- advise on key element of funding a project including financial viability, risk appraisal, effective controls and audit, taxation issues.

### 7.2.12 Directors:

- Are responsible for ensuring appropriate approvals are obtained from the Executive to enter into a partnership agreement before any negotiations are concluded in relation to work with external bodies;
- Must consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies and ensure that all agreements are properly documented;
- Are responsible for preparing an appropriate business case including risk management appraisal before entering into agreements with external bodies.
- Will ensure that such agreements and arrangements do not impact adversely on the services provided by the Council.
- Are responsible for providing appropriate information to the Chief Financial Officer to enable a note to be entered into the Council's Statement of Accounts concerning material items.

### 7.2.13 Key controls

The key controls are:

- To secure the approval of the Executive before entering into partnership agreements;
- Ensure sound governance arrangements in partnerships agreements ensuring consistency with the Council's Financial Regulations and Contracts and Procurement Rules as appropriate;
- To ensure that risk management processes are in place to identify and assess all known risks;
- To ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- To agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences;
- To communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

## 7.3 External Funding/Grants

7.3.1 Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Funds from external agencies, e.g. The National Lottery, may provide additional resources to enable the Council to deliver services to the local community, however in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

### **Bids and Claims for External Funding**

- 7.3.1 Bids for external funding must be comprehensive and comply with the Council's External Funding Strategy. If bids are successful then the grant works and administration must be properly undertaken to ensure no penalties are incurred.
- 7.3.2 Comprehensive business cases must identify associated risks, budget provisions including matched funding, and any resource implications. The Financial Service team must support the preparation of all grant applications.
- 7.3.3 All grant bids, detailing the service and financial implications, must be approved by the Chief Financial officer prior to submission, through the use of a certification process detailed in the External Funding Strategy.
- 7.3.4 All grant claims must be signed by the Chief Financial officer through the use of a certification process detailed in the External Funding Strategy.
- 7.3.5 Records supporting grant claims, including interim and final claims, must be maintained and available, and must be reconciled back to the Council's general ledger.

### **Roles and Responsibilities**

- 7.3.6 The Chief Financial Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 7.3.7 The Chief Financial Officer will ensure that match-funding requirements are considered prior to entering into the agreements, and that future budgets proposals reflect those requirements.
- 7.3.8 Directors will ensure that grant conditions and audit requirements are met.
- 7.3.9 Directors are responsible for providing the Chief Financial Officer with all necessary information to enable the proper recording of external funding to be achieved.
- 7.3.10 Directors are responsible for ensuring that all claims for funds are made by the due date.

7.3.11 Directors are responsible for ensuring that projects progress in accordance with the agreed timetable and that all expenditure is properly incurred and recorded.

## 7.3.12 Key Controls

The key controls are:

- Applications for external grant funding must be approved by the Chief Financial Officer prior to submission to the funding body;
- To ensure that funds are acquired only to meet the priorities approved in the policy framework approved by the full Council;
- To ensure that any match-funding requirements, both capital and revenue, are given due consideration and that appropriate budget approvals are secured prior to entering into agreements;
- To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.

## 7.4 Work for Third Parties

7.4.1 Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a service team to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is within the Council's legal powers.

7.4.2 The Executive is responsible for approving the arrangements for any work for third parties or external bodies.

### **Roles and Responsibilities**

7.4.3 The Chief Officer is responsible for the issue of guidance with regard to the financial aspects of third party contracts and the maintenance of the contracts register.

7.4.4 Directors are responsible for ensuring that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.

7.4.5 Directors are responsible for ensuring that appropriate insurance arrangements are made in consultation with the Chief Financial Officer.

7.4.6 Directors will ensure that a viability assessment of the third party is completed to ensure the Council is not put at risk from any bad debts.

7.4.7 Directors will ensure that no contract is subsidised by the Council developing a business case which ensures that contract pricing considers all financial impacts on whole life basis, for example, inflation on pay and goods and service.

7.4.8 Directors will ensure that wherever possible, payment is received in advance of the delivery of the service.

7.4.9 Directors will ensure that the service team has the appropriate expertise to undertake the contract.

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7.4.10 Directors will ensure that such contracts do not impact adversely on the services provided by the Council

7.4.11 Directors will ensure that all contracts are properly documented.

7.4.12 Directors will provide appropriate information to the Chief Financial Officer to enable a note to be entered into the Council's Statement of Accounts.

7.4.13 Key Controls

The key controls are:

- To ensure that proposals are costed properly in accordance with guidance provided by the Chief Financial Officer;
- To ensure that contracts are drawn up using guidance provided by the Chief Financial Officer and the Monitoring Officer, and that the formal approvals process is adhered to;
- To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

## Definitions

**APPOINTED AUDITORS** - external auditors of local authorities appointed by the Government's appointed representative body.

**BUDGET** - a plan that matches spending with available resources. The budget is an authorisation for future expenditure and a base for controlling expenditure and income.

**BUDGET HOLDER** - the Officer responsible for specific cost centres or services.

**BUDGET PAGE** - the page in the Budget Book that sets out the budget for a cost centre or service.

**CAPITAL EXPENDITURE** - Section 40 of the *Local Government and Housing Act 1989* defines expenditure for capital purposes. This includes spending on the acquisition of assets either directly by the local authority or indirectly in the form of grants to other persons or bodies. Expenditure that does not fall within this definition must be charged to a revenue account. Capital Expenditure includes:

- Acquisition or disposal of land, buildings and major items of plant, apparatus and vehicles;
- Construction of roads and buildings;
- Enhancement of land, roads and buildings.

In addition the Council usually regards any item below £10,000 as revenue, its "de-minimis" level.

**CIPFA** - one of the leading professional accountancy bodies in the UK, having responsibility for setting accounting standards for local government.

**CONTINGENCY** - money set aside in the budget to meet the cost of unforeseen items of expenditure, or shortfalls in income, and to provide for inflation where this is not included in individual budgets.

**COST CENTRE** - any unit to which costs are assigned or allocated.

**ESTIMATES** - the amounts expected to be spent, or received as income, during an accounting period. The term is also used to describe detailed budgets, which are either being prepared for the following years, or have been approved for the current year.

**FEES AND CHARGES** - income raised by charging users of services for the facilities. For example, local authorities usually make charges for the use of car parks, the collection of trade refuse, etc. The Council levies fees and charges in accordance with the Corporate Charging Policy.

**GENERAL LEDGER** - the core of the Council's financial records. These constitute the central "books" of the system, and every financial transaction flows through the general ledger.

**NET EXPENDITURE** - Total expenditure less specific service income.

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**OFFICER** - an employee of the Council or other person contracted to carry out functions where these Financial Regulations apply.

**PROVISIONS AND RESERVES** - amounts set aside in one year to cover expenditure in the future. Provisions are for liabilities or losses that are likely or certain to be incurred, but the amounts or the dates on which they will arise are uncertain. Reserves are amounts set aside which do not fall within the definition of provisions and include general reserves (or 'balances'), which every authority must maintain as a matter of prudence.

**SERVICE** - a cost centre or group of cost centres delivering a common function.

**SLIPPAGE** - where actual expenditure on a project is less than the planned spend in a financial year and the remainder is re-profiled to the following year.

**VALUE FOR MONEY (VFM)** - a term used to assess whether or not an organisation has obtained the maximum benefit from the goods and services it both acquires and provides, within the resources available to it. It not only measures the cost of goods and services, but also takes account of the mix of quality, cost, resource, use, fitness for purpose, timeliness, and convenience to judge whether or not, together, they constitute good value.

**VIREMENT** - permission to spend more on one budget head when this is matched by a corresponding reduction on another budget head, i.e. a switch of resources between budget heads. Virement must be properly authorised by the appropriate Members or by Officers under delegated powers.



## Section 26 – Members Code of Conduct

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### 1. Introduction

- 1.1 All councils are required to have a local Councillor Code of Conduct. Gedling Borough Council has adopted this Code of Conduct pursuant to section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by Members and Co-opted Members of the Council.
- 1.2 The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that councillors can be held accountable, and all adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of the Council as a whole.
- 1.3 Councillors, represent local residents, work to develop better services and deliver local change. The public have high expectations of councillors and entrust councillors to represent the local area, taking decisions fairly, openly, and transparently. Councillors have both an individual and collective responsibility to meet public expectations by maintaining high standards, demonstrating good conduct and by challenging behaviour which falls below expectations.
- 1.4 Importantly, councillors should be able to undertake their role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.
- 1.5 This Code has been designed to protect the democratic role of councillors, encourage good conduct, and safeguard the public's trust in local government, it is based on the

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principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, the Seven Principles of Public Life, also known as the Nolan Principles.

## 2. Definitions

- 2.1 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 sub-committee of the authority;
- and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

## 3. Purpose

- 3.1 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 fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## 4. General Principles of Councillor Conduct

- 4.1 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.
- 4.2 Building on these principles, the following general principles have been developed specifically for the role of councillor.
- 4.3 In accordance with the public trust placed in me, on all occasions:
- I act with integrity and honesty
  - I act lawfully
  - I treat all persons fairly and with respect; and
  - I lead by example and act in a way that secures public confidence in the role of councillor.
- 4.4 In undertaking my role:
- I impartially exercise my responsibilities in the interests of the local community
  - I do not improperly seek to confer an advantage, or

disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## 5. Application of the Code of Conduct

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.
- 5.5 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

## 6. Standards of Councillor Conduct

- 6.1 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.
- 6.2 Guidance is included to help explain the reasons for the obligations and how

they should be followed.

## 7. General Conduct Rules

### 1. Respect

As a councillor:

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

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

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

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

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

*Examples of behaviour which amounts to bullying and harassment are set out in Appendix B to the Code of Conduct.*

*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.**

*Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.*

## 4. Confidentiality and access to information

As a councillor:

### 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.*

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## 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 local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.*

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

## 6. Use of Position

As a councillor:

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

**6.2 I behave in accordance with legal obligations and any other requirements contained within the Council's policies, protocols, and procedures.**

*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:**

- act in accordance with the local authority's requirements; and
- 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, and computers
- transport
- access and use of local authority buildings and rooms.

*These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own 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 will not make trivial or malicious allegations that another Councillor has failed to comply with the Code of Conduct.**

**8.4 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings including any complainant or witnesses.**

**8.5 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 the local authority 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 the Monitoring Officer.*

## 9. Protecting your reputation and the reputation of the local authority

### 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 as set out in **Table 1**, is a criminal offence under the Localism Act 2011.*

***Appendix C** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.*

## 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.

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

## 8. Appendix A

### The Seven Principles of Public Life

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

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

## 9. Appendix B

### Definitions and examples of behaviour which amount to bullying or harassment

**Bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises, or injures someone.**

A non-exhaustive list of behaviour which amounts to bullying includes:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying correspondence that is critical about someone to others who do not need to know
- ridiculing or demeaning someone - picking on them or setting them up to fail
- exclusion - deliberately excluding someone from meetings or written correspondence in matters for which they have a responsibility or professional interest or deliberately excluding someone from events or celebrations that it would ordinarily be expected that they might legitimately attend
- victimisation - taking action detrimental to someone as a result of them raising a complaint or issue of concern in good faith through formal and correct procedure whether or not the complaint was upheld or proven
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances-touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- publicly criticising the work or efficiency of someone where the issue has not been formally raised with that person through proper process and the right of explanation or appeal has not been made available
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities

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**Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.**

A non-exhaustive list of behaviour which amounts to harassment includes:

- frequent unwanted contact, including texts, letters, phone calls, emails and communication via social media or any other electronic communication
- sending unwanted gifts
- driving past an individual's home or visiting them at work without legitimate purpose or following or watching an individual
- sharing humiliating information, lies or gossip about an individual
- making inappropriate comments, critical remarks, or offensive jokes
- threatening behaviour
- excessive demands that are impossible to deliver
- making sexual comments or jokes or inappropriate sexual gestures
- making jokes or degrading or patronising comments or teasing an individual about their race, religion, age, gender, sexual orientation, or disability. This would also amount to an offence under the Equality Act.

## 10. Appendix C

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

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

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

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

### **Non- participation in cases of a disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the existence and nature of that interest, whether or not it is included in your register of interests, and not participate in any discussion or vote on the matter, and must not remain in the room unless you have been granted a dispensation from the Council's Standards committee or Monitoring Officer.
5. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.
6. Where you have a disclosable pecuniary interest in any business of the Council, you may attend a meeting (including a meeting of the overview and scrutiny committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the

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meeting for the same purpose, whether under a statutory right or otherwise. You must leave the meeting immediately after making any such representations, answering questions, or giving evidence.

7. Where you have a disclosable pecuniary interest on a matter to be considered, or being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.
8. Where a disclosable pecuniary interest is not included on the Council's register of interests and is not the subject of a pending notification you must notify the Monitoring officer of the interest in writing within 28 days of the date you became aware of the interest.

### Disclosure of other registerable Interests

9. Where a matter arises at a meeting which relates to one of your other registerable interests, your non-pecuniary interests (Table 2). You must disclose the interest and the nature of the interest at the commencement of that consideration or when the interest becomes apparent only where you are aware or ought reasonably to be aware of the existence of the non-pecuniary interest.
10. Where you have a non-pecuniary interest, but it is considered to be a sensitive interest, you must indicate the existence of the interest but need not disclose details of the interest to the meeting.
11. Where you have a non-pecuniary interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
12. If you have a non-pecuniary interest in any business of the Council you may participate, vote and remain in the room or chamber where a meeting considering the business is being held unless your interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
13. If you have a non-pecuniary interest in any business of the Council you may participate, vote, and remain in the room or chamber where a meeting considering the business is being held where that business relates to the functions of the Council in respect of:

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- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iii) an allowance, payment or indemnity given to members;
  - (iv) any ceremonial honour given to members; and
  - (v) setting council tax or a precept under the Local Government Finance Act 1992.
14. Where you have a non-pecuniary interest in any business of the Council in the circumstances set out in paragraph (12) above, you may remain in the room or chamber where a meeting considering the business is being held for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.



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**Table 1 – Disclosable Pecuniary Interests**

<b><u>Interest</u></b>	<b><u>Prescribed description</u></b>
Employment, office, trade, profession, or vocation	Any employment, office, trade, profession, or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> <p><i>For this purpose, “body in which you or they have a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest.</i></p> <p><i>“Director” includes a member of the committee of management of an industrial and provident society.</i></p>
Land	<p>Any beneficial interest in land which is within the Council’s area.</p> <p><i>For this purpose “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.</i></p>
Licences	Any licence (alone or jointly with others) to occupy land in the Council’s area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge):
	(a) the landlord is the Council; and

- (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest

### Securities

Any beneficial interest in securities of a body where:

- (a) that body (to your knowledge) has a place of business or land in the Council's area; and

(b) either:

- i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

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**Table 2 - Interests other than Disclosable Pecuniary Interests**  
**Non-pecuniary Interests**

16. (1) You have a non-pecuniary interest in any business of the Council where either:

(a) It relates to or is likely to affect:

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (ii) any body:
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

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

- (iii) any employment, office, trade, profession or vocation carried on by you not for profit or gain;
- (iv) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income;
- (v) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

or

(b) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of:

- (i) a member of your family or any person with whom you have a close association;
- (ii) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (iii) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (iv) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

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to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

## Section 27 – Protocol on Member/Officer Relations

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### 27.1 Purpose

The purpose of this protocol is to assist Officers and Members in understanding their respective roles and to create a working relationship which enhances the provision of services to the borough. It is recognised that Members are expected to comply with the Code of Conduct and this Protocol is not intended to replace the Code.

### 27.2 Expectations

What Members can expect from Officers:-

- Political neutrality;
- A commitment to act in the interests of the Council as a whole and not to any one political group;
- A professional approach to the working relationship;
- An understanding of their role and its pressures;
- Timely response to enquiries;
- Access to information to enable them to fulfil their role;
- Professional advice;
- Confidentiality where appropriate;
- Courtesy and respect.

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What Officers can expect from Members:-

- An understanding of the requirements of their roles and an appreciation of competing calls on their time;
- A partnership working approach;
- Courtesy and respect;
- Political leadership and direction;
- Not to be bullied, harassed or subjected to inappropriate pressure;
- Not to be subjected to adverse personal comments or personal attack;
- Respect for professional advice and an understanding of the specific responsibilities of statutory officers.

## 27.3 Principles

- The relationship between Members and Officers should be based on mutual trust and respect.
- The behaviour of Members and Officers at all times should demonstrate this respect and behaviours such as bullying, harassment or manipulation will not be acceptable. Members and Officers will not undermine each other's roles through personal attack or comment.
- Members and Officers should respect their respective roles and support these.
- When either Members or Officers have concerns about the behaviour or actions of another they should feel able to raise these in the appropriate way without fear of reprisal.

## 27.4 Roles

The distinct responsibilities of Officers and Members are as described elsewhere in the Constitution of the Council.

Members have five main areas of responsibility:

- (i) collectively to be the policy-makers and carry out a number of strategic functions;
- (ii) contributing to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively representing the interests of their ward and of individual constituents;
- (iv) responding to constituents' enquiries and representations, fairly and impartially;
- (v) participating in the governance and leadership of the Council.

Members may also have specific responsibilities within their overarching role. These include as an:

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- Executive member
- Scrutiny committee member
- Standards committee member
- Ward representative
- Committee member

The role of Officers is to:

- Manage the organisation and take operational decisions;
- Develop policy proposals which accord with the overall framework set by the Council;
- Implement policy;
- Give professional advice;
- Ensure the Council acts lawfully and with financial propriety;
- Take action under delegated authority.

All Officers are employed by the Council as a whole, they are bound by a contract of employment and the terms and conditions therein. Certain Officers have statutory roles — the Head of Paid Service, Monitoring Officer and the Chief Financial Officer have specific responsibilities which are addressed elsewhere in the Constitution. Their roles need to be understood and respected by all Members.

### **27.5 Personal Relationships**

Mutual respect between Officers and Members is essential to good local government and provided this protocol is observed there is no reason why there should not be an informal atmosphere between Members and Officers outside formal meetings and events.

However, close personal familiarity between Officers and Members that transcends the normal employer/employee relationship can potentially undermine Members' confidence in the political neutrality or even handedness of an officer, and should, therefore, be avoided.

It is clearly important that there should be a close working relationship between Executive Members, Group Leaders, Committee Chairs and the Senior Leadership Team and other senior Officers. However, such relationships should never be allowed to become so close, or appear to be so close, so as to bring into question the individual's ability to deal impartially with others, make independent decisions or give professional advice.

## **27.6 Officer Support to Individual Members and Party Groups**

It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual member of the Council.

There is statutory recognition for political groups. Officers may be called upon to give advice to political party groups, however this will always be impartial and consistent with any advice given to other political party groups.

Officer support in these circumstances must not extend beyond providing information in relation to matters of council business. Officers must not be involved in advising on matters of party business.

Officers will resource and support Members in discharging Council business, this includes providing relevant information, attending/arranging meetings and problem solving. Members will not ask Officers to use resources or provide support for any purpose set out in 27.8 below.

## **27.7 Publicity and Media Relations**

Officers will provide a publicity and media relations service to promote the Council's activities and services. Officers will liaise with the media in respect of dealing with queries or issuing press releases. The requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority publicity will be complied with. Members will not ask Officers to issue communications, publicity or use the Council's communication channels in contravention of the Act or Code.

Members will be expected to comply with guidance issued by the Returning Officer during pre-election periods ("purdah").

## **27.8 Use of Council Resources**

The Council can only lawfully provide support and resources to Members (such as accommodation, officer time, stationery, typing, printing, photocopying, IT equipment, telephony etc) to assist them in discharging their role as members of the Council.

The support and resources are paid for by public funds and should only be used for Council business. Members should not ask Officers to provide resources or support which they are not permitted to give, for example support or resources:

- which are to be used for political campaigning or business which is solely to do with a political party;
- for work in connection with a ward or constituency party political meeting or electioneering;



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- for work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- for private personal correspondence;
- for work in connection with another body or organisation where a Member's involvement is other than as a member of the Council; and which constitutes support to a Member in his/her capacity as a member of another authority.

### 27.9 Advice from Officers

Officer advice to Members in any of their roles will always be given in the following contexts:

- agreed Council policy;
- in accordance with national legislation and guidance;
- best professional practice; and
- appreciation of local and national priorities.

Where Members are unhappy with advice received they should first discuss this with the Officer providing the advice and if they remain unhappy refer the matter to the relevant Service Manager who will then provide further advice. Any disagreement should be referred to the Chief Executive. Officers are not expected to change advice once given unless subsequent information changes the situation. Members may decide not to accept advice given but will need to be advised of the consequences of this, possibly in writing.

### 27.10 Access to Officers

Members are welcome to visit any offices, sites or properties and to meet Officers to discuss services or plans. However, it must be recognised that Officers have commitments and it is not always possible to be available at short notice to meet Members.

Members should therefore ensure they pre-plan any visits by contacting Officers in advance at convenient times. Officers will make every effort to be available at convenient times. It is recognised that if an urgent situation arises Members may not be able to give prior notice but such situations will be avoided as far as possible.

Officers tend to work within standard office hours. It is recognised that Members may need to contact Officers outside of these times and Officers recognise the nature of their work cannot always be contained within this framework. However it is important that undue workload and pressure is not placed on Officers to respond in the evenings and at weekends. Respect must be given to minimising the impact of work on the individual's private life. Except in emergency situations, as far as possible, Members

will not contact Officers outside standard office hours. Officers are not expected to respond to such contact other than in emergency situations.

### **27.11 When things go wrong**

From time to time the relationship between a Member and an Officer may become strained for various reasons.

#### **27.11.1 Conduct of Officers**

If a Member feels that an Officer has breached this Protocol they should raise the matter by writing to the relevant Director. If the complaint is about a Director, it should be made to the Chief Executive and if it is about the Chief Executive to the Monitoring Officer. It is essential that the Member should not raise matters in a manner that is incompatible with the objectives of this Protocol. An Officer has no means of responding to such criticisms in public. The Officer receiving the complaint will then consider the facts and determine whether the matter should be dealt with informally or under the Council's Disciplinary Policy and procedures.

In some circumstances it may be appropriate to arrange a meeting with the aim of resolving the issues or to discuss the matter further and if so, the Officer concerned may wish to be accompanied to such a meeting by another person.

Where the breach of this Protocol includes an allegation of fraud, bribery and corruption, it will be dealt with in accordance with the Counter Fraud and Corruption Strategy and investigated following the procedures contained in the Council's Whistleblowing Policy.

#### **27.11.2 Conduct of Members**

Where an Officer feels that a Member has breached this Protocol they should raise the matter with the Chief Executive or Monitoring Officer.

As far as possible, minor issues should be resolved informally by discussion with the relevant Member and/or Leader of the relevant party group. The outcome of any informal resolution will be reported to the Officer who reported the breach. However, if it appears to the Chief Executive or Monitoring Officer that the allegation is more serious and could potentially give rise to a breach of the Members' Code of Conduct, it may be treated as a formal code of conduct complaint and dealt with under the Council's Arrangements for Dealing with Complaints. Where the breach of this Protocol includes an allegation of fraud, bribery and corruption, it will be dealt with in accordance with the Counter Fraud and Corruption Strategy and investigated following the procedures contained in the Council's Whistleblowing Policy.

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In some circumstances it may be appropriate to arrange a meeting with the aim of resolving the issues or to discuss the matter further and if so, the Member concerned may wish to be accompanied to such a meeting by another person.

### **27.12 Interpretation of this Protocol**

When necessary, the Chief Executive will arbitrate on the interpretation of this Protocol following consultation with the Monitoring Officer.

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## **Section 28 – Petitions Policy**

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The Council welcomes the opportunity to hear from the public and recognise that petitions are one of the ways in which people can let us know their concerns.

### **28.1 What is a Petition?**

We will accept as a petition any communication sent to the Council if it identifies itself as a petition or it seems to us that it is intended to be a petition. A petition by its very nature, of course, will be signed by a number of people.

### **28.2 What should a petition contain?**

A petition should include:

- a clear statement setting out what the petition is about and stating what action the petitioners want the Council to take
- the name, address and signature of any person supporting the petition. These can be people who live, work or study in the Borough of Gedling
- the name, address, and any other contact details of the person who is organising the petition

- the issue to which it relates if it is submitted in response to a consultation on a specific matter so that we can ensure that it is considered along with that original matter.

### 28.3 Different types of petition

How we deal with your petition depends on the type of petition you submit.

#### Consultation Petitions

These are petitions in response to an invitation from the Council for representations on a particular proposal or application, for example, on planning or licensing applications. These petitions will be dealt with in accordance with the particular process laid down for that consultation.

#### Statutory Petitions

Some Acts of Parliament require the Council to consider petitions for example a petition for a review of Parish Councils. Where you submit a petition under a particular Act we will deal with it as laid down by those provisions.

#### Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must have at least 3,000 signatures. This is reduced to 140 signatures where the petition relates to a local issue affecting no more than two wards within the Council's area.

#### Petitions to "Hold an Officer to Account"

If you want your petition to be considered by the Overview and Scrutiny Committee where an officer of the Council will be required to answer questions on the conduct of a particular matter your petition should contain 1500 signatures. This is reduced to 70 signatures where the petition relates to a local issue affecting no more than two wards within the Council's area.

#### Ordinary Petitions

These are petitions that do not come within any of the above categories. These petitions will be dealt with by reference to the Committee or Councillor with responsibility for the matter which is raised by the petition.

### 28.4 Who should the petition be sent to?

When you submit a petition in response to a specific consultation carried out by the Council please address it to the return address set out in the consultation invitation. This will ensure that it is considered at the same time as the other replies to that consultation.

All other petitions should be addressed to:

Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham, NG5 6LU

## 28.5 What will the council do when a petition is received?

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

If we can do what the petition asks for immediately the acknowledgement may confirm that we have taken the action requested and the petition will be closed.

If the petition has enough signatures to trigger a Council debate, or a Senior Officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place.

If the petition needs more investigation we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example a request for a referendum on an Elected Mayor) or on a matter where there is already an existing right of appeal, such as Council Tax banding, other procedures apply. The petition will not be dealt with under this policy but rather by reference to those alternative processes.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate. We will explain the reasons for this in our acknowledgement of the petition.

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 separately but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

A petition will not normally be considered where it is received within 6 months of another petition considered by the Council or the Overview and Scrutiny Committee on the same matter.

## 28.6 How will the council respond to a petition?

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

- Take the action requested in the petition
- Consider the petition at a Council meeting
- Hold an enquiry into the matter
- Hold a public meeting
- Carry out a consultation
- Hold a meeting with petitioners
- Refer the petition to the Council's Overview and Scrutiny Committee with the panel to hold decision takers to account.
- Explain to the organiser why the Council will not take any further action.

If your petition is about something over which the Council has no direct control (for example local transport or health services) we will consider making representations on your behalf to the relevant organisations. The Council works with a large number

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of local partners and where possible we will work with these partners to respond to your petition.

If your petition is about something that a different council is responsible for we will consult with the petition organiser and forward the petition to the other Council if that is appropriate.

## **28.7 Full Council Debates**

If a petition contains more than 3,000 signatures or 140 signatures for a matter affecting no more than 2 wards, it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser or their nominated representative will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors.

The Council will decide how to respond to the petition at this meeting. The Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council Executive are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **28.8 Officer evidence**

Your petition may ask for a Senior Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior manager to explain progress on an issue.

If your petition contains at least 1500 signatures, or 70 signatures for a matter affecting no more than 2 wards, the relevant senior officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. A list of the senior managers that can be called to give evidence can be found in Section 30 of this Constitution. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting but you will be able to suggest questions to the chair of the committee by contacting Democratic Services.

## **28.9 E-petitions**

We also welcome e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions once this has been enabled. The petition organiser will need to provide us with their name, postal address and email address. An e-petition will run for three months.



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When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the “rejected petitions” section of the website.

When an e-petition has closed for signature, it will automatically be submitted the Council. In the same way as a paper petition, you will receive an acknowledgement within 10 working days.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information.

### **How do I “sign” an e-petition?**

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your “signature” will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

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

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

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

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

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## Section 29 – Members’ Allowances Scheme

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Gedling Borough Council, in exercise of the powers conferred by the Local Authorities (Members’ Allowances) (England) Regulations 2003 (“the Allowances Regulations”) and all other enabling powers hereby makes the following Scheme:

### **29.1 Citation**

The Scheme may be cited as the Gedling Borough Council Members’ Allowance Scheme and shall come into effect on the Twenty-second Day of April Two thousand and three.

### **29.2 Interpretation**

“Councillor” means an elected Member of the Gedling Borough Council.

“Co-opted Member” means any person who is not for the time being a Councillor and who is appointed as a member of any other Committee or Sub-Committee of the Council.

### **29.3 Basic Allowance**

Subject to Paragraphs 7 and 8 for each year a basic allowance of the amount specified in Schedule 1 hereto shall be paid to each Councillor. An annual indexation increase, in line with Chief Officer local authority pay award, will be

applied for the next four years between 2024/25 and 2027/28.

## **29.4 Special Responsibility Allowances**

- (1) For each year a special responsibility allowance shall be paid to those Councillors who have the special responsibilities in relation to the Authority specified in Schedule 1 to this Scheme.
- (2) Subject to Paragraphs 7 and 8 the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.
- (3) No Councillor shall be paid more than one Special Responsibility Allowance at any one time and if at any time any Councillor shall hold more than one post attracting such an allowance, only the higher, or highest as the case may be, such allowance shall be payable.
- (4) An annual indexation increase, in line with Chief Officer local authority pay award, will be applied for the next four years between 2024/25 and 2027/28.

## **29.5 Co-optees Allowance**

- (1) For each year an allowance shall be paid for each year to a co-opted Member in respect of attendance at conferences and meetings (“co-optees’ allowance”).
- (2) The co-optees’ allowance shall be paid at the rate as specified in Schedule 1 to this scheme.

## **29.6 Dependants Carers Allowance**

- (1) An allowance shall be paid to Councillors in respect of such expenses of arranging for the care of their children or dependents as are necessary incurred in a Councillor carrying out those duties specified in Schedule 2.

## **29.7 Travelling and Subsistence Allowance**

- (1) For those duties designated as approved duties carried out by Councillors or co-opted members travelling and subsistence allowances shall be paid at the rates specified from time to time by the Council in accordance with Schedule 2 hereto.

## **29.8 Renunciation**

A Councillor may by notice in writing given to the Chief Financial Officer elect to forego the whole or any part of his entitlement to an allowance under this Scheme.

## **29.9 Revision of Scheme**

The Scheme of Allowances shall be amended and revised from time to time by the Council in accordance with Regulations in force for the time being under Section 99 Local Government Act 2000 and after consideration of a report by the

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Remuneration Panel appointed for the purpose of those Regulations.

## 29.10 Part-Year Entitlements and Backdating

- (1) When the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year the entitlement of the Councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office as member subsists bears to the number of days in that year.
- (2) Where this Scheme is amended as mentioned in Sub-Paragraph (2) and the term of office of a Councillor does not subsist throughout a period mentioned in Sub-Paragraph (2) the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that Sub-Paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists in that period bears to the number of days in that period.
- (3) Where a Councillor has during part but not throughout the whole of any year any such special responsibilities as entitle him or her to an allowance under Paragraph 4 of this Scheme that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (4) Where this Scheme is amended as mentioned in Sub-Paragraph (2) and a Councillor has during part but does not have throughout the whole of any period mentioned in Sub-Paragraph (2) of that Paragraph any such special responsibilities as entitle him or her to an allowance under Paragraph 4 of this Scheme that Councillor's entitlement shall be to payment of such part of the allowances referable to each such period (ascertained in accordance with that Sub-Paragraph) as bear to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.
- (5) Where an amendment is made to the Scheme which affects an allowance payable for the year in which the amendment is made the entitlement to such allowance as amended shall apply with effect from the beginning of the year in which the amendment is made.

## 29.11 Payments and Claims

- (1) Payment shall be made in respect of allowances under Paragraphs 3 and 4 and of this Scheme (subject to Sub-Paragraph (2)) in instalments of one-twelfth of the amount specified in this Scheme on the Twenty Fifth day of each month.
- (2) Where a payment of one-twelfth of the amount specified in this Scheme in respect of allowances under Paragraphs 3 and 4 of the Scheme would result in the Councillor receiving more or less than the amount to which

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by virtue of Paragraph 8 he or she is entitled the payment shall be of such amount as will ensure that neither more nor less is paid than the amount to which he or she is entitled.

- (3) A claim for an allowance under Paragraph 5 and 7 of this Scheme shall be made in writing in such form and supported by such evidence as the Chief Financial Officer of the Council shall require and shall be submitted to the said Chief Financial Officer within three months from the date on which an entitlement to each of the allowances arises.

### 29.12 Repayment of Allowances

Where payment of any allowance has been made in respect of any period during which the Councillor or Co-opted Member:

- (a) Ceases to be a member of the authority; or  
(b) Is in any other way not entitled to receive the allowance then such part of the allowance as relates to any such period shall be repaid to the Council.

### 29.13 Double Payment

Where a Councillor or Co-opted Member is a member of another local authority that Councillor or Co-opted Member may not receive allowances from more than one authority in respect of the same duties.

### 29.14 Parental Leave

Members have adopted a parental leave policy, which allows basic and special responsibility allowances to be paid in accordance with the policy which can be found here – [Parental Leave Policy for Councillors - Gedling Borough Council](#)

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### SCHEDULE 1 – CURRENT SCHEME

	<b>From 1 April 2024 until 31 March 2025 inclusive:</b>	
	<b>Percentage of the Leader's Allowance</b>	<b>Per Annum (£)</b>
Leader of Council	100%	16,594.26
Deputy Leader of the Council	80%	13,275.41
Cabinet Members	50%	8,297.13
Leader of Main Opposition Group	25% plus £172.95 per elected member*	5,705.12
Leader of Minority Opposition groups	Flat fee of £172.95 per elected member*	691.80 – (Lib Group) 345.90 (Independent)
Level One Committee Chair (Planning and Environment & Licensing Committees)	35%	5,807.99
Level Two Committee Chair (Audit & Overview and Scrutiny Committees)	25%	4,148.56
Level Three Committee Chair (Joint Consultative & Safety and Standards Committee)	10%	1,659.43
Chairing of Appeals & Retirement Committee and any other committee as the Vice-Chair on a stand in basis	-	£100 per meeting
Business Manager of Majority and Main Opposition Groups	Flat fee of £172.95 per elected member*	4,496.70 (majority) 1,556.55 (main opp)
Mayor	37.5%	6,222.85
Deputy Mayor	12.5%	2,074.28
Policy Advisor	12.5%	2,074.28

1. From 1 April 2024 until 31 March 2025 the Basic Allowance payable to each Councillor 4,831.39
2. Co-opted Members 551.45
3. Dependent Carers Allowance of up to £9.30 per hour payable to cover childcare and dependents. The person providing the care may not be a close relative defined as spouse, partner (opposite or same sex cohabitantes), parents, children, brothers, sisters, grandparents and grandchildren. The paid care attendant must also sign a receipt to show that they have cared for the dependant during the hours claimed for.
4. Travelling and subsistence payable at the currently in force NJC employee rate.

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\*based on current membership as of February 2024

## **SCHEDULE 2 - APPROVED DUTIES IN RESPECT OF WHICH TRAVELLING AND SUBSISTENCE ALLOWANCES ARE AVAILABLE**

Attendance at:

- 1 Formal meetings of the Council, including Committees and Sub-Committees and any other authorised meeting of these bodies or event organised by these bodies (including joint committees), where the councillor has been appointed by the Council as a member or a substitute member.
- 2 Formal meetings of the Cabinet its sub committees and any other authorised meetings thereof where the councillor has been appointed by the Leader/Council as a member.
- 3 Ad-hoc formally constituted working groups/panels (e.g., scrutiny working groups) where the councillor is (a) a named member of the body or (b) is formally invited to participate
- 4 Meetings of Nottinghamshire County Council committees/sub committees where the councillor has been appointed by the Council as a member or a representative
- 5 Meetings of bodies to which the Council makes appointments except where the body itself pays allowances to the Council's representative (the approval relates to meetings of the body itself; its standing committees/sub committees but not to other activities of the body)
- 6 Meetings of any local authority association of which the Council is a member where the councillor is the appointed representative or nominated substitute
- 7 Any conference or training where attendance is authorised by the Council
- 8 Any Council premises, or other agreed location, for a meeting agreed with either a member in receipt of an SRA or an Officer for the purpose of discussing matters relating to Council business in which it is reasonable to expect the councillor to have an interest
- 9 Briefing meetings at the invitation of an Officer of the Council provided that the members of at least two political groups have been invited
- 10 An approved agenda setting meeting or member development/awareness raising/seminar activity organised by the Council
- 11 Official site visits by members of the Planning Committee



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- 12 Any site visit or inspection visits undertaken by members approved by or on behalf of the Council
- 13 Tender opening meetings where invited by an Officer to attend

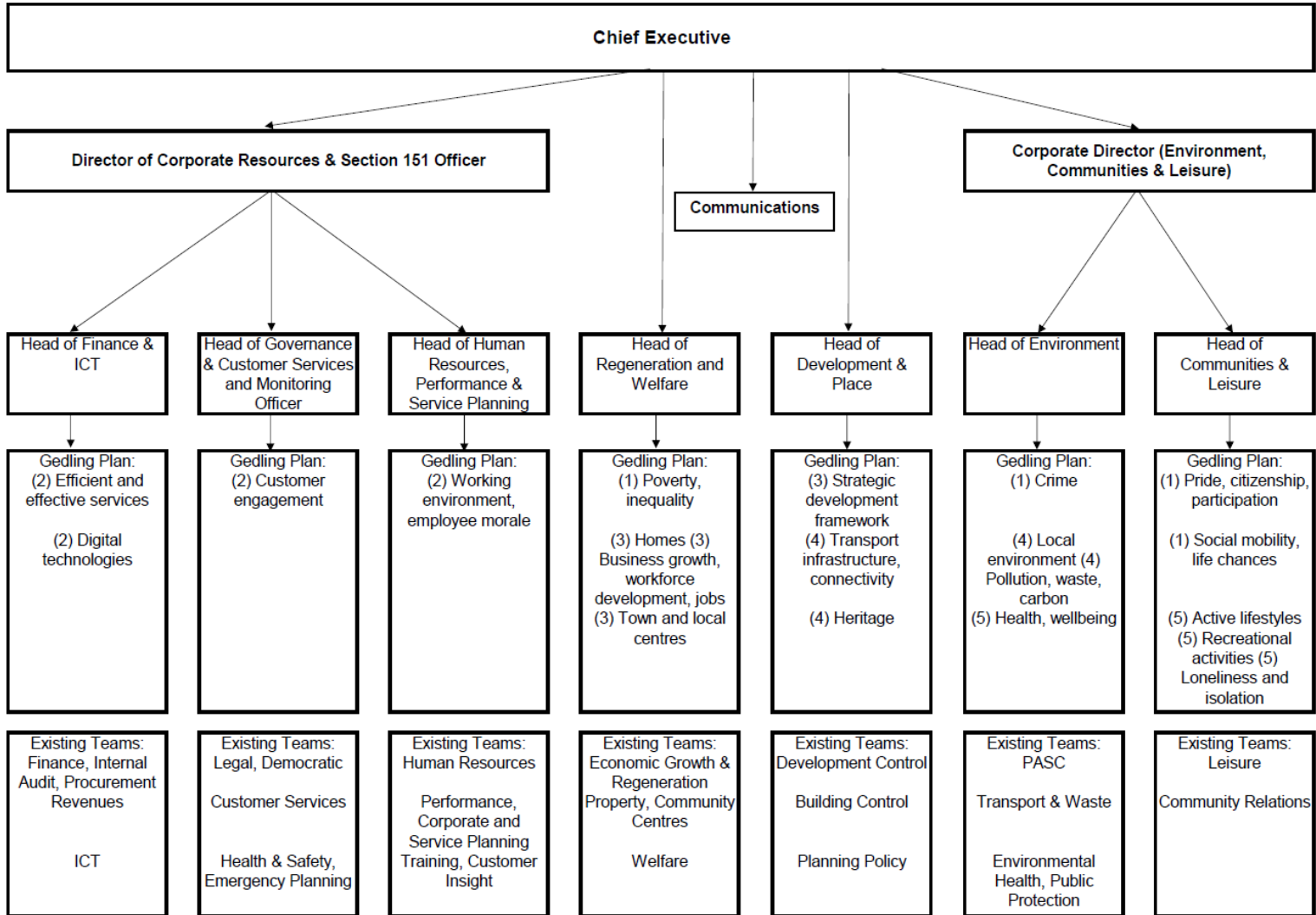
Performance of:

- 14 Duties carried out by a member holding an office for which a special responsibility allowance applies.
- 15 Any particular duty for which express authority is given by or on behalf of the Council in case of emergency.
- 16 Such other duty for which prior approval has been given by the Chief Executive, in consultation with the Leader.

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## Section 30 – Management Structure

The strategic management of the Council is the responsibility of the Chief Executive, who together with two Corporate Directors form the Senior Leadership Team. Each Director is supported by Heads of Service who have operational responsibility for their respective service.



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