



The Constitution of Harborough District Council

Contents	Page
Part 1: Summary and Explanation	4
Part 2: Articles of the Constitution	31
Part 3: Responsibilities for Functions	77
Part 4:	
Section 1: Council Procedure Rules	135
Section 2: Access to Information Rules	156
Section 3: Budget and Policy Framework Rules	171
Section 4: Executive Procedure Rules	178
Section 5: Overview and Scrutiny Procedure Rules	192
Section 6: Financial Procedure Rules for Officers	207
Section 6.1: Statement of Required Practice for Procurement ("The SORP")	228
Section 6.2: Contract Procedure Rules	261
Section 7: Officer Employment Procedure Rules	277
Part 5:	
Section 1: Councillor Code of Conduct	284
Section 2: Employee Code of Conduct	308
Section 3: Councillor and Employee Relations Protocol	314
Section 4: Monitoring Officer Protocol	341
Section 5: Civic Protocol	352
Section 6: Anti-Fraud and Corruption Policy and Strategy	362
Section 7: Filming and Recording Protocol	365
Part 6: Councillor Allowances Scheme	366
Part 7: Management Structure	374



Part 1: Summary and Explanation

Contents

Page

1.	About the district	5
2.	What is in the constitution?	6
3.	How the Council Operates	6
4.	The Council's staff	7
5.	Citizens' rights	7
	Glossary of abbreviations and terms	8

1. About the district

- 1.1.1. The district of Harborough is a large, mainly rural area with a growing population of around 98,000. Long and healthy lives are enjoyed by residents of the district. Unemployment levels are lower than the national average with more than 60% of residents being economically active. Due to its location, the district is attractive in logistic terms, however 75% of businesses are in a rural location.
- 1.1.2. The district is split into 19 smaller areas (called wards) which elect the 34 councillors that make up the Council every 4 years. The most recent election was in May 2023. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 1.1.3. Councillors are required by law to follow a code of conduct to ensure high standards in the way they undertake their duties. They meet together as the Council at meetings which are normally open to the public. During the meetings, they decide the Council's overall policies and set the budget each year and are responsible for:
 - 1.1.3.1. providing a wide range of public services to the people of the district;
 - 1.1.3.2. representing and promoting the interests of Harborough when dealing with regional, national and international affairs;
 - 1.1.3.3. deciding how and where money is best spent in their area to help local people.
- 1.1.4. The Council has identified its priorities for the district and set them out in its **corporate plan**. The plan focuses on four principal areas and sets out how the Council will deliver for each priority:
 - 1.1.4.1. Place and community – ensuring there is housing to meet local needs of all ages, that growth provides employment and is designed well, recognising the rural nature of the district and that communities are involved in how that growth is shaped;
 - 1.1.4.2. Healthy Lives – giving the guidance and support to all residents to make healthy life choices, to live longer healthier independent lives, not only physically but in good mental health too.
 - 1.1.4.3. Environment and sustainability – enhancing and protecting the natural environment with improved access to open and green spaces, addressing climate issues proactively looking to future sustainable options and reducing environmental crime to further protect the environment;
 - 1.1.4.4. Economy – that local employment options are available to allow residents to prosper in the district, developing and retaining the skills employers need and supporting businesses to be successful, promoting the area to employees, employers, and visitors to ensure a stable future economy.

2. What is in the constitution?

- 1.2.1. This constitution was adopted in accordance with the requirements of the Local Government Act 2000 and guidance issued from time to time by the government. It sets out how the Council operates and contains the information the Council is required to include. It includes how decisions are made and the procedures which are followed to make sure the Council is efficient, transparent and accountable to local people. Some of these processes are required by law, while others have been chosen by the Council.
- 1.2.2 The Constitution is divided into a number of parts to make it easier to navigate:
- Part 1:** A summary and explanation of how the Council operates, including an outline of the rights of those who live and work in the district to engage with and participate in the Council's democratic processes, and a glossary of common terms used in this Constitution.
 - Part 2:** The basic rules governing the Council are separated into Articles here. They provide details of the decision-making structure, roles and responsibilities.
 - Part 3:** Who is responsible for making what decisions, including the remit of each part of the decision-making structure, whether councillor or employee focused.
 - Part 4:** Provides the administrative framework of the Council in various rules of procedure.
 - Part 5:** The codes and protocols binding councillors and employees of the Council, including guidance on the Council's practices and the law.
 - Part 6:** The current Members Allowances Scheme.
 - Part 7:** The Council's management structure.
- In the interests of efficiency and ease of use, where possible hyperlinks have been included in the constitution to improve access to relevant information.

3. How the Council Operates

- 1.3.1 The powers and responsibilities of the Council are largely set by Parliament. However, the Council has decided to deliver its functions by the following structure:
- 1.3.1.1 A Cabinet of 7 councillors who meet every 6 weeks or so to take decisions which implement the Council's policies within its budget. The Cabinet publicises the key decisions it will take in public or in private in advance, and publishes records of the decisions it takes on the Council website. The Cabinet is chaired by the Leader of the Council;
 - 1.3.1.2 Up to 3 Overview and Scrutiny Panels which monitor decisions made by Cabinet and contribute to the formation of policies adopted by the Council;
 - 1.3.1.3 The full Council of 34 councillors, which meets at least 5 times a year to perform a number of functions including, but not limited to, adopting and

- changing the constitution, approving the policy framework and budget for the Council, appointing the leader of the council and the Head of Paid Service, determining what committees to have and who should be appointed to them, appointing representatives to outside bodies and receiving reports and recommendations from other council bodies;
- 1.3.1.4 The formation of a number of Committees which can be statutory- that is required by law (such as licensing committees and those dealing with alleged breaches of the Councillor code of conduct), regulatory (such as planning) or general in nature (such as the Employment Committee);
- 1.3.1.5 Delegation of certain functions to officers.

4. The Council's staff

- 1.4.1 The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Codes of conduct and practice in Part 5 of this Constitution govern the actions of Officers, and the relationships between Officers and Councillors.
- 1.4.2 Officers may be authorised, either by the Council or Cabinet, to take certain decisions. The scope of the general powers delegated to Officers is contained in Part 3 of this Constitution. The power to make certain specific or individual decisions may also be granted, from time-to-time, to Officers by the Leader, Cabinet, a Cabinet Committee, the Council or a Council Committee.

5. Citizens' rights

- 1.5.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in [Article 3](#). Some of these are legal rights, whilst others depend on the Council's own processes.
- 1.5.2 Where members of the public use specific council services, they have additional rights. These are not covered in this Constitution.
- 1.5.3 Citizens have the right to:
- 1.5.3.1 vote at local elections if they are registered;
 - 1.5.3.2 contact their local councillor about any matters of concern to them;
 - 1.5.3.3 obtain a copy of the Constitution;
 - 1.5.3.4 attend meetings of the Council, the Cabinet, panels and committees except where confidential or exempt matters are being discussed;
 - 1.5.3.5 petition to request a referendum on a mayoral form of Cabinet;
 - 1.5.3.6 participate by submitting written questions to Council or Cabinet, and petitions to the Council;
 - 1.5.3.7 contribute to investigations by Overview and Scrutiny Panels;

- 1.5.3.8 find out, from published notices, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- 1.5.3.9 see reports and background papers except where exempt matters are to be or were discussed, and any record of decisions made by the Council and the Cabinet;
- 1.5.3.10 complain to the Council about the services it provides (in accordance with the Council's Complaints Procedure);
- 1.5.3.11 complain to the Audit and Standards Committee if they have evidence which they think shows that a councillor has not followed the Councillor Code of Conduct;
- 1.5.3.12 complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process; and
- 1.5.3.13 inspect the Council's accounts, and make their views known to the external auditor.
- 1.5.4 The Council welcomes participation by its citizens in its work and publishes information on citizen's rights on its website.
- 1.5.5 The rights of citizens to inspect agendas and reports and attend meetings is set out in the [Access to Information Rules in Part 4 of the Constitution](#)

6. Glossary of abbreviations and terms

This section of the guidance sets out the abbreviations common to local government and definitions of words and phrases to aid consistency. It is preferable to make sure that plain English is used in all documents and communications, but sometime jargon and technical terms cannot be avoided.

Abbreviations

ALMO:	Arm's-Length Management Organisation (Housing)
BVPI:	Best Value Performance Indicators (legacy term)
CAP:	Cabinet Advisory Panels
CCG:	Clinical Commissioning Groups
CCFA:	Councillor call for action
CFO:	Chief Finance Officer (also known as the Responsible Finance Officer - RFO - or section 151 officer)
CIPFA:	Chartered Institute of Public Finance and Accountancy
CPR:	Council Procedure Rules

CRF:	Community Renewal Fund
DfE:	Department for Education
DLUHC:	Department for Levelling Up, Housing and Communities
DPS:	Dynamic Purchasing System
DWP:	Department of Work and Pensions
EC:	Electoral Commission
ECAB:	Electoral Coordination and Advisory Board
EIA:	Equality Impact Assessment
EPR:	Executive Procedure Rules
FOI:	Freedom of Information
FTE:	Full-Time Equivalent
FPCR:	Finance, Procurement and Contract Rules
GBF:	Getting Building Fund
HDC:	Harborough District Council
HMRC:	His Majesty's Revenue and Customs
HoPS:	Head of Paid Service (Chief Executive)
HR:	Human Resources
HWRC:	Household Waste and Recycling Centre
IAGF:	Invitation to Apply for Grant Funding
IP:	Intellectual Property
ICT:	Information and Communications Technology
IT:	Information Technology
ITQ:	Invitation to Quote
ITT:	Invitation to Tender
JCS:	Joint Core Strategy
JCT:	Joint Contracts Tribunal (Construction Works)
LRALC:	Leicestershire and Rutland Association of Local Councils
LEP:	Local Enterprise Partnership
LGA:	Local Government Association
LGiU:	Local Government Information Unit
LGR:	Local Government Reform
LHA:	Local Highway Authority

LIVE:	Learning, Independence, Volunteering and Supported Employment
LJCS:	Leicestershire Joint Core Strategy
LLG	Lawyers in Local Government
LTA:	Local Transport Authority
LPI:	Local Performance Indicator
M&C:	Monitoring and Claim
MHCLG:	Ministry of Housing, Communities and Local Government
MO:	Monitoring Officer (Director of Governance and Law)
MTFS:	Medium Term Financial Strategy
NLW:	National Living Wage
NPPF:	National Planning Policy Framework
OH&P:	Overhead and Profit Terms (Contract)
PCSA:	Pre-construction Services Agreement
PFI:	Private Finance Initiative
PI:	Performance Indicator
PIA:	Privacy Impact Assessment
RAG:	Red Amber Green (Rating – Projects)
RIBA:	Royal Institute of British Architects
RO:	Returning Officer (Chief Executive)
RPI:	Retail Price Index
S106:	Section 106 Agreement (Town and Country Planning Act 1990)
S151:	Section 151 (Local Government Act 1972) (Director of Finance)
SEMLEP:	South East Midlands Local Enterprise Partnership
SIRO:	Senior Information Risk Officer
SI:	Statutory Instrument
SMEs:	Small to Medium Sized Enterprises
SoS:	Secretary of State
SR:	Spending Review
SRO:	Senior Responsible Officer
SSA:	Sustainable Site Assessment
WGA:	Whole of Government Accounts

Access to Information Rules	The rules which govern meetings of, and information held by, the Council, including by councillors and the public, found in Part 4 of the Constitution. This includes provision for attending meetings, accessing reports considered, reporting on proceedings, production of minutes, availability of background papers and preventing the public from attending meetings during the consideration of exempt or confidential material. It also covers the “call-in” of decisions.
adjourned	To suspend (i.e., a meeting) with the intention to resume it later
advisor	A person, who is neither a councillor nor an officer of the Council, appointed by a committee, sub-committee or panel to advise on specific matters or generally. This person cannot vote on council decisions.
Annual Governance Statement	A public statement which reviews how well the Council has kept to its Governance rules
Annual Statement of Accounts	See Statement of Accounts.
Anti-Fraud and Corruption Strategy	The Council’s strategy for protecting its valuable resources which describes the expectations and practices to avoid their loss.
approved supplier list	A list of suppliers which have met specific criteria to enable them to provide particular goods or services to the Council.
asset management strategy	The Council’s approach to getting the best possible value and revenue from things it owns (assets), such as buildings, land, roads, and technology.
Audit and Standards Committee	The Council has established an Audit and Standards Committee to act as an advisory committee to the Council and the Cabinet on audit and governance issues. The functions that are to be discharged by the Committee are not executive functions and cannot be discharged by the Cabinet.

background papers	The law says that report authors must list any papers used in compiling a report for decision, and these papers must be available for 4 years to anyone wishing to inspect them.
balance sheet	A statement of the Council's assets, liabilities, and capital at a particular point in time which details the balance of the Council's income and expenditure over the preceding period.
best value	The optimum combination of whole life costs, quality and benefits, including economic, environmental and social value to meet the customer's requirement
budget	Every year the Council puts a financial plan in place which describes how and where the Council will spend money to provide services and deliver the aims which it set out in its corporate plan. It also sets the level of council tax which it will charge in the next financial year. The budget sets out the money which the Council intends to spend during the year against the money available which has been received in council tax, income, and grants.
budget and the policy framework	The budget, plans and strategies, which have to be adopted by the full Council and within which the Cabinet, and officers, have to operate (see Article 4 and Part 4).
business rates	The income collected from businesses in the district based on rateable values set by the Valuation Office.
Cabinet	<p>Sometimes known as the Executive, the Cabinet is the Council's decision-making body responsible for making the majority of decisions. The Cabinet makes decisions within a policy framework and budget set by the whole Council. The Cabinet is made up of the Leader and up to nine other Members, including a Deputy Leader, appointed by the Leader.</p> <p>The term "Cabinet" includes any successor acting collectively or individually and shall also include officers with delegated</p>

responsibility for Cabinet functions – see further **Part 3 of the Constitution (Responsibility for Functions)**.

Cabinet Advisory Cross Party meetings of elected members established by the Cabinet where policy is developed and recommendations are made to Cabinet. They are consultative forums with no decision-making powers but promote inclusive decision-making. They may also involve individuals with specific expertise who are not councillors.

Cabinet member A councillor appointed to the Cabinet by the Leader. Some Cabinet members are assigned responsibility for a specific portfolio and are sometimes referred to as Portfolio Holders. Cabinet members can also make decisions when Executive powers to do so are delegated to them by the Cabinet or Leader.

Cabinet Procedure Rules See Executive Procedure Rules

Call-in A mechanism, which allows the Overview & Scrutiny Panels to examine, and challenge, an Executive decision before it is implemented.

Call-off A purchase from an existing framework agreement that creates a new contract.

Capital Expenditure on an item or related group of items is normally defined as capital expenditure if it will last for more than a year, and cost more than £10,000 in total, excluding VAT.

Capital Programme The Council's medium to long term plan for investing in its asset base. The Capital Programme is part of the Medium-Term Financial Strategy which sets out capital projects approved by full Council over a medium term, multi-year period. Such items follow a rigorous selection process and are funded from the Council's capital funds.

Chairman of the Council The Chairman of the Council is the councillor who chairs meetings of the Council and carries out a variety of civic and ceremonial duties. The Chairman is elected to the role by the other councillors, usually at the Council's Annual Meeting. The Chairman cannot be a Cabinet member and is assisted in their work by the Vice-Chairman (see further [Article 4 at Part 2 and the Civic Protocol at Part 5 of the Constitution](#)).

Chief Executive The Council's most senior Officer who is responsible for the management and direction of the Council's staff. The Chief Executive is accountable to the Leader of the Council, the Cabinet, and the Council as a whole. The Chief Executive is also generally designated as the Council's Head of Paid Service - a statutory role. The postholder has powers set out in law as well as the powers given to them by this Constitution (see further [Article 9 in Part 2 and Part 3 of the constitution](#)).

Chief Finance Officer The Chief Finance Officer (CFO) is a Statutory Chief Officer. Their powers are set out in legislation. The CFO is also referred to as the Section 151 Officer because the most important function of the role is imposed by section 151 of the Local Government Act 1972. Every Council must appoint a CFO to manage the Council's finances and provide expert financial advice to the Council. The CFO must be a qualified accountant and must ensure that the Council does not spend more money than it has to carry out its plans (this is called a balanced budget). The CFO can also be known as the Responsible Finance Officer (RFO).

Chief Officers The most senior Council staff, defined by section 43 of the Localism Act 2011 as:

- a. the Head of Paid Service;
- b. a chief executive of a corporate joint committee;
- c. the Monitoring Officer;
- d. statutory chief officers (section 2(6) of the Local government and Housing Act 1989);
- e. a non-statutory chief officer (section 2(7) of the Local Government and Housing Act 1989);

- f. a deputy chief officer (section 2(8) of the Local government and Housing Act 1989).

The description also applies to:

- g. a person for whom the Head of Paid Service is directly responsible;
- h. a person who, as respects all or most of the duties of their post, is required to report directly (or is directly accountable) to the Head of Paid Service; and
- i. any person who, as respects all or most of the duties of their post, is required to report directly (or is directly accountable) to the local authority themselves, the Cabinet or any committee or sub-committee of the authority, whose duties are not solely secretarial or clerical, or otherwise in the nature of support services;

clear [working] days	Relevant to notices e.g. all agendas and papers for decision in public must be available 5 clear working days before the decision is taken (special rules can apply to urgent late items). The five days does NOT include the day the papers are sent out or the date of the meeting (hence the use of 'clear'). 'Working' is taken to be Monday to Friday inclusive and excludes Saturdays, Sundays and Bank Holidays
combined work plan	The document maintained by Democratic Services showing all Key Decisions and other significant decisions which are on the Forward Plan and the internal deadlines and processes for getting the decision to the declared decision meeting / period.
commercial agreement	A type of contract for goods or services in exchange for something in return, usually money.
commissioning	Within the Council, the process of buying services from outside the Council and monitoring and managing the purchase and carrying out of those services.
committee	A Committee is a formal group of councillors whose remit, terms of reference and operating rules are set out in the Council's constitution. There are many different committees – see Article 7 at Part 2 of this Constitution. Each one makes decisions about a specific area of responsibility – for example planning or

licensing. Individuals who are not councillors may be involved in the committee by co-option.

concession contract	Contracts for pecuniary interest, where the consideration is either that the Supplier has the right to exploit the works / services that are the subject of the Contract, or where the Supplier has that right together with some payment from the Contracting Authority
confidential information	<p>In relation to meetings and reports this is information which the Council has received from a Government department on terms which cannot be disclosed publicly. It can also be information which:</p> <ul style="list-style-type: none">(i) the Council cannot disclose due to a court order or legislation; or(ii) is not public and is information which was given to the Council in such a way that made it clear it was meant to be kept confidential.
constitution	The governance document, or ‘rule book’, which sets out how the Council will make decisions and who will make those decisions. It also sets out how residents and others can participate.
contract	An agreement which: may be oral, written, partly oral and partly written or implied from conduct between the Council and another person; gives rise to obligations which are enforceable or recognised by law (i.e. legally binding) and commits the Council to paying or doing something. A reference to a contract may also include a contract to which the Finance, Procurement and Contract Rules apply (see further Part 4 of the Constitution) and a “call off contract” means an order made or call off contract entered into under a Framework Agreement.
contracting authorities	National, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or on or several of such bodies governed by public law.

contractors	See suppliers.
Contract Finder	The government portal for information on public sector contracts.
contract management	The process of ensuring the contract results in the benefits and outcomes envisaged and that the advantages secured during the tendering phase are realised and improved through further proactive performance management during its term.
contract management system	The IT system and associated processes used to support supplier and contract management, providing visibility and a single view of all Council contracts. It is also the Council's contract register.
Contract Procedure Rules	see Finance, Procurement and Contract Rules.
co-optee / co-opted	A non-councillor (may be non-voting) appointed to serve on a Committee / Sub-Committee in a participatory capacity.
corporate plan	Sets out the Council's vision and priorities for the area.
Council	<p>The term often used to refer to the whole organisation (i.e., councillors and officers); but see full Council below. Harborough District Council is led by councillors who are elected by the public. They set the priorities and the budget for the organisation. Staff working for the Council</p> <p>(officers) deliver the day-to-day operations. The word Council is used to refer both to the organisation as a whole and specifically to the decision-making body.</p>
council body	May include any Committee, Board, Panel, or informal working group.

councillor	A councillor is elected and is a member of the Council. Councillors stand for election normally every four years and are accountable to the residents of a specific area (their electoral ward) but are responsible for making decisions for the entire council area. Councillors do not have to be a member of a political party, but most are. Those who do not are known as 'un-grouped' or 'independent' councillors.
councillor call for action	The Councillor Call for Action allows councillors to refer matters of concern within the community to the relevant Committee, providing them with additional powers to respond to local community concerns which have proved difficult to resolve.
Council Procedure Rules	Rules governing meetings of Council committees and sub committees, apart from the Cabinet (see further Part 4 of the Constitution).
council tax	The income collected from residents based on banded property values and which funds a significant proportion of council services.
debt management action	The Council's strategy to manage and recover the sums of money it is owed.
decision	The choices and agreements made on a particular issue. The Council's Constitution sets out the rules on how formal decisions are to be taken in compliance with the law (see also Key Decisions). The Constitution also sets out how decisions are to be recorded and published.
delegatee	A person to whom authority, power, responsibility, etc., is delegated.
delegation	Formal authorisation for a committee, Cabinet Member, joint committee or officer to take an action, which is the ultimate responsibility of the Council or Cabinet.

delegator	A person or group delegating authority, power, responsibilities, etc., to another person or group (the delegatee).
deputy chief officer	A person who, for all or most of the duties of their post, reports directly (or is directly accountable) to a chief officer and whose duties are not solely secretarial or clerical, or otherwise in the nature of support services;
development plan	Means the Council's local plans and other documents that set out the policies and proposals for the development and use of land within the administrative area of Harborough District Council.
director	The Council's most senior officers report directly to the Chief Executive and are accountable to Members and the Cabinet – see also Chief Officer.
disclosable pecuniary interest	A disclosable interest means something which a councillor must declare in a meeting relating to their role outside the Council which could impact on their decisions for the Council – see further the Councillor Code of Conduct at Part 5 of the Constitution. A pecuniary interest is a financial interest as defined in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.
elected member	See Councillor.
Employment Committee	Under the Local Government Act 1972 the Council has established an Employment Committee. Employment matters are not Executive functions and cannot be discharged by the Executive. The powers and responsibilities of the Employment Committee are set out in Part 3 of the constitution the Constitution but generally deal with employment matters relating to specified senior Officers.

Executive Procedure

Rules (EPR)	The rules governing executive meetings and functions, including Cabinet sub-committees.
exempt information	In relation to meetings and reports this means information which can be withheld from the public. It must pass one of seven tests in order for it to be exempt and it must also be in the public interest to do so. If an item is deemed to be exempt during a public meeting, then members of the public and any press have to leave the meeting while exempt information is being discussed. See further the Access to Information Rules at Part 5 Section 4 of this Constitution.
EU Procurement Regulations	<p>The collective term for trade agreements and arrangements, including:</p> <ul style="list-style-type: none"> - the Agreement on Government Procurement (GPA) entered into via the World Trade Organisation; - the European Community Treaty (EU Treaty)*; - any relevant regulations, directives, or decisions of the European Community*; - any Acts of Parliament or statutory instruments implementing the above for the time being in force in the United Kingdom; - any relevant judgements of the European Court of Justice* or UK courts. <p><i>*These will continue to be followed at the present time until replaced, even though the United Kingdom has left the European Union.</i></p>
external auditors	An independent auditor appointed to review the Council's financial and management arrangements.
financial year	The financial year for the Council is not the same as the calendar year – it starts on 1 April and ends on 31 March.
Finance, Procurement and Contract Rules	The rules which set out how the Council will manage its financial affairs (Part 4 Section 6 of the Constitution).

Financial Scheme of Delegation	The financial limits on spend set up by service area – see Part 4 section XX of the Constitution .
Find a Tender	The UK e-notification service in which all tenders from the public sector above relevant thresholds must be published.
follow on decisions	Means a decision on consequential matters following a decision to approve a Planning Application. These include but are not limited to: approval or discharge of planning conditions, legal agreements, and non-material amendments.
Forward Plan	A list of the 'Key Decisions' the Council will make over the next one to four months. The Forward Plan also includes a summary of any reports which will be presented to the Cabinet. You can view the Forward Plan for the Council on its website.
framework	A term used in different ways which refers to the way that the Council operates - for example, policy framework, commissioning framework, governance framework.
framework agreement	An agreement which sets out the terms and conditions under which the Council can make specific purchases ("Call-Off") from a Supplier(s) to provide services, goods or works at agreed standards and prices. If the Council calls off services, goods or works from the Supplier then a binding Contract is formed.
full Council / Council	The full Council is all the councillors who make up Harborough District Council. Full Council meets throughout the year with the meeting being chaired by the Chairman. Full Council takes specific decisions, including setting the budget. It also appoints committees to make decisions about specific issues such as planning and licensing. It operates in accordance with the Council Procedure Rules at Part 4 of the constitution.
function	Within the Council, a function is something the Council provides or does, by choice (i.e. discretionary) or as a duty (statutory) -

for example leisure services and household waste collection respectively. It also includes “power” and “responsibility”.

grant

For the purposes of this constitution means a formal agreement giving financial assistance to an individual or organisation to assist in meeting its general purpose or objectives but where the specific supply of goods, works or services is not required in return. There should be award criteria, performance targets and conditions on how the money is spent and Officers should monitor these in accordance with the terms of the grant agreement.

Head of Paid Service

The Head of Paid Service is a Statutory Chief Officer appointed by Council with responsibility for the employment of Council officers (generally the Chief Executive) ([See Article 9](#)).

Head of service

a person, other than the Head of Paid Service, whose post is titled “Head of (a service or services)” and whose duties are not solely secretarial or clerical, or otherwise in the nature of support services.

Health and Wellbeing Board

The Health and Wellbeing Board is a statutory committee that enables key leaders from across Leicestershire to secure better health and wellbeing outcomes for the local population, better quality of care for all patients and care users, better value for the taxpayer and reduce health inequalities by shaping the future of services through a more integrated approach to commissioning health and wellbeing related services.

independent person

The Council must have at least one designated independent person who is not a councillor or a member of staff in accordance with section 28(7) of the Localism Act 2011. The independent person is consulted about complaints made against councillors and also about the dismissal of any of the Council’s statutory officers and attend the committees dealing with councillor standards issues and Audit matters.

interpretation

The ruling of the Chairman of the Council as to the construction or application of the Constitution or as to any proceedings of the

Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution. Any references to legislation contained within the Constitution includes subsequent amendments to that legislation.

joint committee

A body appointed under Section 101 of the Local Government Act 1972 (e.g. crematoria committees).

Key Decision

Key Decisions are Executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:

- Result in the Council incurring expenditure which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- Are deemed significant in terms of their effect on communities living or working within the area of the Council. The Council has decided that a significant decision financially is £50,000.

Leader (of the Council)

Councillors elect a person who will be the Leader of the Council. Usually this is the leader of the largest political group on the whole Council. The Leader of the Council is also the Leader of the Cabinet and will appoint up to nine other councillors to form the Cabinet to take executive decisions on behalf of the Council. The Leader can appoint a Deputy Leader from the councillors appointed to the Cabinet (see further [Article 5 in Part 2 of the Constitution](#))

legal professional

Confidential communications between lawyers and their clients can be withheld from a court or from a third party using legal professional privilege.

legislation

Laws made by Parliament in the form of Acts of Parliament (a Statute) or Statutory Regulations or By-laws which can be made by the Council.

Medium Term Financial Strategy (MTFS)	Sets out the Council's budget (revenue and capital) over a period of more than one year and is linked to the Corporate Plan and Service Plans.
Member	A member of a committee or panel.
minutes	The formal written record of a meeting. Minutes of Harborough District Council meetings are available on the Council's website.
Monitoring Officer	The Monitoring Officer is a Statutory Officer responsible for the lawful and good governance of the Council due to section 5 of the Local Government and Housing Act 1989. This includes responsibility for the Constitution, decision-making and the conduct of Council officers and councillors. It also includes the conduct of local councillors (i.e. Town and Parish). (see further Article 9 of Part 2 and Part 5 of the constitution).
motion	A proposal for a discussion or debate.
municipal year	The period between annual meetings of the Council. The municipal year is neither the calendar year, school year or financial year, but rather usually starts and ends in May. There is no fixed date and as such the number of days in a municipal year varies slightly.
natural justice	The right of all parties in proceedings to a fair hearing before an impartial tribunal (which includes a committee)
officer	Someone employed by the Council.
other disclosable interest	An interest which is not a pecuniary interest but is disclosable by members as set out in the Councillor Code of Conduct (see Part 5 of the Constitution)
overview and scrutiny	Also referred to as a Scrutiny Committee these committees

panel	support and challenge the work of the Cabinet and help hold it to account. The Scrutiny Committee is made up of councillors who are not part of the Cabinet.
permission in principle (PIP)	Means an application by a developer to the Council to determine a housing development is acceptable in principle only and does not include technical details. A Permission in Principle is not a grant of planning consent.
plan	A document setting out in detail how to achieve a desired outcome;
planning applications	Means planning applications for full and outline consent as well as applications for reserved matters approvals and, for the avoidance of doubt, excludes Permission in Principle (PIP) and Related Matters.
policy	A document which sets out a strategic objective for the Council and provides a framework of principles and guidelines which must be followed to achieve those objectives.
policy framework	Refers to the Council's strategies and policies as set out in Part 4, Section 3 of the Constitution.
political proportionality	A legal principle which dictates that Committees of the Council (but not the Cabinet) must include elected politicians in proportion to the size of their groups on the Council as a whole.
point of order	Where a councillor considers that a breach of the Council Procedure Rules or legislation has occurred within a debate.
portfolio	Within the Council, a portfolio is a specific area of responsibility - for example housing. The portfolios and who is responsible for each area (the Cabinet members) on the website and in the Constitution.

procedure	The means by which a strategy or policy will be implemented or a process which must be followed.
procurement	How the Council identifies, sources, selects, and manages the resources it needs to buy in to deliver services or meet its strategic objectives.
Procurement and Contract Rules	The part of the Constitution that sets out the procedures to be followed when seeking to establish a contract with an external supplier- contained within the Finance, Procurement and Contract Rules in Part 4 of the Constitution.
proper officer	A term used to refer to the Council's lead Officer for a particular function. The list of Proper Officers is in Part 3 of the Constitution .
protocol	A document recording conventions, agreements etiquette or precedence
publication	Provision of information on the Council's website, in the local press and available for inspection at the Council's registered office.
quorum	The minimum number of attendees who have to be present at a meeting of the Council, a Committee or Sub-Committee etc to conduct its business.
registered office	The Council's main office for service of documents and inspection of documents is The Symington Building, Adam and Eve Street, Market Harborough, Leicestershire, LE16 7AG.
Regulatory committee	The committee which discharges the Council's regulatory functions other than licensing under the Licensing Act 2003.

related matters	Means applications for permitted development, prior approvals, advertisement consent, tree preservation orders, high hedges, and listed building consent.
representations	Members of the public can give their views on any Cabinet or Cabinet member reports or on any proposed decision by informing Democratic Services by the deadline outlined on the meeting agenda.
reserves	Sums of money set aside on the Council's balance sheet. The Council has 'general reserves', and 'earmarked reserves' which are set aside for a specific purpose.
scheme of delegation	A Scheme of Delegation sets out how the Council and the Cabinet have delegated authority to a committee or another body, or to an individual Cabinet member or officer to exercise their powers or perform their functions. The Officer Scheme of Delegation concerns those powers and functions delegated to officers. The Scheme of Delegation will also specify any limits on the delegated authority
scrutiny committee	See overview and scrutiny panel
seal	The Monitoring Officer has custody of the Common Seal of the Council and is responsible for ensuring that the seal is only affixed in accordance with procedures and permissions determined by the Monitoring Officer. The Common Seal of the Council may be affixed electronically in accordance with the Electronic Communications Act 2000, provided that the Monitoring Officer is satisfied that proper arrangements are in place for the use and application of an electronic version of the Common Seal of the Council.
Section 151 Officer (S151 Officer)	See Chief Finance Officer.
Significant operational decision	This is either: i) a Key Decision; or

(ii) a decision that would otherwise have been taken by the full Council, a committee or sub-committee of the Council but has been delegated to an officer either:

- a) under a specific express authorisation; or
- b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (aa) grant a permission or licence;
 - (bb) affect the rights of an individual; or
 - (cc) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position, which is taken to mean expenditure in excess of £100,000 (excluding social care packages or placements)

standards complaint	Refers to a complaint that a councillor has failed to comply with the relevant Councillor Code of Conduct. It can be made against an elected or co-opted councillor of the unitary authority or of a local council, i.e. a town or parish councillor.
statement of accounts	A document required by law which sets out the Council's financial position at 31 March each year and includes the Council's income and expenditure for a given financial year.
statute	An Act of Parliament – the law – see also legislation.
statutory	Required by law. Councils have statutory duties including preventing homelessness, safeguarding children and vulnerable adults, providing education, maintaining roads, managing community safety, and enforcing regulations e.g. in relation to planning, licensing and the environment.
statutory chief officers	<p>The Council is required by law to appoint officers in certain key roles. The Statutory Chief Officer roles are:</p> <ul style="list-style-type: none">- the Head of Paid Service;- the Monitoring Officer; and- the Section 151 Officer.

statutory officers	The Council is required by law to appoint other officers including a Data Protection Officer
strategy	A general plan or set of plans intended to achieve something, usually over a long period
sub-committee	A group of elected councillors from the committee in question convened to undertake a particular task or perform a particular function. The sub-committee then reports back and is accountable to the committee.
substitute	Some committees permit councillors to appoint a substitute (or reserve) councillor to attend a meeting, which they cannot attend themselves (for regulatory committees, the substitute must have completed the required training).
summons	The term used to describe the Agenda for meetings of the full Council.
suppliers	Also known as contractors, suppliers are those parties which enter into a contract with the Council to provide goods or services.
trading account	Services which are funded by generating income from internal and external sources.
treasury management strategy	The way in which the Council manages its cash, borrowing, lending and investments, and associated risks.
virement	The movement of money from one budget heading to another.
vires	
(intra vires /	A Latin phrase which means 'powers'. Within the Council

ultra vires)

vires concerns the power or lawful authority to make a decision, perform a function, or undertake an action. A decision made, function performed, or action undertaken will be 'intra vires' if the Council has the power and lawful authority to do it and 'ultra vires' if it does not.

ward

A ward is an electoral area determined by the Boundary Commission. Harborough District Council has 19 wards. The number of Councillors representing a ward varies from 1 to 3 depending on the size of the ward.



Part 2: Articles of the Constitution

Contents		Page
Article 1	The Constitution	32
Article 2	Members of the Council	35
Article 3	Citizens of the Council	38
Article 4	The Council	40
Article 5	The Leader and Cabinet	43
Article 6	Overview and Scrutiny Arrangements	50
Article 7	Regulatory and Other Committees	53
Article 8	Joint Arrangements	58
Article 9	Officers	63
Article 10	Decision-Making	70
Article 11	Finance, Contracts and Legal Matters	75

Article 1: The Constitution

- 2.1.1. This Constitution, and all its appendices, is the Constitution of Harborough District Council.
- 2.1.2. The Council will exercise all its powers and duties in accordance with the law and this Constitution. In the event that the Constitution conflicts with the law, the law shall prevail.
- 2.1.3. The Constitution sets out everything anyone who has dealings with the Council would need to know about how the Council conducts its business, who takes which decisions and how to work with the Council. The purpose of the Constitution is therefore to:
 - 2.1.3.1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
 - 2.1.3.2. support the active involvement of citizens in the process of local authority decision-making;
 - 2.1.3.3. help Councillors represent their constituents more effectively;
 - 2.1.3.4. enable decisions to be taken efficiently and effectively;
 - 2.1.3.5. create a powerful and effective means of holding decision-makers to public account;
 - 2.1.3.6. ensure that no one will review or scrutinise a decision in which they were directly involved;
 - 2.1.3.7. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
 - 2.1.3.8. ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council; and
 - 2.1.3.9. provide a means of improving the delivery of services to the community in accordance with the aims expressed in the Council's Corporate Plan.
- 2.1.4. For the avoidance of doubt, the Constitution will be read, construed and applied in accordance with such legislation as is in force.
- 2.1.5. Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above at paragraph 2.1.3.
- 2.1.6. The Full Council will monitor and evaluate the operation of the Constitution.
- 2.1.7. The Chairman of the Council shall make any final decision regarding the application of the Constitution, in consultation with the Monitoring Officer.

Changes to the Constitution

2.1.8. Changes to the Constitution will be made as follows:

2.1.8.1. Substantive changes to the Constitution must be approved by Council after consideration by the Constitution Review Committee must be communicated to Members;

2.1.8.2. The Monitoring Officer¹ has delegated authority to amend the Constitution and make consequential changes in respect of:

2.1.8.2.1. factual references;

2.1.8.2.2. a change in the law;

2.1.8.2.3. when notified of revised arrangements for the distribution of responsibilities and the delegation of powers (such as to Cabinet members by the Leader and Officers by the Head of Paid Service);

2.1.8.3. The Chief Finance Officer² has delegated authority under the **Scheme of Delegation** (Part 3 of the Constitution) to amend the Council's **Financial, Procurement and Contract Rules** (see further Part 4 of this Constitution).

2.1.9. Any amendment to the Constitution must be recorded and published³.
Councillors will be informed of any changes made.

Suspension of the Constitution

2.1.10. The Constitution of the Council may not be suspended however certain Rules of the Council set out in this Constitution may be suspended:

2.1.10.1. in accordance with any procedures set out in those rules; or

2.1.10.2. by resolution of the full Council to the extent permitted by law.

Publication

2.1.11. The Monitoring Officer will ensure that:

2.1.11.1. the Constitution is brought to the attention of each Councillor upon delivery to them of that individual's declaration of acceptance of office on first being elected to the Council;

¹ See further **Article 9** and the **Officer Delegation Scheme** in Part 3 of the Constitution

² See further Article 9 and the Officer Delegation Scheme in Part 3 of the Constitution

³ Any amendment approved at a meeting of the Council will be recorded in the minutes of the meeting. Any amendment approved by an officer under delegated authority, must be recorded as a written record and published

- 2.1.11.2. the Constitution is kept up to date and available on the Council's website, together with a log of changes made;
- 2.1.11.3. if a member of the media or public requires a printed copy of the Constitution it will be provided on payment of a reasonable fee to be determined by the Monitoring Officer;
- 2.1.11.4. a summary of the Constitution⁴ is made widely available and is updated as necessary.

⁴ i.e. Part 1 of this Constitution

Article 2: Members of the Council

Composition and Eligibility

- 2.2.1. The Council has 34 Members, called councillors. One or more councillor will be elected by the voters of each ward in the district in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.
- 2.2.2. Only registered voters of the District, or those living or working there, who are not disqualified from holding office, will be eligible to hold the office of councillor.

Election and terms of councillors

- 2.2.3. The regular election of councillors will be held on the first Thursday in May every four years, beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.
- 2.2.4. Casual vacancies which may arise as a result of a councillor ceasing to hold office before the end of their term are filled by the holding of a by-election. The by-election shall be held on an appropriate Thursday. However, when a person ceases to be a Member in the final six months of their term of office, the election may be held in abeyance until the normal May election.

Rights and duties of all councillors

- 2.2.5. All councillors will:
 - 2.2.5.1. have 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;
 - 2.2.5.2. 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 (see further the **Access to Information** Rules in Part 4, Section 2 of this Constitution);
 - 2.2.5.3. at all times observe the **Councillor Codes and Protocols** set out in Part 5 of this Constitution.
 - 2.2.5.4. be entitled to receive allowances in accordance with the **Councillors' Allowances Scheme** set out in Part 6 of this Constitution;
 - 2.2.5.5. not (unless authorised by Council or a Committee) inspect any lands or premises which the Council have the right or duty to inspect or enter upon or issue any order respecting any works which are being carried out by on or behalf of the Council;

- 2.2.5.6. be able to access committee rooms at The Symington Building, when not otherwise in use, for the purpose of conducting any business or discussing any matter relating to the work of the Council;
- 2.2.5.7. be provided with training and development to enable them to perform their duties as a councillor. Some training will be designated as essential⁵ and councillors will be supported and encouraged to take up that training.

Roles and Functions

- 2.2.6. All councillors are accountable to the Full Council and those who live and work in the district. They will:
 - 2.2.6.1. contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making (i.e. be an advocate of and for the community);
 - 2.2.6.2. participate effectively in the governance and management of the Council by contributing actively to the formation and scrutiny of the authority's policies, budget, strategies and service delivery by:
 - 2.2.6.2.1. developing and maintaining good working relationships with relevant Officers of the authority; and
 - 2.2.6.2.2. making decisions; and
 - 2.2.6.2.3. liaising with other bodies to promote better understanding and partnership working;
 - 2.2.6.3. balance different interests identified within their ward, and represent the ward as a whole (even if this impinges upon the ability to act as an advocate of an individual constituent);
 - 2.2.6.4. deal fairly with individual casework and act as advocate for constituents in trying to resolve Council related grievances or concerns;
 - 2.2.6.5. champion the causes which best relate to the interests and sustainability of their ward and the local community as a whole, and campaign for the improvement of the quality of life in terms of equity, economy and environment across the District;
 - 2.2.6.6. be available to represent the Council on other bodies and participate in the activities of an outside body to which they are appointed, providing two-way communication between the organisations, developing and maintaining a working knowledge of the Council's policies and practices in relation to that body, and of the community's needs and aspirations in respect of that body's role and functions;

⁵ A list of essential training will be maintained by Democratic Services

2.2.6.7. maintain the highest standards of conduct and ethics; and

2.2.6.8. participate in the activities of any political group of which they are a member.

2.2.7. Councillors who take on positions of special responsibility (such as the Leader, Chairman of the Council, Cabinet Member etc) will have additional roles and functions to perform, which are set out in the article⁶ relevant to that role.

⁶ Leader and Cabinet Members – Article 5

Chairman of the Council – Article 4 and the Civic Protocol at Part 5 of the Constitution

Chairman of Committees – Article 7

Chairman of scrutiny panel – Article 6

Article 3: Citizens and the Council

Rights of the public

2.3.1. Members of the public have the following rights⁷:

2.3.1.1. **Voting and petitions** - people on the electoral roll for the district have the right to vote and sign a petition to request a referendum on a different form of governance;

2.3.1.2. **Information** – members of the public and representatives of the media can:

2.3.1.2.1. attend meetings of the Council, Cabinet, Committees and Panels (except where confidential or exempt information is likely to be disclosed and the meeting is held in private);

2.3.1.2.2. find out what Key Decisions will be taken and when;

2.3.1.2.3. see agendas for meetings, reports by officers, background papers and records of decisions (except for those that contain confidential or exempt information); and

2.3.1.2.4. inspect the Council's accounts and make their views known to the external auditor.

Public rights to information and participation are explained in more detail in the [Access to Information Rules](#) in [Part 4, Section 2](#) of this Constitution.

2.3.1.3. **Participation** – members of the public have the right to ask questions and speak at meetings as set out in the [Part 4 of](#) this Constitution;

2.3.1.4. **Complaints** - members of the public have the right to complain:

2.3.1.4.1. to the Council under its complaints scheme;

2.3.1.4.2. to the Local Government and Social Care Ombudsman, after using the Council's own complaints scheme;

2.3.1.4.3. about breaches of the [Councillor Code of Conduct](#) (see further Part 5 of the Constitution) in accordance with the arrangements⁸ adopted by the Council for investigating such complaints;

⁷ The rights set out in this article are subject to the [Council Procedure Rules, Executive Procedure Rules, Access to Information Rules and the Scrutiny Procedure Rules](#), set out at [Part 4 of this](#) constitution. They are in addition to a citizen's other private rights, such as the right to make a subject access request under the Data Protection Act 2018.

⁸ [The arrangements](#)

Citizens' responsibilities

- 2.3.2. Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. Anyone causing a disturbance in a meeting will be removed from that meeting.
- 2.3.3. Members of the public should comply with the law and the Council's procedures when dealing with the Council.

Article 4: The Council

2.4.1 The 'full' Council is a meeting of all 34 elected councillors. It operates in accordance with the **Council Procedure Rules** (see Part 4, Section 1 of the constitution). Each year, at the start of a new municipal year, the councillors meet in the Annual Meeting of Council. Thereafter, they are scheduled to meet a minimum of four times in the year at Ordinary Meetings of Council. If there is special business to transact, an Extraordinary Meeting may be arranged.

Functions and Powers

2.4.2 The Council alone may exercise a number of functions, allocated to it by statute, including:

- 2.4.2.1 adopting and changing the Constitution;
- 2.4.2.2 approving the policy framework;
- 2.4.2.3 approving the budget;
- 2.4.2.4 appointing and removing the Leader of the Council;
- 2.4.2.5 appointing the Chairman and Vice Chairman of the Council;
- 2.4.2.6 agreeing and / or amending the terms of reference for committees, deciding on their composition, and making appointments to them;
- 2.4.2.7 subject to the urgency procedure contained in the, Access to Information Rules in Part 4(2) 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 contrary to / not wholly in accordance with, the budget;
- 2.4.2.8 appointing representatives to outside bodies (unless the appointment is an executive function or has been delegated by the Council);
- 2.4.2.9 adopting a councillor allowances scheme and amending, revoking or replacing such a scheme;
- 2.4.2.10 adopting the pay policy statement;
- 2.4.2.11 confirming and terminating the appointment of the Head of Paid Service;
- 2.4.2.12 those non-executive functions specified as being the responsibility of the Council in this constitution;
- 2.4.2.13 changing the name of the Council or conferring an honorary title⁹;
- 2.4.2.14 make, amend, revoke, re-enact or adopt by-laws and promote or oppose the making of local legislation or private bills;

- 2.4.2.15 all other matters which, by law, must be reserved to the Council; and
- 2.4.2.16 the local choice functions the Council has reserved to itself (rather than being the responsibility of the Leader of the Council), subject to any delegation of the function set out in this constitution (see further the Local Choice delegations at Part 3 of this constitution).
- 2.4.3 The Council appoints a number of committees to which it delegates the ability to discharge some of its functions. The details of the committees created, and the functions delegated to each, are set out in Part 3, Section 3 of this constitution. The Committees are appointed at the Annual Meeting of the Council, and membership may be varied subsequently at an ordinary meeting of the Council.
- 2.4.4 The Council also delegates some of its functions to officers to perform – the nature and extent of the delegations are set out in Part 3, section 4 of the constitution.

Policy Framework

- 2.4.5 The Policy Framework is the plans and strategies that must be approved and or adopted by the full Council:
 - 2.4.5.1 the plans and strategies required by law¹⁰ to be approved or adopted by the Council:
 - 2.4.5.2 Crime and Disorder Reduction Strategy¹¹;
 - 2.4.5.3 Local Transport Plan¹²;
 - 2.4.5.4 Development Plan Documents, Plans and Alterations¹³;
 - 2.4.5.5 Licensing Authority Policy Statement¹⁴;
 - 2.4.5.6 Statement of Licensing Policy¹⁵; and
 - 2.4.5.7 Pay Policy Statement;
 - 2.4.5.8 the plans which government guidance recommends should be adopted by the Council as part of the policy framework:
 - 2.4.5.9 the Corporate Plan;
 - 2.4.5.10 any other plan or strategy that may be relevant to such emerging government guidance.
 - 2.4.5.11 the plans and strategies over which the Council has the power to choose whether they should be adopted by the Council or left to the Cabinet to adopt, and the Council has determined that they should be adopted by the Council as part of the Policy Framework, as follows:

¹⁰ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and regulations made under section 23 of, or Schedule 2 to the Localism Act 2011

¹¹ Sections 5 and 6 of the Crime and Disorder Act 1998

¹² Section 108(3) of the Transport Act 2000

¹³ Section 15 of the Planning and Compulsory Purchase Act 2004(3), Part 2 of, and Schedule 8 to, the Planning and Compulsory Purchase Act 2004

¹⁴ Section 349 of the Gambling Act 2005

¹⁵ Section 5 of the Licensing Act 2003

- 2.4.5.12 Capital Strategy and Programme;
 - 2.4.5.13 Financial Strategies;
 - 2.4.5.14 Cultural Strategy;
 - 2.4.5.15 Consultation and Communication Strategy;
 - 2.4.5.16 Supplementary Planning Guidance;
 - 2.4.5.17 any other plans and strategies submitted to full Council by the Cabinet;
and
 - 2.4.5.18 such other plans or strategies that will form a new area of policy for the authority (as decided upon by the Head of Paid Service).
- 2.4.6 The “Budget” includes:
- 2.4.6.1 the allocation of financial resources to different services and projects;
 - 2.4.6.2 proposed contingency funds;
 - 2.4.6.3 the council tax base;
 - 2.4.6.4 setting the council tax;
 - 2.4.6.5 decisions relating to the control of the Council’s borrowing requirement;
 - 2.4.6.6 decisions relating to the control of the Council’s capital expenditure;
and
 - 2.4.6.7 the setting of virement limits.

Responsibility for functions

- 2.4.7 The Council will maintain the tables in **Section 2 of Part 3 of** this Constitution, setting out the responsibilities for exercising the Council’s functions which are not the responsibility of the Cabinet.
- 2.4.8** Meetings of the full Council will be chaired in accordance with the Civic Protocol (see further **Part 5, Section 5 of the Constitution**) by the Chairman of the Council, who is elected at the Annual Meeting of Council, in accordance with the **Council Procedure Rules** (see further **Part 4 of the Constitution**).

Article 5: The Leader and Cabinet

Role

- 2.5.1. The Cabinet will carry out the executive functions¹⁶ of the Council, that is the functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

Form and composition

- 2.5.2. The Cabinet will consist of the Leader and at least two, but not more than nine, councillors appointed by the Leader. Neither the Chairman or Vice-Chairman of the Council may be members of the Cabinet.
- 2.5.3. The Leader shall, from the Cabinet membership, appoint a Deputy Chairman who shall be the Deputy Leader of the Council.
- 2.5.4. The Leader shall take the Chair at meetings of the Executive

The Leader of the Council

Appointment and term

- 2.5.5. The Leader of the Cabinet will be elected by the Council and hold office until:
- 2.5.5.1 they resign from the office; or
 - 2.5.5.2 they are no longer a councillor; or
 - 2.5.5.3 they are removed from office by resolution of the Council (provided that notice of the proposed resolution is received by the Head of Paid Service seven clear working days before the meeting, and is signed by at least eight Councillors) during their term of office; or
 - 2.5.5.4 the Annual Council Meeting following the local government elections (being a maximum period of four years).

Role and function of the Leader

- 2.5.6. The Leader is the senior executive councillor and has responsibility for the discharge of the executive functions of the Council. They are accountable to the Council, the Cabinet, their nominating group and the public.

¹⁶ Part 1A of the Local Government Act 2000

2.5.7. The Leader may arrange for the discharge of an executive function by any of the following:

- 2.5.7.1. the Cabinet;
- 2.5.7.2. a committee of the Cabinet,
- 2.5.7.3. a member of the Cabinet,
- 2.5.7.4. a joint committee or under joint arrangements established pursuant to [Article 8](#);
- 2.5.7.5. a member in relation to the member's ward; or
- 2.5.7.6. an officer

provided that the executive arrangements are notified to the Monitoring Officer and set out within an Executive Scheme of Delegation (see further [Part 3 of the Constitution](#)).

2.5.8. The Leader of the Council is responsible for the development and approval of the policies, strategies and plans of the Council, apart from the policies, strategies and plans within the policy framework are subject to approval by the Council under [Article 4](#) of this constitution.

2.5.9. The main roles and responsibilities of the Leader are to:

- 2.5.9.1. promote and support open and transparent governance that is accessible to all;
- 2.5.9.2. determine any delegations of executive functions;
- 2.5.9.3. lead the Council's overall cohesive, corporate and strategic direction, budget, strategy and policy development;
- 2.5.9.4. liaise with the Chief Executive, Directors and other appropriate officers, on policy development;
- 2.5.9.5. obtain professional advice in advance of decision making.
- 2.5.9.6. preside over meetings of the Cabinet;
- 2.5.9.7. ensure that the decisions of Cabinet are made within the budgetary framework and financial limits set by the Council;
- 2.5.9.8. be the Councillor of first choice to represent and act as principal spokesperson for the Council at Councillor-level meetings with other organisations;
- 2.5.9.9. co-ordinate and develop partnership working and community liaison;
- 2.5.9.10. be the principal contact for the Head of Paid Service;
- 2.5.9.11. seek views and take soundings across all political groups in the Council;

- 2.5.9.12. ensure that Cabinet Members support the Overview and Scrutiny function.

Deputy Leader

- 2.5.10. The Leader may appoint, from within the Cabinet membership, a Deputy Leader who shall hold office until:
 - 2.5.10.1. they resign from the office; or
 - 2.5.10.2. they are no longer a councillor; or
 - 2.5.10.3. the Annual Council Meeting following the Local Government elections (being a maximum period of four years) unless removed from office by the Leader;
 - 2.5.10.4. the Leader removes the Deputy Leader from office.

The Leader may then appoint another person to the role of Deputy Leader.

Role and function of the Deputy Leader

- 2.5.11. The Deputy Leader is accountable to the Council, the Leader, the Cabinet and the public and will:
 - 2.5.11.1. assist the Leader to provide effective political leadership and strategic direction for the council, including developing overall strategy, budgets, policy arrangements and service reviews, and representing the council in the community and in discussions with regional, national and international organisations;
 - 2.5.11.2. represent the Council and the political administration in the community and elsewhere as required by the Leader;
 - 2.5.11.3. deputise for the Leader in their absence and undertake the duties set out in the role profile of the Leader of the Council insofar as it is permitted by law and this Constitution.

Cabinet

- 2.5.12. The Cabinet Members appointed by the Leader shall hold office until they:
 - 2.5.12.1. resign from office; or
 - 2.5.12.2. are no longer Councillors; or
 - 2.5.12.3. are removed from office by the Leader, either individually or collectively.
- 2.5.13. Cabinet Members may not be members of an overview and scrutiny panel.

Role and function of the Cabinet

2.5.14. The Cabinet will collectively discharge any functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution, as delegated by the Leader. Cabinet will provide a report to **each Full Council meeting of the functions it has discharged since the last Full Council meeting.**

2.5.15. The Leader will determine the scope of portfolios and:

2.5.15.1. allocate them to members of the Cabinet;

2.5.15.2. inform the Monitoring Officer of the portfolios.

2.5.16. Cabinet is accountable to the Council, the Leader and the public.

Role and function of Cabinet Members

2.5.17. Cabinet Members are accountable to the Council, the Leader, the Cabinet and the public. They will collectively make decisions as the Cabinet on a wide range of issues and will:

2.5.17.1. lead on developing council policy and make recommendations to the Cabinet;

2.5.17.2. provide guidance to the Cabinet on their portfolios, including budget;

2.5.17.3. monitor performance and make sure policy is delivered;

2.5.17.4. lead on improving council services;

2.5.17.5. make sure that activities meet the council's overall vision, core values and guiding principles;

2.5.17.6. contribute to debate and decision-making;

2.5.17.7. work with councillors who are not members of the Cabinet, members of the opposition and officers to make sure that the overview and scrutiny process works correctly.

2.5.17.8. engage with the overview and scrutiny committee function as regards their portfolio;

2.5.17.9. represent the council at a national and local level;

2.5.17.10. provide leadership, political direction and support to officers working within their portfolio.

Vacancies or inability to act

2.5.18. If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader will act in their place;

2.5.19. If for any reason:

2.5.19.1. the Leader is unable to act or the office of Leader is vacant; and

2.5.19.2. the Deputy Leader is unable to act or the office of Deputy Leader is vacant;

the Cabinet will act in the Leader's place or arrange for a member of the Cabinet to act in their place.

2.5.20. In the case of a vacancy of the Leader, an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council held after the date on which the vacancy occurs, or if that meeting is held within 14 days after that date, then not later than the next following ordinary meeting of the Council. The Proper Officer may convene a meeting of the Council for such an election.

2.5.21. The Deputy Leader may, on behalf of the Leader, take day to day decisions:

2.5.21.1. during a period of planned absence of the Leader, provided this is notified to the Monitoring Officer in advance; or

2.5.21.2. during unforeseen absence, as confirmed by the Head of Paid Service but may not vary the arrangements made by the Leader in respect of the composition or proceedings of the Cabinet or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except:

2.5.21.3. for changes consequent upon the dismissal of a Leader during the period until a new Leader is elected; or

2.5.21.4. where, in the opinion of the Head of Paid Service, the Leader will be incapacitated for such a period of time that the efficient operation of the Council would be significantly impaired.

2.5.22. In the event that the Leader is not returned at an election, from the fourth day after the election until a new Leader is appointed at the Annual Meeting of the Council, the Head of Paid Service shall have delegated authority to make executive decisions, in consultation with the Chairman of the Council¹⁷.

Cabinet Committees and Panels

Appointment and term

2.5.23. Cabinet may appoint a Cabinet Sub-Committee provided that at any one time the total number of Cabinet Committees does not exceed 4. Such Committees will comprise between 2 and 4 Cabinet Members and will stand until either:

2.5.23.1. revised by resolution of the Cabinet; or

¹⁷ All councillors retire on the fourth day after the election apart from the Chairman and Vice-Chairman of the Council, who remain in office until the next annual meeting in accordance with ss 3 - 5 of the Local Government Act 1972 even if not re-elected.

2.5.23.2. the first meeting of the Cabinet following the next Annual Meeting of the Council after appointment.

2.5.24. The Cabinet may appoint a Cabinet Advisory Panel consisting of such Cabinet or other councillors as the Cabinet thinks fit¹⁸. A Cabinet Advisory Panel will meet over such period (the lifetime of the Panel):

2.5.24.1. as the Cabinet thinks fit; or

2.5.24.2. until the Panel considers it has completed the task established by the Cabinet as the remit of the Panel.

whichever is the shorter.

Role and function of Cabinet Committees

2.5.25. The role of a Cabinet Committee is to provide:

2.5.25.1. focused decision-making and leadership of executive matters through the portfolio expertise of Cabinet Members; and

2.5.25.2. a link to a range of portfolio-related issues, debates and concerns.

2.5.26. The key purpose of a Cabinet Committee will be to exercise responsibility for executive functions, as delegated by the Cabinet in accordance with the Executive Scheme of Delegation (see further **Part 3, Section 5 of this constitution**).

Role and function of Cabinet Advisory Panels

2.5.27. The role and purpose of a Cabinet Advisory Panel is to support the Cabinet. A Cabinet Advisory Panel will be time or task limited, whichever is the shorter.

2.5.28. Cabinet will determine the remit of any Cabinet Advisory Panel it establishes.

3. Responsibility for functions

2.5.29. The Council has allocated the responsibility for exercising some local choice functions to the Leader, as set out at **Part 3 of this Constitution**.

2.5.30. The Leader will maintain an Executive Scheme of Delegation, as set out in **Part 3 of this Constitution at Section 5**, setting out who will exercise executive functions. Executive functions can be exercised by the Leader, Cabinet, Individual Cabinet Members or Officers as determined by the Leader. The Leader must notify the Monitoring Officer promptly of any changes to the Executive Scheme of Delegation.

¹⁸ As this is an executive panel there is no requirement for political balance

Proceedings of the Cabinet, Cabinet Committees and Cabinet Advisory Panels

2.5.31. The exercise of all executive functions will be in accordance with::

2.5.31.1. the **Access to Information Rules** set out in **Part 4 of this Constitution**; and

2.5.31.2. the **Executive Procedure Rules** set out **in Part 4 of this Constitution**.

Article 6: Overview and Scrutiny Arrangements

Role

- 2.6.1 The Council will appoint at least one, but not more than three, Overview and Scrutiny Panels to discharge the functions conferred by section 21 of the Local Government Act 2000, or any regulations made under section 32 of the Local Government Act 2000.
- 2.6.2 The Panels must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods as appropriate.

Form and Composition

- 2.6.3 Each Overview and Scrutiny Panel will consist of at least 7 councillors, appointed by Council in accordance with the political balance rules;
- 2.6.4 will be chaired by a councillor appointed by Council in accordance with the Council Procedure Rules (Part 4, Section 1 of the Constitution);
- 2.6.5 may appoint a Vice-Chairman;
- 2.6.6 may co-opt members in accordance with the Overview and Scrutiny Procedure Rules;
- 2.6.7 may invite councillors or a member of the community, professional bodies, institutions or organisations to assist with consideration of items relevant to that person or persons; and
- 2.6.8 may invite the Leader and up to 2 other Cabinet Members to attend a meeting.
- 2.6.9 Each Overview and Scrutiny Panel shall have 6 scheduled meetings in a municipal year, and unlimited task and Finish groups, provided that only one task and finish group should meet on any given day. The Panels may meet jointly.

Functions

- 2.6.10 Within their terms of reference, the Overview and Scrutiny Panels will contribute to:
 - 2.6.10.1 *policy development and review by:*
 - 2.6.10.1.1 assisting Council and Cabinet in the development of the Policy Framework and Budget by in-depth analysis of policy issues;

- 2.6.10.1.2conducting research, community and other consultation in the analysis of policy issues and possible options;
- 2.6.10.1.3considering and implementing mechanisms to encourage and enhance community participation in the development of policy options;
- 2.6.10.1.4questioning members of Cabinet or Committees and Chief or Statutory Officers about their views on issues and proposals affecting the area;
- 2.6.10.1.5liaising with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- 2.6.10.1.6questioning and gathering evidence from any person (with their consent).

2.6.10.2 scrutiny by:

- 2.6.10.2.1questioning and gathering evidence;
- 2.6.10.2.2reviewing and scrutinising the performance of the Council and other public bodies in the area, inviting them to address the panel and local people about their activities and performance;
- 2.6.10.2.3making reports or recommendations to Council, the Cabinet or appropriate committees arising from the outcome of a scrutiny process;
- 2.6.10.2.4considering any matter affecting the area or its inhabitants; and
- 2.6.10.2.5exercising the right to call-in, for reconsideration, decisions made by the Cabinet but not yet implemented.

2.6.11 An Overview and Scrutiny Panel may make reports or recommendations to either the Cabinet, Council or a committee regarding:

- 2.6.11.1 the discharge of any functions which are the responsibility of the Cabinet;
- 2.6.11.2 the discharge of any functions which are not the responsibility of the Cabinet; or
- 2.6.11.3 matters which affect the District or its inhabitants.

2.6.12 The Overview and Scrutiny panels will comply with the Overview and Scrutiny Procedure Rules set out at **Part 4 of this constitution** and operate within the resources provided by the Council.

2.6.13 Each Overview and Scrutiny panel may appoint a 'Task and Finish' group to assist it, or by agreement undertake joint specific activities. Such groups are time and or task limited working groups.

Task and Finish Groups

- 2.6.14 Each Overview and Scrutiny Panels may appoint a Task and Finish Group to contribute to the work of the Panel.
- 2.6.15 There shall be a maximum of two Task and Finish Groups operating at any one time, and they cannot meet on the same date.
- 2.6.16 Task and Finish Groups are working groups and not subject to the Access to Information Rules [in Part 4, Section 2 of this Constitution.](#)

Interests

- 2.6.17 In addition to any interest a councillor may have to declare in accordance with the Council's Code of Conduct, no councillor may participate in any business before an Overview and Scrutiny Panel if they were party to the decision made in respect of that item, except as specified within the Overview and Scrutiny Procedure Rules.

Article 7: Regulatory and Other Committees

Background

- 2.7.1. Unless legislation directs otherwise, the Council may arrange for the discharge of any of its functions by:
- 2.7.1.1. appointing a committee or sub-committee of the authority; or
 - 2.7.1.2. with one or more other local authorities appointing a joint committee of those authorities;
- and delegating the discharge of functions to those committees, which may also appoint one or more sub-committees.
- 2.7.2. The law requires the Council to establish certain committees and prescribes how they will operate and which functions they discharge. The Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes.
- 2.7.3. The Council will establish a number of standing committees which will meet regularly to discharge the functions delegated to them. It must also establish a number of occasional or ad hoc committees, which meet infrequently as and when required.
- 2.7.4. The Committees can be broadly separated into three categories – statutory, regulatory or other committees but may belong to more than one category. All committees are politically balanced unless otherwise specified¹⁹.
- 2.7.5. The committees regulate the conduct of the Council's business and make decisions in relation to regulatory, administrative and corporate governance matters. A high level summary of the functions of each Committee is provided for identification purposes however the detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3, section 3 of the Constitution.

Statutory Committees

- 2.7.6. The following are standing Statutory Committees the Council is required to establish.

Statutory Licensing Committee

¹⁹ Local Government and Housing Act 1989

- 2.7.7. This statutory committee is established under the Licensing Act 2003 and discharges the Council's functions as the licensing authority under the Licensing Act 2003 and the Gambling Act 2005. It therefore undertakes regulatory functions.
- 2.7.8. The Licensing Act 2003 dictates the membership of the committee (minimum of 10 and maximum of 15 councillors), and the composition of sub-committees (3 councillors).
- 2.7.9. The committee operates in accordance with statutory rules of procedure.

Audit and Standards Committee

- 2.7.10. This committee has a broad governance remit, not all of which is statutory in nature (See Part 3 of the Constitution).
- 2.7.11. Membership of the committee is 7 councillors who are not members of the Cabinet.
- 2.7.12. This committee is responsible for discharging obligations in respect of alleged breaches of the Councillor Code of Conduct under the Localism Act 2004. It achieves this through a Standards sub-committee which may have local councillors co-opted onto it if the complaint relates to a local councillor.
- 2.7.13. Standards sub-committees shall comprise 5 councillors from the membership of the committee and 3 local councillors from town or parish councils wholly or mainly in the council's area if the complaint relates to a local councillor.

Investigating and Disciplinary Committee

- 2.7.14. This committee is an occasional committee of 5 councillors. The Council is required to have a committee to deal with allegations raised against the Statutory Chief Officers. It may be required to convene as a matter of urgency and will comprise the councillors nominated to the Employment Committee.

Overview and Scrutiny Panels

- 2.7.15. The Council is required to have at least one overview and scrutiny committee. Further details of the overview and scrutiny function are found in Article 6 and the Scrutiny Procedure Rules at Part 4 of this constitution.

Regulatory Committees

- 2.7.16. The Council has established a number of committees which discharge its regulatory functions. Regulatory²⁰ functions stem from statutory provisions which:

²⁰ Section 22 of the Small Business, Enterprise and Employment Act 2015

- 2.7.16.1. impose or amend requirements, restrictions or conditions, or set or amend standards or gives or amends guidance, in relation to the activity; or
- 2.7.16.2. relates to securing compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which relate to the activity.
- 2.7.17. Regulatory Committees make determinations on behalf of the Council where the matters can be delegated under section 101 of the Local Government Act 1972 and are not:
 - 2.7.17.1. executive or overview and scrutiny functions;
 - 2.7.17.2. already delegated elsewhere by the Council, or are statutory committee functions (such as those matters under the Licensing Act 2003);
 - 2.7.17.3. already delegated by Council to officers of the Council;
 - 2.7.17.4. exercisable only by Council itself; or
 - 2.7.17.5. exercised in a way which breaches or has the effect of breaching policies, strategies and overall budgets approved by Council or have adverse legal implications.
- 2.7.18. The discharge of regulatory matters can impact upon the economy as well as health and safety. Appeals against decisions made by these committees tend to proceed via the courts or tribunals, which can award costs against the Council. To ensure quality of decision making, members of this committee are required to complete mandatory training prior to attending the committee and to ensure they read all information provided within the agenda pack in advance of the committee meeting.

Planning Committee

- 2.7.19. The discharge of planning functions can have a substantial and emotive impact on the community. The Council has therefore determined that not all planning matters should be delegated to officers. It has established the committee to make decisions on behalf of the local planning authority on the most impactful planning applications and related similar regulatory matters. The committee comprises 9 councillors, who are not members of Cabinet.
- 2.7.20. The Council has chosen not to have planning area or sub-committees.

Regulatory Committee

- 2.7.21. This committee discharges licensing, registration and regulatory functions of the Council that are not discharged by the Statutory Licensing Committee, including site and premises licences (caravans, taxis, sex shops, tattooing etc), animal licences (zoos, pet shops, wild animals etc), food licences (food preparation, fishing etc) and health and safety matters.

- 2.7.22. This committee comprises 10 councillors, who will be those councillors nominated to the Statutory Licensing Committee.

Other Committees

- 2.7.23. Committees that are neither statutory nor regulatory in nature fall into this category. Some of these are standing committees meeting regularly, while others are required on an ad hoc basis.

Statutory Disciplinary Committee

- 2.7.24. The primary purpose of the Statutory Disciplinary Committee is to consider a proposal made by the Investigating and Disciplinary Committee to dismiss a Statutory Chief Officer²¹. It is an ad hoc committee comprised of 5 councillors plus two independent persons.

Appeals Committee

- 2.7.25. The primary purpose of Appeals Committee is to consider any appeal made by a Statutory Officer against disciplinary action (short of dismissal). It is an ad hoc committee comprised of 5 councillors.

Constitutional Review Committee

- 2.7.26. The primary purpose of the Constitutional Review Committee is to advise on the aims, principles and workings of the Constitution. It can convene task and finish groups and is a standing committee which makes recommendations to Council. It comprises 7 councillors.

Employment Committee

- 2.7.27. The primary purpose of the Employment Committee is to consider the terms and conditions of employment of the officers of the Council and to make recommendations to the Council for consideration as appropriate. It is an ad hoc committee of 5 councillors. The Chief Officer Appointment Panel will be appointed by the Employment Committee.

Area Committees

- 2.7.28. Council and Cabinet may appoint area committees as appropriate to improve service delivery in the context of best value and more efficient, transparent and accountable decision making. The members of an area committee will be those

²¹ appointed under s.102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

councillors elected for electoral Wards which fall wholly or partly within that part of the area of the authority. Cabinet Members may serve on area committees if eligible as a ward member.

- 2.7.29. Area committees will comply with the **Access to Information Rules** in Part 4 of this Constitution, and either the **Council Procedure Rules** or the **Executive Procedure Rules**, depending on the function being discharged by the area committee.
- 2.7.30. Agendas and notices for area committee meetings which deal with executive and non-executive function will state clearly which items are which.

Article 8: Joint Arrangements

Arrangements to promote well being

- 2.8.1 Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area may:
- 2.8.1.1 enter into arrangements or agreements with any person or body;
 - 2.8.1.2 co-operate with, or facilitate or co-ordinate the activities of any person or body; and
 - 2.8.1.3 exercise, on behalf of that person or body, any function(s) of that person or body.

Joint arrangements

- 2.8.2 Council may establish Joint Arrangements²² with one or more local authorities and / or their Executives, to exercise functions which are not executive functions in any of the participating authorities.
- 2.8.3 Cabinet may establish Joint Arrangements with one or more local authorities to exercise functions which are executive functions.
- 2.8.4 Council or the Cabinet may, subject to restrictions and limitations, exercise the general power of competence²³ to make joint arrangements.
- 2.8.5 A list of current joint arrangements the Council is party to is set out at paragraph 2.8.27.

Joint Committee

- 2.8.6 The number of councillors to be appointed, their term of office, and the area (if restricted) within which a joint committee with other local authorities is to exercise its authority shall be fixed, and the councillors appointed to that joint committee shall be made:
- 2.8.6.1 where the joint committee is to discharge functions which are all the responsibility of Council, by Council;

²² Section 101(5) of the Local Government Act 1972 for the exercise of certain of its functions

²³ Section 1 Localism Act 2011.

- 2.8.6.2 where the joint committee is to discharge functions, some of which are the responsibility of Council and some of which are the responsibility of the Cabinet, by Council with the agreement of the Cabinet; and
- 2.8.6.3 where the joint committee is to discharge functions which are all the responsibility of the Cabinet, by the Cabinet.
- 2.8.7 Where appointments to a joint committee are made by Council under paragraph 2.8.6.1 and 2.8.6.2 , and those appointments are made from members of the Council, the appointments must reflect the political composition of the local authority as a whole.
- 2.8.8 Where appointments to a joint committee are made by Council under paragraph 2.8.6.2:
 - 2.8.8.1 where only one councillor of the authority is a member of the joint committee, that person may be, but need not be, a member of the Cabinet; and
 - 2.8.8.2 where more than one councillor of the authority is a member of the joint committee, at least one of those members must be a member of the Cabinet.
- 2.8.9 Where appointments to a joint committee are made by the Cabinet under paragraph 2.8.6.3, those appointments need not reflect the political composition of the local authority as a whole, and the Cabinet may only appoint Cabinet Members. However, where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population, the Cabinet may appoint to the joint committee any councillor for a Ward which is wholly or partly contained within the area. Political balance requirements do not apply to such appointments.
- 2.8.10 Details of delegations to joint committees, will be found in the Council's **scheme of delegations in Part 3 of this Constitution**.

Partnerships

- 2.8.11 The Council will maintain and regularly review a register of partnerships in which the Council participates. Reviews will be undertaken in accordance with a partnership performance management framework to assess and evaluate the governance and effectiveness of each partnership

Companies, Trusts and Charities

- 2.8.12 The Chief Finance Officer and Monitoring Officer should be contacted for assistance at an early stage to discuss proposals for the formation of a new company, trust, charity or other legal entity.
- 2.8.13 Cabinet is responsible for:

- 2.8.13.1 approving the establishment and viability (including the business case) of all new companies, trusts and charities;
- 2.8.13.2 appointing and removing directors of companies, trusts and charities in which the Council has an interest, having regard to the advice of the Chief Finance Officer given that, upon appointment, they have a statutory duty to the company, trust or charity and must therefore act in accordance with the Companies and / or Charities Acts where applicable;
- 2.8.13.3 exercising the Council's rights in any company or other form of corporate body of which the Council is a shareholder or member, unless alternative arrangements are specified in the relevant body's articles of association, other governing instrument, any shareholders' agreement or any specified delegations in relation to particular bodies
- 2.8.13.4 approving investments in other companies, trusts and charities in which the Council has a financial interest except where the investment is within criteria Cabinet has previously delegated to a Chief Officer;
- 2.8.13.5 taking decisions as shareholder and sole trustee where appropriate;
- 2.8.13.6 monitoring and receiving reports on the Council's companies;
- 2.8.13.7 dissolution of Council's companies, trusts, and charities.
- 2.8.14 Chief Officers are responsible for:
 - 2.8.14.1 informing the Monitoring Officer and Chief Finance Officer of any new proposals, to ensure that legal and financial considerations are properly considered before any arrangements with an outside body or creation of a new company, trust or charity are considered;
 - 2.8.14.2 ensuring tight controls are in place for the financial management of loan and guarantor arrangements with Council owned companies. This includes ensuring the Chief Finance Officer is presented with robust business cases and signed loan agreements.
- 2.8.15 The Chief Finance Officer is responsible for reviewing the ongoing viability of such entities and regularly reporting the performance of their activities, with a view to ensuring that the Council's interests are being protected.
- 2.8.16 The Monitoring Officer is responsible for:
 - 2.8.16.1 appointing officers as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder;
 - 2.8.16.2 appointing a company secretary for any company for which the Council provides secretarial or administrative services;
 - 2.8.16.3 maintaining a record of the governance arrangements of each partnership, joint body and other joint working arrangements in which the

Council participates, including requiring any officer involved with such a body to provide information as to the governance arrangements of it.

Delegation to and from other local authorities

- 2.8.17 Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- 2.8.18 Cabinet may delegate executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- 2.8.19 The decision whether or not to accept such a delegation from another local authority shall be reserved to a meeting of Council.

Contracting out

- 2.8.20 Provided that there is no delegation of the Council's discretionary decision making, the Cabinet may contract out to another body or organisation functions which:
 - 2.8.20.1 may be exercised by an Officer, and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
 - 2.8.20.2 under contracting arrangements, where the contractor acts as the Council's agent under usual contracting principles.

Informal Joint Working Groups

- 2.8.21 The Council may also enter into informal "working group" arrangements where it considers it beneficial to do so. These working groups are not formal decision-making bodies, they make recommendations to the relevant Cabinet member as appropriate. They need not be politically balanced, although the Council will aim for cross party representation in line with political balance requirements.

Access to information

- 2.8.22 The **Access to Information Rules** in Part 4(2) of this Constitution apply to Joint Committees.
- 2.8.23 If the joint committee comprises only executive members of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

Appointments

Internal Bodies

- 2.8.24 In addition to the committees, sub committees and joint committees set out above, the Council also establishes and appoints to a number of panels, boards and working groups. Save for appointments reserved to Council, the Council has delegated to the Leader of the Council the authority to appoint to these bodies.

External Bodies

- 2.8.25 The Council is represented on several external organisations by both officers and councillors. This reflects the Council's community leadership role. The Council has delegated authority to appoint to these bodies to the Leader of the Council. The appointments will usually be from the cabinet or councillors who hold a special responsibility for the relevant area. Guidance for serving on outside bodies will be provided to those councillors appointed or interested in being appointed to external organisations.
- 2.8.26 The Leader shall consider:
- 2.8.26.1 any new request for the Council to appoint to an outside body; and
 - 2.8.26.2 any changes to appointments that may be required such as arising from a councillor resigning their position as the Council's representative.

Current joint arrangements

- 2.8.27 The Council is engaged a number of joint arrangements as detailed on the Council's website.

Article 9: Officers

- 2.9.1 The Council may engage such staff (Officers) as it considers necessary to carry out its functions.
- 2.9.2 The most senior staff employed by the Council are Chief Officers²⁴:
 - 2.9.2.1 Chief Executive;
 - 2.9.2.2 Deputy Chief Executive;
 - 2.9.2.3 Director of Resources;
 - 2.9.2.4 Director of Communities and Well-being;
 - 2.9.2.5 Director of Planning;
- 2.9.3 Chief Officers have executive and non-executive functions and responsibilities as set out in the **Officer Scheme of Delegation at Part 3** of this constitution.
- 2.9.4 Chief Officers are assisted by Deputy Chief Officers²⁵, who report or are accountable directly to one or more Chief Officer. Councillors have no role in the appointment of Deputy Chief Officers, who are appointed by the Head of Paid Service.
- 2.9.5 The number and responsibilities of Chief Officers are determined by the Head of Paid Service.
- 2.9.6 All Chief Officers are responsible for:
 - 2.9.6.1 supporting and advising the Council, Cabinet, Overview and Scrutiny Panels and other Committees on policy and service delivery in order that councillors' decisions are well informed;
 - 2.9.6.2 ensuring that the policies and decisions of the Council and Cabinet are formulated and delivered effectively and efficiently;
 - 2.9.6.3 providing strong managerial leadership and direction, fostering cross-departmental working and implementing organisational improvement;
 - 2.9.6.4 setting high standards and driving up the performance, effectiveness and reputation of the Council;
 - 2.9.6.5 working with outside bodies and accessing additional funding opportunities and resources in order to support the Council's programmes of work;
 - 2.9.6.6 recruiting, developing, motivating and inspiring staff.

²⁴ Section 43(2) of the Localism Act 2011

²⁵ Section 2(8) of the Local Government and Housing Act 1989

- 2.9.7 Each Chief Officer has a different portfolio of responsibilities as designated from time to time and particularised in the **Officer Scheme of Delegation at Part 3** of this constitution.

Statutory Chief Officers

- 2.9.8 The Council is required to appoint or designate the following statutory chief officers²⁶, the functions of which are set out within this article:
- 2.9.8.1 Head of Paid Service²⁷;
 - 2.9.8.2 Chief Finance Officer²⁸;
 - 2.9.8.3 Monitoring Officer²⁹
- 2.9.9 The Council will provide all Statutory Chief Officers with such officers, accommodation and other resources as are sufficient, in the view of those officers, to allow their duties to be performed.
- 2.9.10 The Head of Paid Service is accountable to Cabinet and full Council for the coordination of the discharge of the Council's functions.
- 2.9.11 By law, some functions of the Monitoring Officer and Chief Finance Officer must be carried out personally, or carried out by a deputy nominated by them in the event of absence or illness. The current deputy arrangements for the statutory officer functions are as follows:

Statutory Officer	Post-holder	Deputy
Head of Paid Service	Chief Executive	Deputy Chief Executive
Monitoring Officer	Head of Legal Services	As nominated by the Head of Legal Services ³⁰
Chief Finance Officer	Director of Resources	Head of Financial Services ³¹

²⁶ Section 2(6) of the Local Government and Housing Act 1989

²⁷ Designated under Section 4 of the Local Government and Housing Act 1989

²⁸ Designated under Section 151 of the Local Government Act 1972

²⁹ Designated under Section 5 of the Local Government and Housing Act 1989

³⁰ Nominated by the Monitoring Officer under Section 5(7) of the 1989 Act

³¹ Nominated by the Section 151 Chief Finance Officer under Section 114(6) of the 1988 Act

- 2.9.12 Throughout this constitution, the “Statutory Chief Officer” title may be used rather than the substantive post title. This does not mean that all functions attributed to the statutory chief officers in this constitution are statutory chief officer functions. The statutory functions of each statutory officer are summarised below.

Head of Paid Service

- 2.9.13 The Head of Paid Service will:

- 2.9.13.1 **Structure** – determine and publish a description of the overall management structure of the Council, showing the management structure and deployment of Officers. The Head of Paid Service will set this out in **Part 7** of this Constitution.
- 2.9.13.2 **Discharge of Functions** – report to Council on the manner in which the discharge of the Council’s functions are co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers;
- 2.9.13.3 **Politically restricted posts** - grant and supervise exemptions from political restriction³², in consultation with the Monitoring Officer;

- 2.9.14 The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

Monitoring Officer

- 2.9.15 The Monitoring Officer will:

- 2.9.15.1 **Maintain the Constitution** – making sure that it is kept up to date and widely available for consultation by Members, staff and the public.
- 2.9.15.2 **Ensure lawfulness and fairness of decision making** - after consulting with the Head of Paid Service and Chief Finance Officer, report to Council (or to Cabinet in relation to an executive function) if they consider that any proposal, decision or omission would give rise to unlawfulness, or maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 2.9.15.3 **Report on maladministration or injustice** - prepare reports as required by law in relation to complaints which have been the subject of investigation by the Local Government and Social Care Ombudsman and which have revealed maladministration, whether or not that maladministration has caused injustice.

³² Section 3A Local Government and Housing Act 1989

- 2.9.15.4 **Support the Audit and Standards Committee** – contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee³³.
- 2.9.15.5 **Register Interests** - establish, maintain and publish a Register of Interests of the councillors and voting co-opted members of the authority, and of the Town and Parish Councillors throughout the district.
- 2.9.15.6 **Conduct investigations** - conduct investigations into matters referred by the Audit and Standards Committee, and make reports or recommendations in respect of them to the Audit and Standards Committee.
- 2.9.15.7 **Deal with matters in accordance with directions given by the Audit and Standards Committee** - deal with matters referred by the Audit and Standards Committee (other than for the conduct of an investigation) in accordance with directions given by that Committee (e.g. to arrange for training for a Member or Members), or to arrange for a Member and a complainant to engage in a process of reconciliation.
- 2.9.15.8 **Be the Proper Officer for access to information** - ensure that executive decisions, the reasons for those decisions, relevant Officer reports and background papers, are made publicly available as soon as possible.
- 2.9.15.9 **Advise whether executive decisions are within the Budget and Policy Framework** – following consultation with the Chief Finance Officer.
- 2.9.15.10 **Corporate management** – contribute to the corporate management of the Council, particularly in the provision of professional legal advice.
- 2.9.15.11 **Provide advice** - advise on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors, and support and advise Councillors and Officers in their respective roles.
- 2.9.15.12 **Report on resources** – report to Council as necessary in respect of the staff, accommodation and resources they require to discharge their statutory duties.
- 2.9.15.13 **Dispensations- following consultation with the Chairman of the Audit and Standards Committee, consider and determine written requests for dispensations.**

³³

Including any action under the procedure for considering complaints alleging a failure to comply with the Councillors' Code of Conduct

- 2.9.16 The Monitoring Officer cannot be the Chief Finance Officer, or the Head of Paid Service.
- 2.9.17 The functions of the Monitoring Officer are supported by a Protocol agreed by the Council and set out at Part 5, Section 6 of this Constitution.

Chief Finance Officer

- 2.9.18 The Chief Finance Officer will:

- 2.9.18.1 **Ensure lawfulness and financial prudence of decision making** – consult with the Head of Paid Service and the Monitoring Officer before reporting to Council (or to Cabinet in relation to an executive function) and the Council's external auditor if they consider that any proposal, decision or course of action:
- 2.9.18.1.1 involves incurring unlawful expenditure; or
 - 2.9.18.1.2 is unlawful; or
 - 2.9.18.1.3 is likely to cause a loss or deficiency to the Council; or
 - 2.9.18.1.4 will result in the Council entering an item of account unlawfully.
- 2.9.18.2 **Administration of financial affairs** - administer the financial affairs of the Council in accordance with section 151 of the Local Government Act 1972.
- 2.9.18.3 **Contribute to corporate management** - contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 2.9.18.4 **Provide advice** - advise on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors, and will support and advise Councillors and Officers in their respective roles.
- 2.9.18.5 **Give financial information** - provide financial information about the Council to the media, members of the public and the community as appropriate.
- 2.9.18.6 **Report on resources** – report to Council as necessary in respect of the staff, accommodation and resources they require to discharge their statutory duties.

Statutory Officers

Data Protection Officer

- 2.9.19 The Data Protection Officer will:

- 2.9.19.1 **Inform and advise** the organisation and its employees about their obligations to comply with the General Data Protection Regulations (GDPR) and other data protection laws;
- 2.9.19.2 **Monitor compliance** with the GDPR and other data protection laws, including managing internal data protection activities, advise on data protection impact assessments; train staff and conduct internal audits;
- 2.9.19.3 **Point of Contact** - be the first point of contact for supervisory authorities and individuals whose data is processed (employees, residents etc).

Proper Officers

- 2.9.20 The Chief Officers are the Proper Officers for all purposes relating to their areas of responsibility.
- 2.9.21 The Council's designation of Proper Officers is set out in the **Officer Scheme of Delegation at Part 3** of this Constitution.
- 2.9.22 The Head of Paid Service shall, where necessary, appoint a Proper Officer for the discharge of Council functions where any appointment is required.
- 2.9.23 Where in any legislation reference is made to a Proper Officer of the Council and no officer has been appointed by the Council to act for that purpose, the Head of Paid Service will be deemed to be the Proper Officer until a particular officer is appointed for that purpose. If the Head of Paid Service is unable to act, this power shall be delegated to the Deputy Chief Executive. If neither the Head of Paid Service or Deputy Chief Executive are available to act, the power shall be delegated to the Monitoring Officer.

Officers

- 2.9.24 All Officers will comply with the **Employee Code of Conduct** and the **Councillor and Employee Protocol** set out in Part 5 of this constitution.
- 2.9.25 The recruitment, selection and dismissal of Officers will comply with the **Officer Employment Rules set** out in Part 4 of this Constitution.

Internal Audit

- 2.9.26 In addition to the statutory and chief officer posts, the Head of Internal Audit provides objective assurance on the Council's internal control arrangements (both financial and non-financial) and plays a key part in promoting good corporate governance in accordance with proper internal audit practices. The Head of Internal Audit provides the Council with independent and objective assurance that there are strong arrangements in place for controlling its resources and for delivering its objectives by:
 - 2.9.26.1 formulating the internal audit strategy, charter and plan;

- 2.9.26.2 providing an annual audit opinion on all aspects of governance, risk management and internal control to be used as a primary source of evidence for the annual governance statement;
- 2.9.26.3 championing best practice in governance, objectively assessing the adequacy of governance and management of existing risks, commenting on responses to emerging risks and proposed developments

Article 10: Decision-making

- 2.10.1 There are a number of different categories of decisions which will be made by or on behalf of the Council which are described in this Article.
- 2.10.2 Decision takers are described in the appropriate article as follows:
 - 2.10.2.1 Council – Article 4
 - 2.10.2.2 Committees – Article 7
 - 2.10.2.3 Cabinet – Article 5
 - 2.10.2.4 Leader – Article 5
 - 2.10.2.5 Officers – Article 9
- 2.10.3 A record of what part of the Council or individual has responsibility for particular types of decisions, as well as decisions relating to particular areas or functions, will be maintained by the Monitoring Officer and set out in Part 3 of this Constitution.

Types of Decisions

Executive and Non-Executive Decisions

- 2.10.4 The Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, set out which decisions are made by the Executive of a local authority, and which are made by the Non-Executive parts of the Council.
- 2.10.5 The articles specific to each decision taker, as summarised at 2.10.2, and Part 3 of this constitution, set out the extent of decision taking authority but generally Cabinet and the Leader take Executive Decisions, while Council and its committees take Non-Executive Decisions. Officers can take both Executive and Non-Executive Decisions if delegated to them.

Key Decision

- 2.10.6 Key Decisions are decisions relating to an executive function which are likely to:
 - 2.10.6.1 result in the Council incurring expenditure or making savings (including the receipt or loss of income) over £50,000; or

2.10.6.2 Have a significant³⁴ effect on communities living or working in two or more wards in the district.

2.10.7 The following shall be exempt from the definition of a Key Decision:

2.10.7.1 any decision where the expenditure, saving or income will result from:

2.10.7.1.1. a treasury management decision in relation to the making, payment or borrowing of a loan; or

2.10.7.1.2. a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or

2.10.7.1.3. the settlement of proceedings to which the Council is a party; or

2.10.7.1.4. an urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Strategic and Tactical level at the relevant time;

2.10.7.2 any decision in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed;

2.10.7.3 any decision which is a direct consequence of implementing a previous Key Decision³⁵ and was in the contemplation of the decision maker at the time the decision was taken; and

2.10.7.4 any decision which is the result of varying a previous Key Decision following a Call In of that decision.

2.10.8 A decision taker may only make a Key Decision in accordance with the requirements of **the Executive Procedure Rules and Access to Information Rules set out in Part 4 of this Constitution.**

Significant Operational Decision

2.10.9 A Significant Operational Decision (executive or non-executive) is a decision which is not a Key Decision and which:

2.10.9.1 does not fall within the definition of an Administrative decision; or

2.10.9.2 would have been a Key Decision but for the exemptions set out at 2.10.7 above; or

³⁴ in determining the meaning of "significant" for the purposes of (ii) above, regard shall be had to any guidance for the time being issued by the Secretary of State.

³⁵ Where a scheme or proposal changes following the original decision to the extent that the additional spend or save, or the additional impact of the decision, reaches the threshold for a Key decision it shall be treated as a new Key decision.

- 2.10.9.3 results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £50,000; or
- 2.10.9.4 is, in the opinion of the decision taker³⁶, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority.

2.10.10 Decisions taken:

2.10.10.1 under a specific express authorisation from Council or one of its committees; or

2.10.10.2 in accordance with the **Council Non-executive Functions Scheme of Delegation at Part 3** of this constitution where the effect of the decision is to:

2.10.10.2.1. grant a permission or licence; or

2.10.10.2.2. affect the rights of an individual; or

2.10.10.2.3. award a contract or incur expenditure which, in either case, materially affects the financial position of the Council
are Significant Operational Decisions³⁷.

Administrative Decision

2.10.11 An Administrative Decision may be in relation to an executive or non-executive function which is not a Key Decision or a Significant Operational Decision and which:

2.10.11.1 is within an approved budget; and

2.10.11.2 is not in conflict with the Budget and Policy Framework or other policies approved by the Council; and

2.10.11.3 does not raise new issues of policy.

Decision Taking

2.10.12 A decision taker will have regard to the definitions of Key, Significant Operational and Administrative decisions set out above, the responsibility for functions set out at **Part 3 of this Constitution**, and the requirements of the **Rules set out in Part 4 of this Constitution**.

Non-executive Decisions

³⁶ Having taken into account the provisions of the Constitution together with other policy, procedure and guidance available

³⁷ pursuant to regulation 7 of the Openness of Local Government Bodies Regulations 2014

- 2.10.13 Decisions relating to the functions listed in paragraph 2.4.2 or reserved to full Council in Part 3 of this constitution will be made by the Full Council and not delegated.
- 2.10.14 Council meetings will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.
- 2.10.15 Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.
- 2.10.16 Officers will follow the Access to Information Rules set out at Part 4 of this Constitution when considering any matter.

Executive Decisions

- 2.10.17 The Leader, Cabinet and any body or individual acting under authority delegated by the Leader or the Cabinet, as set out in Part 3 of this Constitution, will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

Overview and Scrutiny Panels

- 2.10.18 Overview and Scrutiny Panels will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

4. Principles of decision-making

- 2.10.19 All decisions made by and on behalf of the authority will be made in accordance with the Access to Information Rules set out in Part 4 of this Constitution, and the following principles:
 - 2.10.19.1 proportionality (i.e. the action must be proportionate to the desired outcome);
 - 2.10.19.2 due consultation and the taking of professional advice from officers;
 - 2.10.19.3 respect for human rights (see paragraph 2.10.22 below);
 - 2.10.19.4 a presumption in favour of openness;
 - 2.10.19.5 clarity of aims and desired outcomes;
 - 2.10.19.6 an explanation of the options considered and details of the reasons for the decision³⁸;
 - 2.10.19.7 natural justice;

³⁸ A statement or publication is required following the making of an executive decision in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, as amended from time to time

2.10.19.8 positive promotion of equality of opportunity

Recording Decisions

- 2.10.20 All Non-Executive Decisions will be recorded in accordance with the provisions of the [Access to Information Rules in Part 4 of this Constitution](#).
- 2.10.21 All Executive Decisions will be recorded in accordance with the provisions of the Executive Procedure Rules set out in [Part 4 of this Constitution](#).
- 2.10.22 The Council, a Councillor or an Officer acting as a tribunal or in a quasi-judicial manner or determining or 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.³⁹

³⁹ <https://www.gov.uk/government/collections/human-rights-the-uks-international-human-rights-obligations>

Article 11: Finance, Contracts and Legal Matters

Financial management

- 2.11.1 The management of the Council's financial affairs will be conducted in accordance with the **Finance, Procurement and Contract Rules** set out in Part 4 of this Constitution.

Contracts

- 2.11.2 Every contract entered into by the Council will comply with the **Finance, Procurement and Contract Rules** set out in Part 4 of this Constitution.

Legal Proceedings

- 2.11.3 The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or any part of it, or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.
- 2.11.4 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by either the Head of Paid Service or the Monitoring Officer, or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to another person for the purpose of those proceedings.
- 2.11.5 No officer shall commission legal advice from outside the Council without the explicit consent of the Monitoring Officer.

Common Seal of the Council

- 2.11.6 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer.
- 2.11.7 A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, should be sealed.
- 2.11.8 The affixing of the Common Seal will be attested by the Head of Paid Service or the Monitoring Officer, or such other person authorised by them.
- 2.11.9 Details of every deed and other document to which the Common Seal is affixed shall be entered, at the time of its sealing or as soon as practicable thereafter, in a central register maintained for that purpose and the register shall be signed by the person attesting the affixation of the Common Seal.

- 2.11.10 The Common Seal of the Council may be affixed electronically in accordance with the Electronic Communications Act 2000 provided that the Monitoring Officer is satisfied that proper arrangements are in place for the use and application of an electronic version of the Common Seal of the Council.

Signature of Documents

- 2.11.11 Electronic signatures and seals are permissible⁴⁰ to execute a document, including a deed, provided that:
- 2.11.12 the Monitoring Officer is satisfied that the proper arrangements are in place for the use and application of electronic signatures.
- 2.11.12.1 the person signing the document intends to authenticate the document; and
- 2.11.12.2 any formalities relating to execution of that document are satisfied.
- 2.11.13 Any contract with a value exceeding £500 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. If, in accordance with the Finance Procurement and Contract Rules, a formal agreement is unnecessary, the contract may be concluded by the sending of an award letter and the subsequent issuing of a purchase order.
- 2.11.14 Any contract entered into on behalf of the Council with a value exceeding the amount specified in the Finance, Procurement and Contract Rules (see Part 4 of this Constitution) shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.
- 2.11.15 Where a contract is in the form of a deed, it must be made under the Council's seal and attested in accordance with the provisions of this article.
- 2.11.16 Chief Officers shall determine which persons within their service areas are authorised to sign contracts on behalf of the Council and shall notify the Monitoring Officer. A list of officers authorised to sign contracts shall be maintained by the Monitoring Officer.

⁴⁰ Section 7(1) of the Electronic Communications Act 2000 as amended



Part 3: Responsibility for Functions

Contents	Page
Section 1 The Principles of Delegation	79
Section 2 Responsibility for Local Choice Functions	84
Section 3 Responsibility for Council Functions	
Planning Committee	87
Regulatory Committee	97
Licensing Committee	105
Overview and Scrutiny Panels	107
Crime and Disorder Committee	108
Audit and Standards Committee	109
Constitutional Review Committee	113
Employment Committee	114
Investigating and Disciplinary Committee	115
Appeals Committee	116
The Full Council	117
Section 4 Allocation of Responsibility for Executive Functions	123

	Scheme of Officer Delegation Annexe A	129
Section 5	Delegation of Responsibility for Executive Functions	134



Part 3: Section 1

Introduction – The Principles of Delegation

- 3.1.1 One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Cabinet or Officer) makes the decision that will result in an action being taken or not taken.

The Hierarchy of Decision-Making

3.1.2 ***The Full Council***

The Full Council will exercise the functions reserved by law to Full Council in [Article 4](#) of this Constitution and those determined locally to be functions for Full Council as set out in [Section 3](#) of this Part of the Constitution.

3.1.3 ***The Cabinet***

The Cabinet will exercise the functions set out in [Section 5](#) of this Part of the Constitution. The Cabinet is able to appoint [Cabinet committees](#). Individual members of the Cabinet do not have decision-making responsibilities. However, the Leader shall allocate a portfolio of the Cabinet's areas of work to each Cabinet member so that the Cabinet member may:

- 3.1.3.1 provide leadership on related issues within the Cabinet through portfolio expertise; and
- 3.1.3.2 act as consultee in relation to a power delegated to an officer where such consultation is a requirement upon the officer exercising that function.

3.1.4 ***The responsibility for local choice functions***

The responsibility for local choice functions will be exercised in accordance with [Section 2](#) of this Part of the Constitution.

3.1.5 ***Committees***

Committees will exercise the functions set out in **Section 3** of this Part of the Constitution. Committees are able to appoint sub-committees and Scrutiny Panels are able to appoint sub-panels.

3.1.6 **Officers**

Officers will exercise delegated functions set out:

- 3.1.6.1 in column 3 of the table in **Section 2** of this Part of the Constitution (Responsibility for Local Choice Functions);
- 3.1.6.2 in column 3 of the table in **Section 3** of this Part of the Constitution (Committees and Sub-Committees – Regulatory Panels, etc.);
- 3.1.6.3 as specified in **Section 5** of this Part of the Constitution (Executive Functions);
- 3.1.6.4 under Section 1 of this Part of the Constitution (Principles); ***
- 3.1.6.5 in the Scheme of Officer Delegation; and ***
- 3.1.6.6 as provided for elsewhere in the Constitution.

3.1.7 If a function is delegated to the appropriate Chief Officer, the Head of Paid Service may nominate a substitute Chief Officer where this would, in the Head of Paid Service's opinion, be appropriate.

3.1.8 All references to "Chief Officer" means the officer having primary responsibility for that function and area described in **Article 9** of this Constitution. Such Officer will have all necessary power and authority to implement any such decision in relation to the functions on behalf of the decision-making body.

Limitations on and Parameters of Delegations

3.1.9 The exercise of a delegated power, duty or function shall be subject to:

- 3.1.9.1 the Council's Policy Framework and Budget; and
- 3.1.9.2 the Council's Constitution (including, but not limited to, the Procedure Rules, Contract Procedure Rules, Financial Procedure Rules and Protocols) and any corporate standards or equivalent which might be set by the Council from time to time;

3.1.10 All delegated functions shall be deemed to be exercised on behalf of and/or in the name of the Council.

- 3.1.11 An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow. Such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power, etc., has control. Such authorisations should only be given where there is significant administrative convenience in doing so. The officer authorised by the other should act in the name of the officer who received the original delegation. No authorisation may be given if the relevant statute or law prohibits it. Authorisations of this kind should not be considered to be norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation.
- 3.1.12 References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
- 3.1.13 Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
- 3.1.14 Where the exercise of powers is subject to prior consultation with a councillor or officer, that councillor or officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation on each proposal.
- 3.1.15 Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 3.1.16 All delegations are subject to:
- 3.1.16.1 the right of the delegating body to decide any matter in a particular case;
 - 3.1.16.2 the delegatee may in any case in lieu of exercising their delegated power refer to the delegating body for a decision; and
 - 3.1.16.3 any restrictions, conditions or directions of the delegating body.
- 3.1.17 In exercising delegated powers, the delegatee shall:
- 3.1.17.1 take account of the requirements of the Constitution and any corporate standards and shall address all legal, financial and other professional safeguards as if the matter were not delegated;

- 3.1.17.2 shall exercise the delegation so as to promote the efficient, effective and economic running of the Council, and in furtherance of the Council's visions and values; and
- 3.1.17.3 shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
- 3.1.18 Except where otherwise expressly provided either within this part of the Constitution or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
- 3.1.19 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 to and any interim appointments to the post.
- 3.1.20 Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee, Panel or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee, Panel or Sub-Committee.
- 3.1.21 The Monitoring Officer shall have the power to amend the list of delegations to reflect re-organisations, changes in job titles and vacancies, where such changes result in re-distributing existing delegations and not the creation of new ones. Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the relevant Chief Officer
- 3.1.22 Delegations to the relevant Chief Officer can also be exercised by the Chief Executive.
- 3.1.23 The Deputy Chief Executive is authorised to take decisions delegated to the Chief Executive in their absence or if there is another reason that the Chief Executive is unable to exercise that power or duty.
- 3.1.24 Where a power or duty is delegated, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the delegatee in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.

- 3.1.25 If a matter is delegated, but that delegation cannot be implemented, that should be reported to the delegating body.
- 3.1.26 Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc., within this Scheme 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.
- 3.1.27 For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such costs, fees or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.
- 3.1.28 Non-Executive functions are specified in Schedules 1 and 2 of the **Local Authorities (Functions and Responsibilities) (England) Regulations, 2000 (as amended)**. Any function that is not therein specified must be assumed to be Executive. Any mis-categorisation of a delegation as being Executive, non-Executive or other shall not invalidate a delegation.
- 3.1.29 Advice on procedures and matters to be taken into account in exercising delegated powers may be sought from the Monitoring Officer.



Part 3, Section 2: Responsibility for Local Choice Functions

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

- 3.2.1 The functions listed in the following table are functions which the Council may choose whether they shall be an Executive responsibility or not, as listed in Schedule 2 to the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000 as amended](#) (“the Functions Regulations”). The Council has decided that these functions shall be the responsibility of the decision-making body shown against the functions.

Function		Decision making Body
3.2.1.1	Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 to the Functions Regulations	Cabinet
3.2.1.2	The determination of an appeal against any decision made by, or on behalf of, the authority.	Standing Cabinet Committee or Council Panel, as determined by the Head of Paid Service
3.2.1.3	Any function relating to contaminated land	Cabinet
3.2.1.4	The discharge of any function relating to the control of pollution or the management of air quality	Cabinet
	The service of an abatement notice in respect of a statutory nuisance	Cabinet

3.2.1.5		
3.2.1.6	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Cabinet
3.2.1.7	The inspection of the authority's area to detect any statutory nuisance	Cabinet
3.2.1.8	The investigation of any complaint as to the existence of a statutory nuisance	Cabinet
3.2.1.9	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet
3.2.1.10	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Cabinet
3.2.1.11	The making of agreements for the execution of highways works	Cabinet

3.2.1.12	<p>The appointment of any individual -</p> <p>a) To any office other than an office in which he or she is employed by the authority;</p> <p>b) To any body other than:</p> <p>i) the authority;</p> <p>ii) a joint committee of two or more authorities; or</p> <p>c) To any committee or sub-committee of such a body, and the revocation of any such appointment.</p>	<p>Council at the annual meeting of the Council; otherwise</p> <p>(i) in relation to (a), the Council; and</p> <p>(ii) in relation to (b) and (c), the Cabinet</p> <p>(iii) as delegated to the Head of Paid Service, in consultation with the Group leaders.</p>
3.2.1.13	<p>The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	Cabinet
3.2.1.14	<p>Functions under sections 106, 110, 111 and 113 of the Local Government and Public involvement in Health Act 2007 relating to local area agreements</p>	Cabinet



Part 3, Section 3:

Responsibility for Council Functions

Planning Committee

3.3.1 The primary purpose of the Planning Committee will be to exercise and undertake those determinations which are the responsibility of the Council as local planning authority, which may be delegated under S101 of the Local Government Act 1972, and are not:

- 3.3.1.1 Executive or overview and scrutiny functions;
- 3.3.1.2 already delegated elsewhere by the Council;
- 3.3.1.3 already delegated by the Council to Officers of the Council;
- 3.3.1.4 exercisable only by the Council itself; or
- 3.3.1.5 exercised in a way which breaches or has the effect of breaching policies, strategies and overall budgets approved by the Council or have adverse legal implications.

Membership

- 3.3.2 **Appointment.** The Planning Committee will consist of nine members appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989. There shall be no power to co-opt.
- 3.3.3 **Chairman.** The Chairman and Vice-Chairman of the Committee shall be appointed annually by that committee at its first meeting following the Annual Council meeting and before proceeding to any other business.
- 3.3.4 **Quorum.** Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of the Committee unless at least five Members are present.

Functions

- 3.3.5 The Planning Committee will exercise the following functions and those matters which flow from them (which are not Executive functions by virtue of Schedule 1 or 2 to the Functions Regulations), subject to the Referral up to Council by Planning Committee procedure **set out at 3.3.16- 3.3.20 below.**

3.3.6	Functions relating to town and country planning and development control (applications)
3.3.6.1	Power to determine applications to develop land without compliance with conditions previously attached.
3.3.6.2	Power to grant planning permission for development already carried out.
3.3.6.3	Power to decline to determine application for planning permission.
3.3.6.4	Duties relating to the making of determinations of planning applications.
3.3.6.5	Power to determine application for planning permission made by a local authority, alone or jointly with another person.
3.3.6.6	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
3.3.6.7	Power to enter into agreement regulating development or use of land.
3.3.6.8	Power to issue a certificate of existing or proposed lawful use or development.
3.3.6.9	Power to serve a completion notice.
3.3.6.9	Power to grant consent for the display of advertisements.
3.3.6.10	Power to authorise entry onto land.
3.3.6.11	Power to require the discontinuance of a use of land.
3.3.6.12	Power to serve a planning contravention notice, breach of condition notice or stop notice.

3.3.6.13	Power to issue a temporary stop notice.
3.3.6.14	Power to issue an enforcement notice.
3.3.6.15	Power to apply for an injunction restraining a breach of planning control.
3.3.6.16	Power to determine applications for hazardous substances consent, and related powers.
3.3.6.17	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
3.3.6.18	Power to require proper maintenance of land.
3.3.6.19	Power to determine application for listed building consent, and related powers.
3.3.6.20	Duties relating to applications for listed building consent.
3.3.6.21	Power to serve a building preservation notice, and related powers.
3.3.6.22	Power to issue enforcement notice in relation to demolition of listed building in conservation area.
3.3.6.23	Powers to acquire a listed building in need of repair and to serve a repairs notice.
3.3.6.24	Power to apply for an injunction in relation to a listed building.
3.3.6.25	Power to execute urgent works.

Functions relating to town and country planning and development control (applications): Delegation on to Officers:

Deputy Chief Officer – Development Management

- 3.3.7 The issue of directions and imposing of conditions restricting applications for planning permission affecting classified roads (other than trunk roads) and unclassified roads required to be made by the Council in accordance with the arrangements with the Leicestershire County Council.

3.3.8 Approval, subject to adequate estimate provision of grants for Environmental Plant Scheme and the Amenity Plant Scheme which comply with Council Policy.

3.3.9 **Applications delegated for determination:**

3.3.10 The following applications are delegated for determination, subject to 3.3.12 (1)- (8), where delegation is removed:

- 3.3.10.1 all applications for planning permission, including applications for the discharge and variation of conditions and requests for minor amendments and non-material amendments or applications for lawful use or development (Town and Country Planning act 1990, as amended);
- 3.3.10.2 all applications for listed building consent or conservation area consent (Town and Country Planning Listed Buildings and Conservation Area act 1990, as amended);
- 3.3.10.3 all applications for advertisement consent (Town and Country Planning Control of Advertisement Regulations 1992, as amended);
- 3.3.10.4 all agricultural, telecommunications and other 'prior notifications' and "prior approvals" under the Town and Country Permitted Development Order 1995, as amended, and any subsequent amendments, modifications or replacement orders or Regulations;
- 3.3.10.5 all applications for 'hedgerow removal' (Hedgerow Regulations 1997, as amended);
- 3.3.10.6 all applications to undertake works to trees subject to a Tree Preservation Order or within a Conservation Area (Town and Country Planning Trees Regulations 1999, as amended);
- 3.3.10.7 all applications for remedial notices in respect of high hedges (Anti Social Behaviour Act 2003, as amended);
- 3.3.10.8 all applications by other local authorities, for example, Leicestershire County Council and observations on 'County Matters' applications (Town and Country Planning General Regulations 1992, as amended);

- 3.3.10.9 all applications for Hazardous Substances Consent (Planning Hazardous Substances Act, 1990, as amended);
 - 3.3.10.10 Applications for Reserved matters approval for schemes of ten dwellings or fewer;
 - 3.3.10.11 Applications for Discharge of Conditions;
 - 3.3.10.12 Screening and Scoping Opinions required under Environmental Regulations; and
 - 3.3.10.13 Permission in principle.
- 3.3.11 In addition, Officers may exercise the power, on behalf of the Council, not to determine 'repeat applications' to give determinations in relation to 'permitted development' to confirm intended Tree Preservation Orders, to enter into legal agreements under Section 106 of the Town and Country Planning Act, to exercise the discontinuance of a use of land and the power to serve a building preservation notice and other related actions to secure the integrity of a listed building.
- 3.3.12 **Circumstances by which delegation to Officers is removed:**
- 3.3.12.1 Any application (other than Advertisement Consents; Prior Notifications and Prior Approvals; Hedgerow Removal Notices; Tree works applications; High Hedge applications; County Matters applications and Screening and Scoping requests) where any Member has requested determination of the application by the Planning Committee, within 28 days of the date of the publication of the weekly list on which that application appears. N.B. The request for consideration may be withdrawn at any time, and the application returned to delegated authority (subject to compliance with the other criteria explained below). Requests should be made to the Deputy Chief Officer – Development Management in writing (which includes email) and set out the planning reasons for the request (such as Highway safety, or the character of the surrounding area) for the request and should clearly state the impact of the development.
 - 3.3.12.2 applications where the intended decision would depart from currently adopted and up to date development plan policy.

- 3.3.12.3 Where the application is made by a Councillor or by a Council Officer or immediate members of their family, or it involves land owned by any of them.
- 3.3.12.4 Applications for 25 or more dwellings (other than substitution of house types) and for commercial floor space of 10,000m/sq. or more.
- 3.3.12.5 Where the proposal involves the Council as applicant or land owner except where applications are for works to protected trees.
- 3.3.12.6 Matters which the Deputy Chief Officer – Development Management, in consultation with the Briefing Group, considers should be considered by the Planning Committee due to their size, nature or impact, or for any other reason, including probity.
- 3.3.12.7 The revocation of any planning or other permission, with or without the payment of compensation by the Council.
- 3.3.12.8 The discontinuance of use or alternation or removal of buildings or works with or without the payment of compensation by the Council pursuant to Section 102 of the Town and Country Planning Act 1990.

	<i>Function:</i>	<i>Delegation on to:</i>
3.3.13	Functions relating to town and country planning and development control (other than applications)	
3.3.13.1	Power to serve a completion notice.	Chief Executive (in consultation with the relevant local Ward Councillors), including withdrawal and all enforcement within the Committee's powers.

3.3.13.2	Power to serve a planning contravention notice, breach of condition notice or stop notice.	Chief Executive (in consultation with the relevant local Ward Councillors) including withdrawal and all enforcement within the Committee's powers.
3.3.13.3	Power to serve a temporary stop notice.	Development Planning Manager (in consultation with the relevant local Ward Councillors) including withdrawal and all enforcement within the Committee's powers.
3.3.13.4	Power to issue an enforcement notice.	Chief Executive (in consultation with the relevant local Ward Councillors) including withdrawal and all enforcement within the Committee's powers.
3.3.13.5	Power to apply for an injunction restraining a breach of planning control.	Chief Executive (in consultation with the relevant local Ward Councillors).
3.3.13.6	Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Chief Executive (in consultation with the relevant local Ward Councillors) including withdrawal and all enforcement within the Committee's powers.
3.3.13.7	Power to apply for an injunction in relation to a listed building.	Chief Executive (in consultation with the relevant Ward Councillors).

3.3.13.8	Powers to acquire a listed building in need of report and to serve a repairs notice.	Chief Executive (in consultation with the relevant Ward Councillors).
3.3.13.9	Power to serve a notice requiring the proper maintenance of land.	Chief Executive (in consultation with the relevant local ward Councillors) including withdrawal and enforcement within the Committee's powers.

3.3.14	Planning related functions	
3.3.14.1	Powers relating to the preservation of trees under the Town and Country Planning Act 1990	Deputy Chief Officer – Development Management (a) Determination of applications for topping, lopping and felling and power to dispense with replanting; (b) Applications to fell trees in conservation areas and power to dispense with replanting; and (c) Emergency tree preservation orders.
3.3.14.2	Powers relating to the protection of important hedgerows under The Hedgerows Regulations 1997 (S.I. 1997/1160).	Deputy Chief Officer – Development Management
	<i>Function</i>	<i>Delegation on to:</i>

3.3.15	Public Rights of Way (under the Highways Act 1980 except where otherwise stated)	
3.3.15.1	Power to create footpaths and bridleways and restricted byways.	No onward delegation
3.3.15.2	Power to create footpaths and bridleways and restricted byways by agreement.	No onward delegation
3.3.15.3	Power to stop up footpaths and bridleways and restricted byways.	Head of Paid Service
3.3.15.4	Power to determine application for public path extinguishment order.	Head of Paid Service
3.3.15.5	Power to make a rail crossing extinguishment order.	No onward delegation
3.3.15.6	Power to divert footpaths and bridleways and restricted byways.	No onward delegation
3.3.15.7	Power to make a public path diversion order.	No onward delegation
3.3.15.8	Power to make a rail crossing diversion order.	No onward delegation
3.3.15.9	Duty to keep register with respect to applications under sections 118ZA, and 119ZA of the Highways Act 1980.	Deputy Chief Officer – Development Management
3.3.15.10	Power to decline to determine certain applications (section 121C of the Highways Act 1980).	No onward delegation
3.3.15.11	Power to extinguish certain public rights of way associated with compulsory purchase under the Acquisition of Land Act 1981.	No onward delegation

3.3.15.12	Power to extinguish public right of way over land acquired for clearance (section 294 of the Housing Act 1985).	No onward delegation
3.3.15.13	Power to authorise stopping up or diversion of highway (section 247 of the Town and Country Planning Act 1990).	No onward delegation
3.3.15.14	Power to authorise stopping-up or diversion of footpath or bridleway or restricted byway under section 257 of the Town and Country Planning Act 1990.	No onward delegation
3.3.15.15	Power to extinguish public rights of way over land held for planning purposes under section 258 of the Town and Country Planning Act 1990.	No onward delegation

Referral up to Council by Planning Committee

- 3.3.16 At the beginning of a meeting of the Planning Committee any Member of the Committee may move that a specified planning application which is an item of business for that meeting be referred up to full Council. The Councillor must identify the grounds of significance justifying the motion. If the motion is seconded, the proposition shall be open to debate.
- 3.3.17 A non-Planning Committee Member may also submit a written Motion on Notice to the Planning Committee requesting that a specified planning application which is an item of business for that meeting be referred up to full Council.
- 3.3.18 There shall be no debate on the contents of the report relating to the specified planning application itself. Debate shall be limited to consideration as to whether the item is of such significance as to justify referral up to full Council notwithstanding the delegation of decision-making powers.
- 3.3.19 If the motion to refer up is carried, the item shall not be determined at the meeting, but shall stand referred to the next ordinary meeting of the full Council. If the referral up is not made in time for the matter to be included on the agenda for the next ordinary meeting, it shall be considered at the first subsequent ordinary meeting of the full Council. However, if the Head of Paid Service considers that

it is in the Council's interests to determine the matter before the next scheduled ordinary meeting, the matter may be considered at a special meeting of the full Council.

- 3.3.20 If the motion to refer up is not carried, the item shall be dealt with in accordance with the Committee's delegated powers.

Regulatory Committee

- 3.3.21 The primary purpose of the Regulatory Committee will be to exercise and undertake those licensing, registration and regulatory functions of the Council that may be delegated under S101 of the Local Government Act 1972 and are not:

- 3.3.21.1 Executive or overview and scrutiny functions;
- 3.3.21.2 already delegated elsewhere by the Council, or are statutory
- 3.3.21.3 committee functions (such as those matters under the Licensing Act 2003);
- 3.3.21.4 already delegated by the Council to Officers of the Council;
- 3.3.21.5 exercisable only by the Council itself; or
- 3.3.21.6 exercised in a way which breaches or has the effect of breaching policies, strategies and overall budgets approved by the Council or have adverse legal implications.

Membership

- 3.3.22 **Appointment.** The Regulatory Committee will consist of nine Councillors, appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989. There shall be no power to co-opt.
- 3.3.23 **Chairman.** The Chairman and Vice-Chairman of the Committee shall be appointed annually by that committee at its first meeting following the Annual Council meeting and before proceeding to any other business.
- 3.3.24 **Quorum.** Except where authorised by statute or ordered by the Council the quorum shall be one-quarter of the total membership of the Committee or three councillors, whichever is the greater.

Regulatory Panels (Sub-Committees)

- 3.3.25 **Appointment.** The Regulatory Committee will appoint one or more Panels to act as sub-committees to undertake hearings for regulatory licensing functions, consisting of four members of the Committee. Delegated decisions shall not be subject to call-in procedures because this body hears evidence and makes its decision in quasi-judicial circumstances.
- 3.3.26 **Chairman.** The Chairman shall be appointed at the first meeting following the Annual Council meeting, and before proceeding to any other business.
- 3.3.27 **Quorum.** Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of the Committee unless at least three Members are present.

Functions

- 3.3.28 The Regulatory Committee will exercise the following functions and those matters which flow from them (which are not Executive functions by virtue of Schedule 1 or 2 to the Functions Regulations)

	Function	Delegation on to:
	General licensing and registration functions	
3.3.28.1	Power to issue licences authorising the use of land as a caravan site ("site <i>licences</i> ").	The Chief Officer responsible for Regulatory Functions

3.3.28.2	Power to license the use of moveable dwellings and camping sites.	The Chief Officer responsible for Regulatory Functions
3.3.28.3	Power to license hackney carriages and private hire vehicles.	The Chief Officer responsible for Regulatory Functions
3.3.28.4	Power to license drivers of hackney carriages and private hire vehicles.	The Chief Officer responsible for Regulatory Functions
3.3.28.5	Power to license operators of hackney carriages and private hire vehicles.	The Chief Officer responsible for Regulatory Functions
3.3.28.6	Power to license sex shops and sex cinemas.	Reserved to Committee
3.3.28.7	Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.	The Chief Officer responsible for Regulatory Functions
3.3.28.8	Power to license pleasure boats and pleasure vessels.	The Chief Officer responsible for

		Regulatory Functions
3.3.28.9	Power to license market and street trading.	The Chief Officer responsible for Regulatory Functions
3.3.28.10	Power to register and license premises for the preparation of food.	The Chief Officer responsible for Regulatory Functions
3.3.28.11	Power to license scrap yards.	The Chief Officer responsible for Regulatory Functions
3.3.28.12	Power to license premises for the breeding of dogs.	The Chief Officer responsible for Regulatory Functions
3.3.28.13	Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	The Chief Officer responsible for Regulatory Functions
3.3.28.14	Power to register animal trainers and exhibitors.	The Chief Officer responsible for Regulatory Functions

3.3.28.15	Power to license zoos.	The Chief Officer responsible for Regulatory Functions
3.3.28.16	Power to license dangerous wild animals.	The Chief Officer responsible for Regulatory Functions
3.3.28.17	Power to license knackers' yards.	The Chief Officer responsible for Regulatory Functions
3.3.28.18	Power to license persons to collect for charitable and other causes.	The Chief Officer responsible for Regulatory Functions
3.3.28.19	Power to grant consent for the operation of a loudspeaker.	The Chief Officer responsible for Regulatory Functions
3.3.28.20	Power to authorise erection of stiles etc. on footpaths or bridleways.	The Chief Officer responsible for Regulatory Functions
3.3.28.21	Power to approve meat product premises.	The Chief Officer responsible

		for Regulatory Functions
3.3.28.22	Power to approve premises for the production of minced meat or meat preparations.	The Chief Officer responsible for Regulatory Functions
3.3.28.23	Power to approve dairy establishments.	The Chief Officer responsible for Regulatory Functions
3.3.28.24	Power to approve egg product establishments.	The Chief Officer responsible for Regulatory Functions
3.3.28.25	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	The Chief Officer responsible for Regulatory Functions
3.3.28.26	Power to approve fish products premises.	The Chief Officer responsible for Regulatory Functions
3.3.28.27	Power to approve dispatch or purification centres.	The Chief Officer responsible for

		Regulatory Functions
3.3.28.28	Power to register fishing vessels on board which shrimps or molluscs are cooked.	The Chief Officer responsible for Regulatory Functions
3.3.28.29	Power to approve factory vessels and fishery product establishments.	The Chief Officer responsible for Regulatory Functions
3.3.28.30	Power to register auction and wholesale markets.	The Chief Officer responsible for Regulatory Functions
3.3.28.30	Duty to keep register of food business premises.	The Chief Officer responsible for Regulatory Functions
3.3.28.31	Power to register food business premises.	The Chief Officer responsible for Regulatory Functions
3.3.28.32	Power to register motor salvage operators.	The Chief Officer responsible for Regulatory Functions

	Function	Delegation on to:
3.3.29	Powers relating to complaints about high hedges	The Chief Officer responsible for Regulatory Functions

	Function	Delegation on to:
	Functions relating to health and safety	
3.3.30	Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, <i>which for the avoidance of doubt includes Section 19,</i> and Schedule 1 to that Act, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Chief Executive – who is authorised to appoint inspectors under the Health and Safety at Work Act to exercise the powers of an inspector for the purposes of the relevant statutory provisions and to institute, after consultation with the Monitoring Officer, such proceedings as they considers necessary.

Licensing Committee

- 3.3.31 The purpose of the Licensing Committee will be to act as the statutory committee under the Licensing Act 2003 and the Gambling Act 2005, charged by the Council to undertake and exercise its functions as licensing authority, together with any associated functions of the Council.

Membership

- 3.3.32 **Appointment.** The Licensing Committee will consist of nine Councillors, appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting. These will be those same Councillors as are appointed by the Council to the Regulatory Committee, whose appointments must be in accordance with the proportionality rules of the Local Government and Housing Act 1989. There shall be no power to co-opt.
- 3.3.33 **Chairman.** The Chairman and Vice-Chairman of the Committee shall be appointed annually by that committee at its first meeting following the Annual Council meeting and before proceeding to any other business.
- 3.3.34 **Quorum and Proceedings.** The Committee may, subject to regulations made under the Licensing Act 2003 concerning proceedings, quorum, public access, publicity, agendas, records and access to information, regulate its own procedures.

Licensing Panels (Sub-Committees)

- 3.3.35 **Appointment.** The Committee will appoint sub-committees [panels] for the purpose of exercising the function of hearing and determining applications, licence reviews and other such matters that may be so delegated under the Licensing Act 2003 or the Gambling Act 2005.
- 3.3.36 **Quorum and Proceedings.** The Committee may, subject to regulations made under the Licensing Act 2003 concerning proceedings, quorum, public access, publicity, agendas, records and access to information, regulate the procedures of its sub-committees (panels); which shall consist of three councillors.

Functions

The Licensing Committee will exercise the following functions and those matters which flow from them (which are not executive functions by virtue of Schedule 1 or 2 to the Functions Regulations).

Functions relating to alcohol, entertainment and late night refreshment

All functions, powers and duties conferred by the Licensing Act 2003 and regulations made under, or relating to, it, except the determination of the licensing authority's statement of licensing policy and the functions of making, and varying or revoking, an order under section 172A of the Act (early morning alcohol restriction order).

3.3.37 This includes the powers to:-

3.3.37.1 Determine applications for personal licences.

3.3.37.2 Determine applications for premises licences and club premises certificates.

3.3.37.3 Determine applications for the variation of premises licences and club premises certificates.

3.3.37.4 Register and deregister designated premises supervisors.

3.3.37.5 Determine applications for the transfer of premises licences.

3.3.37.6 Review premises licences and club premises certificates.

3.3.27.7 Determine police objections to temporary event notices.

Functions relating to gambling

3.3.38 All functions, powers and duties conferred by the Gambling Act 2005 and regulations made under, or relating to, it.

This includes the powers to:-

3.3.38.1 Where representations are made and not withdrawn, determine applications for:

3.3.38.1.1 Premises licences.

3.3.38.1.2 Variation of premises licences.

3.3.38.1.3 Transfer of premises licences.

3.3.38.1.4 Provisional transfer of premises licences.

3.3.38.1.5 Club gaming and club machine permits.

3.3.38.2 Cancel club gaming and club machine permits.

3.3.38.3 Deciding to give counter notice to a temporary use notice.

3.3.38.4 Take action under section 202 as a result of a review.

3.3.38.5 Register a pool betting licence.

3.3.38.6 Grant a track betting licence.

3.3.38.7 License an inter-track betting scheme.

3.3.38.8 Grant gaming and betting machine licences.

3.3.38.9 Register societies wishing to promote lotteries.

3.3.38.10 Issue premises licences and receive temporary use notices.

Overview and Scrutiny Panels

3.3.39 The main role and purpose of an Overview and Scrutiny Panel is the exercising of the Council's overview and scrutiny functions, as set out in **Part 2 Article 6 of this Constitution.**

Membership and Procedure

- 3.3.40 The Overview and Scrutiny Panels will be appointed and chaired in accordance with **Part 2 Article 6** of this Constitution, and will conduct their business in accordance with the Council Rules of Procedure and Scrutiny Procedure Rules set out in **Part 4 of this Constitution**.

Crime and Disorder Committee

Membership and Procedure

- 3.3.41 **Appointment.** The responsibilities of the Crime and Disorder Committee are delegated to the Overview and Scrutiny Panel with the responsibility for Communities.
- 3.3.42 **Quorum.** Rules regarding quorum shall follow those of the Overview and Scrutiny Panel (**Part 4(5) of the Constitution**).

Functions

- 3.3.43 The Crime and Disorder Committee will exercise the functions below and those matters which flow from them (which are not Executive functions by virtue of Schedule 1 or 2 to the Functions Regulations).

	Functions relating to Crime and Disorder in the authority's district
3.3.43.1	Duty to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions.
3.3.43.2	Duty to review or scrutinise decisions made, or other action taken, by the Community Safety Partnership.
3.3.43.3	Duty to make reports or recommendations to the local authority with respect to the discharge of those functions.

Audit and Standards Committee

- 3.3.44 The purpose of the Audit and Standards Committee is to provide independent assurance of the adequacy of the risk management framework and the associated internal control environment, independent scrutiny of the Council's financial and non- financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment, and to oversee the financial reporting process.
- 3.3.45 The Audit and Standards Committee will discharge the functions conferred by Part III of the Local Government Act 2000 (as amended by the Localism Act 2011), and such other of the authority's functions as it sees fit, and in accordance with the provisions of, or regulations made under, Part III of the Local Government act 2000 or the Localism Act 2011.

Membership and Procedure

3.3.46 **Appointment**

The Audit and Standards Committee will comprise 7 Councillors who are not members of the Cabinet appointed in accordance with the proportionality rules of the Local Government and Housing Act 1989.

3.3.47 **Chairman**

The Chairman (and Vice-Chairman if desired) of the Committee will be chosen from the 7 District Council members of the Committee.

3.3.48 **Quorum**

Except where authorised by statute or ordered by the Council business shall not be transacted as a meeting of the Committee unless at least 3 members of the Committee are present.

3.3.49 **Access to Information**

The Audit and Standards Committee shall act in accordance with the Access to Information **Procedure Rules set out in Part 4(2)** of this Constitution, and where those rules refer to the authority giving to the public or making available for public inspection:

- 3.3.49.1 notice of a meeting;

- 3.3.49.2 the agenda of a meeting
- 3.3.49.3 reports relating to items when the meeting was or is to be open to the public; and
- 3.3.49.4 minutes or summaries of proceedings
- 3.3.49.5 the authority will provide to every parish Council for which it is responsible copies of the same upon request.

Functions

3.3.50 The Audit and Standards Committee will exercise the following functions :

- 3.3.50.1 Consider the effectiveness of the Council's risk management arrangements, the Council's overall control environment and its specific anti-fraud and anti- corruption arrangements;
- 3.3.50.2 Consider the reports of external audit and other inspection agencies and seek assurance that action is taken on the issues raised in those reports with particular emphasis on actions relating to the overall control environment, risk and anti-fraud and anti-corruption arrangements ;
- 3.3.50.3 Review summary internal audit reports and the main issues arising and seeking assurance of actions taken on the issues raised in these reports.
- 3.3.50.4 Approve internal audit's strategy plan and performance (although the Committee would not have the authority to direct internal audit);
- 3.3.50.5 Ensure that there are effective arrangements between internal and external audit (and other inspection agencies) and that the value of the audit process is actively promoted;
- 3.3.50.6 Ensure that the Council's Annual Governance Statement and other assurance statements required of the Council properly reflect the risk environment and any actions required to improve it.
- 3.3.50.7 Receive the annual report of the Head of Internal Audit.
- 3.3.50.8 Review the financial statements, external auditor's opinion and reports to members and monitor management action in response to the issues raised by external audit.
- 3.3.50.9 Review and adopt the Annual Governance Statement
- 3.3.50.10 Promote and maintain high standards of conduct by Councillors and co-opted members
- 3.3.50.11 Assist the Councillors and co-opted members to observe the Members' Code of Conduct(s)

- 3.3.50.12 Advise the Council on the adoption or revision of the Members' Code of Conduct and monitor its operation
- 3.3.50.13 Advise, train or arrange for the training of Councillors and co-opted members on matters relating to interests set out in the members Code of Conduct
- 3.3.50.14 Determine complaints against District Councillors and Town and Parish Councillors of alleged failure to comply with the Council(s) Code of Conduct (s) accordance with the arrangements in place from time to time as adopted by the Council
- 3.3.50.15 Deal with any reports from the Monitoring Officer or Deputy Monitoring Officer in connection with a complaint relating to a breach of the Council(s) Code of Conduct(s).
- 3.3.50.16 Overview of the public interest disclosure (whistleblowing) protocol;
- 3.3.50.17 Process of complaints handling and Local Government Ombudsman investigations;
- 3.3.50.18 Consideration of the constitution and recommend changes to procedures or the Codes in respect of probity issues considered required in the light of:
- 3.3.50.19 experience on any matters arising from investigations by the Local Government Ombudsman where maladministration is found; and
- 3.3.50.20 matters referred to the Committee by the Council or the Cabinet.

Standards Sub Committee

- 3.3.51 The Audit and Standards Committee has established a Sub Committee ("The Standards Sub Committee") to exercise functions set out in 3.3.50.14 and 3.3.50.15 above.

Form and Composition

- 3.3.52 The Standards Sub Committee shall comprise five members of the Audit and Standards Committee, appointed in accordance with the proportionality rules of the Local Government and Housing Act 1989; and
- 3.3.53 Three members of Town or Parish Councils wholly or mainly in the Council's area (the "parish Members") who may not also be District Councillors

Parish Councillors

- 3.3.54 The Parish Councillors will be selected in accordance with the following process:

- 3.3.54.1 The Monitoring Officer, in consultation with the Committee Chairman, will draw up a person specification and nomination form for the appointment of Parish Councillors to the Standards Sub Committee from the date of appointment until the date of the following Town and Parish Council elections;
 - 3.3.54.2 Each Town and Parish Council for which Harborough District Council is the responsible authority, will be invited to nominate one of their number to become a Parish Member in accordance with the above;
 - 3.3.54.3 The Monitoring Officer, in consultation with the Committee Chairman, and with advice from the South Leicestershire branch of the Leicestershire and Rutland Association of Parish Councils, will select the Parish Members of the Standards Sub Committee
- 3.3.55 Each parish member will hold office until:
- 3.3.55.1 they resign from office
 - 3.3.55.2 they are no longer a parish Councillor;
 - 3.3.55.3 they are elected as a Councillor of a principal authority; or
 - 3.3.55.4 upon appointment of the succeeding parish members as a consequence of the selection process set out in paragraph above, which shall take place at the earliest opportunity following general Town and Parish Council elections across the District.
- 3.3.56 The Parish members will not be entitled to vote at meetings of the Standards Sub Committee

Proceedings of the Standards Sub Committee

- 3.3.57 The Standards Sub Committee will conduct its proceedings in accordance with the Council Procedure Rules set out in **Part 4(1)** and the Access to Information Rules set out in part **4(2)** of this Constitution as well as the Procedure Rules set out in the arrangements for dealing with complaints as adopted by the Council.

Chairing of the Committee

- 3.3.58 Members shall decide who shall preside at the meeting. All members of the Committee are eligible to hold this position.

Quorum

- 3.3.59 The quorum shall be three District Councillors, provided that when complaints relate to Town or Parish Councillors one Parish Member is present.

Constitutional Review Committee

- 3.3.60 The primary purpose of the Constitutional Review Committee will be to advise on the aims, principles and workings of the Constitution. The Constitutional Review Committee will meet at least twice in each municipal year.

Membership and Procedure

- 3.3.61 **Appointment.** The Constitutional Review Committee will consist of seven Councillors, appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989.
- 3.3.62 **Quorum.** Except where authorised by statute or ordered by the Council the quorum shall be one-quarter of the total membership of the Committee, or three members, whichever is the greater.

Functions

- 3.3.63 The Constitutional Review Committee will exercise the following functions, and those matters which flow from them (which are not Executive functions by virtue of Schedule 1 or 2 to the Functions Regulations).

	Functions relating to the Council's Constitution and related functions delegated by Council
3.3.63.1	<p>Make recommendations in accordance with Article 7 of the Constitution arising from:</p> <ul style="list-style-type: none">(a) the conduct from time-to-time of a review of elements of the Council's Constitution; and(b) consideration and evaluation of proposals submitted for changes to the Constitution.

3.3.63.2	Making recommendations to the Cabinet or to the relevant Officers regarding arrangements for providing appropriate support services to meet the needs of elected Members.
3.3.63.3	Keep under review and make recommendations in respect of requirements, procedures and facilities to enhance the quality of debate, information and public engagement in respect of Council meetings.

Employment Committee

- 3.3.64 The primary purpose of the Employment Committee is to consider the terms and conditions of employment of the officers of the Council and to make recommendations to the Council for consideration as appropriate.

Membership and Procedure

- 3.3.65 **Appointment.** The Employment Committee will comprise seven Councillors appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989.
- 3.3.66 **Quorum.** Except where authorised by statute or ordered by the Council, the quorum shall be one-quarter of the total membership of the Committee, or three, whichever is the greater.
- 3.3.67 **Functions**

The Employment Committee will exercise the following functions and those matters which flow from them (which are not Executive functions by virtue of Schedules 1 or 2 to the Functions Regulations).

	Functions relating to the Employment of Officers and related functions delegated by Council
3.3.67.1	Keep under consideration the terms and conditions of employment of the officers of the Council and make recommendations regarding them, as appropriate, to the Council.

Investigating and Disciplinary Committee

- 3.3.68 The primary purpose of the Investigating and Disciplinary Committee is to advise the Council on matters relating to the dismissal of relevant officers of the authority.

Membership and Procedure

- 3.3.69 **Appointment.** The Investigating and Disciplinary Committee (IDC) will comprise five Councillors, including at least one member of the Cabinet. The Committee must be politically balanced, appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989.
- 3.3.70 **Quorum.** Except where authorised by statute or ordered by the Council, the quorum shall be three
- 3.3.71 **Procedure.** Allegations raised regarding the Head of Paid Service should be raised with the Monitoring Officer in the first instance. Any allegations against the Chief Finance Officer and Monitoring Officer should be raised with the Head of Paid Service in the first instance. Any referrals to the IDC will be in consultation with the Chairman of the IDC.
- 3.3.72 The Committee should be in a position to take a decision as a matter of urgency and meet at very short notice to consider allegations, ascertain whether there is a case to answer and also to consider whether to suspend the statutory officer.

Functions

- 3.3.73 The Investigating and Disciplinary Committee will exercise the following functions :
- 3.3.74 Consider allegations relating to the conduct or capability of the Head of Paid Service, Section 151 (Chief Financial Officer) Officer or the Monitoring Officer;
- 3.3.75 Appoint an Independent Investigator (including agreeing terms of reference of the investigation) from a list maintained by the JNC Joint Secretaries and in

accordance with the procedure adopted by the JNC Joint Secretaries from time to time;

- 3.3.76 Receive and consider the report of the Independent Investigator and be given authority to impose no sanction, or to take action short of dismissal and to impose an appropriate penalty or take other appropriate action;
- 3.3.77 In such cases where the IDC considers it appropriate taking into account the threshold test the IDC may suspend the Head of Paid Service, Section 151 (Chief Financial Officer) Officer or the Monitoring Officer;
- 3.3.78 Authority to negotiate any settlement in consultation with internal / external auditors and appoint such independent external advisers as required in this respect.

Appeals Committee

- 3.3.79 The primary purpose of the Appeals Committee is to consider any appeal against disciplinary action (short of dismissal) made by the Chief Executive or Statutory Officers.

Membership and Procedure

- 3.3.80 **Appointment.** The Appeals Committee will comprise five Councillors, of which at least one member must be a member of the Cabinet appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989. No member of the Investigating and Disciplinary Committee can be a member of the Appeals Committee.
- 3.3.81 **Quorum.** Except where authorised by statute or ordered by the Council, the quorum shall be three

Functions

- 3.3.82 The Appeal Committee will exercise the following functions :
 - 3.3.82.1 Hear the appeals;
 - 3.3.82.2 Confirm either the action; impose no sanction or impose a lesser action.

Full Council

- 3.3.83 Beyond those functions set out in **Part 2 Article 4** (The Full Council) and the above, the Council has reserved to itself the exercise of the following functions and those matters which flow from them (which are not executive functions by virtue of Schedule 1 or 2 to the Functions Regulations).

	Function	Delegation on to
	Functions relating to elections	
3.3.83.1	Duty to appoint an Electoral Registration Officer.	No onward delegation
3.3.83.2	Power to assign Officers in relation to requisitions of the Registration Officer.	Electoral Registration Officer
3.3.83.3	Functions in relation to Parishes and Parish Councils.	Electoral Registration Officer
3.3.83.4	Power to dissolve small Parish Councils.	No onward delegation
3.3.83.5	Power to make orders for grouping Parishes, dissolving groups and separating Parishes from groups.	No onward delegation
3.3.83.6	Duty to appoint the Returning Officer for local government elections.	Electoral Registration Officer

3.3.83.7	Duty to provide assistance at European Parliamentary elections.	Electoral Registration Officer
3.3.83.8	Duty to divide constituency into polling districts.	Electoral Registration Officer
3.3.83.9	Power to divide electoral divisions into polling districts at local government elections.	Electoral Registration Officer
3.3.83.10	Powers in respect of holding of elections.	Electoral Registration Officer
3.3.83.11	Power to pay expenses properly incurred by Electoral Registration Officers.	Section 151 Officer
3.3.83.12	Power to fill vacancies in the event of insufficient nominations.	Electoral Registration Officer
3.3.83.13	Duty to declare vacancy in office in certain cases.	Electoral Registration Officer
3.3.83.14	Duty to give public notice of a casual vacancy.	Electoral Registration Officer
3.3.83.15	Power to make temporary appointments to Parish Councils.	Electoral Registration Officer
3.3.83.16	Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Electoral Registration Officer

3.3.83.17	Duty to consult on change of scheme for elections.	Electoral Registration Officer
3.3.83.18	Duties relating to publicity.	Electoral Registration Officer
3.3.83.19	Duties relating to notice to the Electoral Commission.	Electoral Registration Officer
3.3.83.20	Power to alter years of ordinary elections of parish councillors.	No onward delegation
3.3.83.21	Functions relating to change of name of electoral area.	No onward delegation

	Function	Delegation on to
3.3.84	Functions relating to name and status of areas and individuals	
3.3.84.1	Power to change the name of the District.	No onward delegation
3.3.84.2	Power to change the name of a Parish.	No onward delegation
3.3.84.3	Power to confer title of honorary alderman or to admit to be an honorary freeman.	No onward delegation
3.3.84.4	Power to petition for a charter to confer Borough status.	No onward delegation

	Function	Delegation on to
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3.3.85	Functions relating to community governance	
3.3.85.1	Duties relating to community governance reviews.	No onward delegation
3.3.85.2	Functions relating to community governance petitions.	Electoral Registration Officer
3.3.85.3	Functions relating to terms of reference of review.	No onward delegation
3.3.85.4	Power to undertake a community governance review.	No onward delegation
3.3.85.5	Functions relating to making of recommendations.	No onward delegation
3.3.85.6	Duties when undertaking a review.	No onward delegation
3.3.85.7	Duty to publicise outcome of a review.	Electoral Registration Officer
3.3.85.8	Duty to send two copies of order to Secretary of State and Electoral Commission.	Electoral Registration Officer
3.3.85.9	Power to make agreements about incidental matters.	No onward delegation

	Function	Delegation on to
3.3.86	Power to make, amend, revoke or re-enact or enforce byelaws.	No onward delegation

	Function	Delegation on to
3.3.87	Power to promote or oppose local or personal Bills.	No onward delegation

	Function	Delegation on to
3.3.88	Miscellaneous	
3.3.88.1	Power to make standing orders, standing orders as to contracts and amendments to other Parts to the Constitution.	No onward delegation except that the Monitoring Officer shall give effect to decisions delegated to the Cabinet, Leader of the Cabinet or officers as set out in this Constitution.
3.3.88.2	Duty to make arrangements for proper administration of financial affairs etc.	No onward delegation.
3.3.88.3	Power to appoint and dismiss staff	Head of Paid Service (subject to consultation and other requirements in respect of chief and deputy chief officers contained in the Officer Employment Procedure Rules in Part 4).
3.3.88.4	Duty to designate officer as the Head of the Authority's Paid Service, and to provide staff, etc.	No onward delegation (see Officer Employment Procedure Rules in Part 4).
3.3.88.5	Duty to designate officer as the Monitoring Officer, and to provide staff, etc.	No onward delegation (see Officer Employment Procedure Rules in Part 4).

3.3.88.6	Duty to provide staff, etc to person nominated by Monitoring Officer.	No onward delegation (see Monitoring Officer Protocol in Part 5).
3.3.88.7	Powers relating to overview and scrutiny committees (voting rights of co-opted members).	No onward delegation
3.3.88.8	Power to appoint officers for particular purposes (appointment of "proper officers").	Head of Paid Service
3.3.88.9	Power to make payments or provide other benefits in cases of maladministration etc.	Chief Executive or Monitoring Officer
3.3.88.10	Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of payments and receipts (as the case may be).	Audit and Standards Committee
3.3.88.11	The function, pursuant to an order under section 70 (functions of local authorities) of the Deregulation and Contracting Out Act 1994, of authorising a person, and revoking such an authorisation, to exercise a function to which that section applies ("section 70 function") to the extent that the section 70 function is not the responsibility of the Cabinet.	No onward delegation



Part 3, Section 4:

Allocation of Responsibility for Executive Functions

Contents

Page

General Protocol for Allocation of Responsibility for
Executive Function

Chief Officer Allocation of Responsibilities

Scheme of Officer delegation as agreed by the Leader
under Part 4: Section 1:H attached as Annexe A

General Protocol for Allocation of Responsibility for Executive Functions

- 3.4.1 The Chief Officers are responsible for the day-to-day management of the operational issues for the Council. This Scheme of Delegation is intended to supplement the powers, duties and obligations set out in each Officer's job description.
- 3.4.2 The purpose of the allocation of responsibilities is to create:
 - 3.4.2.1 a clear identification of the matters on which an Officer usually does not need to seek a decision by Members of the Council; and
 - 3.4.2.2 evidence to other parties that, in taking certain actions or decisions, an Officer of the Council has been duly authorised to do so.
- 3.4.3 The Chief Officers with delegated authority must ensure that relevant Members are consulted on all matters of a controversial and sensitive nature (i.e. impacts on the standards of customer service, issues that expect to create public dissatisfaction or disapproval). When appropriate, these matters must be referred to the Cabinet for a decision/ guidance.
- 3.4.4 If the relevant Portfolio Holder is unavailable and the decision cannot wait, the consultation will be with the Leader or Deputy Leader, or another Portfolio Holder.
- 3.4.5 Where any decision proposed under delegated powers is likely to involve the approved annual budget being exceeded, or is outside the approved capital programme, the Officer with delegated authority must refer the matter to the Cabinet for a decision/ guidance (Emergency Planning is an exception to this as the money will be reclaimed through the Belvin Scheme).
- 3.4.6 In certain cases which present novel or difficult features or which involve a substantial element of policy it may be appropriate for an Officer to consult a Councillor, on an informal basis before they take a decision (in which case the decision stands in the Officer's name).
- 3.4.7 Where Officers are taking decisions under delegated powers, the following principles and conditions will apply:
 - 3.4.7.1 the Officer exercising such powers shall take account of any previous decision of the Council on any relevant policies and procedure;

- 3.4.7.2 all decisions shall be taken in the name of, but not necessarily personally by, the Officer(s) to whom the power is delegated;
- 3.4.7.3 in any case where the Officer exercising the power considers that a new departure in policy or a significant change in financial practice is likely to be involved, they shall consult the Chief Executive and the appropriate Portfolio Holder, who shall refer the matter to the Cabinet for consideration.
- 3.4.8 When Adoptive Acts are considered for enforcement by the Council, discussion must be held with the relevant Portfolio Holder and, if considered necessary, taken to the Cabinet for a decision/ guidance.
- 3.4.9 The statutory and chosen adoptive obligations under the Acts of Parliament and Regulations which are relevant to the Council service areas will adhere to, including future amendments, revisions of the stated acts and future obligatory Acts.
- 3.4.10 The Monitoring Officer is authorised to make, from time to time, such amendments to this Scheme as in their view are minor – such as changes to the titles of Officers – and is also authorised in consultation with the Head of paid Service to transfer any of the functions contained within this scheme, between Heads of Service.
- 3.4.11 The Chief Executive and Section 151 Officer **may** issue appropriate authorisations under the Regulation of Investigatory Powers Act 2003.

Chief Officer Allocation of Responsibilities

- 3.4.12 Each member of the Corporate Management Team is authorised to act on behalf of the Council in relation to any matters within the service area for which they are responsible, under delegated powers that comply with:
 - 3.4.12.1 The overall policies approved by the Council;
 - 3.4.12.2 Council Procedure Rules;
 - 3.4.12.3 Financial Procedure Rules and Contract Procedure Rules;
 - 3.4.12.4 Personnel Policies and Procedures;
 - 3.4.12.5 Approved capital and revenue budget estimates that do not involve increased expenditure nor the loss of income;

3.4.12.6 The requirement of the relevant legislation.

3.4.13 Without prejudice to these delegations, a Chief Officer is expected in appropriate cases to:

3.4.13.1 Maintain a close liaison with the appropriate Portfolio Holder;

3.4.13.2 Ensure that the appropriate Councillors are consulted on the exercise of delegated powers;

3.4.13.3 Ensure that the Monitoring Officer and the Section 151 Officer are consulted and advised of any decisions as necessary;

3.4.13.4 Ensure that the Council's Deputy Chief Officers are consulted and advised where appropriate in relation to cross service issues.

3.4.13.5 The effective and efficient day-to-day management of the service for which they are responsible, in accordance with the Council's agreed priorities and strategic objectives.

3.4.15 In connection with the preparation and execution of all agreements/ contracts in respect of which the Service is concerned:

3.4.15.1 to deal with minor amendments to plans;

3.4.15.2 to authorise a variation in specification and materials when necessary;

3.4.15.3 to give instructions to general contractors to place orders for prime cost items;

3.4.15.4 to have the authority to sign agreements/ contracts up to the value of £50,000;

3.4.15.5 to take any agreements/ contracts to the Cabinet for a decision if it is above the EC Procurement threshold for supplies.

3.4.16 To take all decisions delegated on the basis that:

3.4.16.1 it does not undermine the Council's Core Values or contravene Standing Orders, e.g. contracts letting;

3.4.16.2 it does not overturn a previous Member decision or Members have expressly asked to determine the matter;

- 3.4.16.3 there is a legal requirement for the matter to be determined by them;
- 3.4.16.4 any apparent inherent expenditure can be accommodated through the Officers' powers in Financial Regulations;
- 3.4.16.5 no reduction in public service results.
- 3.4.17 To apply for any grants, awards or subsidies to which the Council is, or may be, entitled where the subject matter of the grant or subsidy is within the work undertaken by the Service concerned.
- 3.4.18 Ensuring that the Council Health and Safety Policy is implemented within their own safety area e.g. issuing protective clothing where safety hazards occur.
- 3.4.19 Subject to budgetary allocation, and in consultation with the Chief Officers and the Human Resources Team, to determine the need for new posts (temporary or otherwise), extensions to temporary contracts or planned overtime.
- 3.4.20 Adjust working hours of their staff to facilitate the work of the Authority and their employees, in consultation with the relevant staff.
- 3.4.21 Consultation should be held with Legal Services before instigating any legal proceedings.
- 3.4.22 Issue cautions provided that:
 - 3.4.22.1 authority exists for the issue of prosecution proceedings in relation to that matter; and,
 - 3.4.22.2 the caution is administered with due regard to the relevant Circular and associated national standards for cautioning issued by the Home Office.

Scheme of delegation

- 3.4.23 This Scheme is made by the Leader of the Cabinet. It delegates the powers and functions in relation to executive function and local choice functions exercisable by the Cabinet to officers.
- 3.4.24 This Scheme should be read in accordance with **Part 3 Section 2 and Section 4 and 5** of the Council's Constitution, including the Introduction setting out the Principles of Delegation.

3.4.25 All executive and local choice functions set out in Part 3 will be discharged by the Cabinet .The following functions have been delegated to another local authority or joint committee as follows:

Revenues and

Benefits

Telephony

Service Payroll

Disabled Facilities Grants (Lightbulb)

3.4.26 In addition to the functions set out above the functions delegated to Officers are set out in Annex A below.



Part 3, Section 4:

Scheme of Officer Delegation Annexe A

Chief Executive

- 3.4.27 To be responsible for the Health and Safety of Employees
- 3.4.28 Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the council on all matters relating to the discharge of the Council's functions relation to the following service delivery functions, unless that function has been specifically delegated to another Officer:
- 3.4.29 The fact that a function has been delegated to the Chief Executive does not require the Chief Executive to give the matter their personal attention. The Chief Executive may arrange for such delegation to be arranged by an appropriate officer (with a written record). However, the Chief Executive remains responsible for any decision taken following such arrangements.
- 3.4.30 Delegated powers are granted to the Chief Executive in consultation with the Leader (or in the absence the Deputy Leader) to authorise any action required on any matter which, in the opinion of the Chief Executives, is urgent, subject to a report thereafter being submitted to Cabinet as soon as is reasonably practicable.
- 3.4.31 In an emergency, if they consider it necessary in the interest of the efficient administration of the Council's service, the Chief Executive may exercise any of the powers or duties of any other Officer.
- 3.4.32 The Chief Executive is also responsible for any Emergency Planning (including exercising those powers under the Civil Contingencies Act 2004) that needs to be undertaken, and the Council's powers under section 138 of the Local Government Act 1972 to incur expenditure.
- 3.4.33 The Chief Executive as Head of Paid Service is responsible for:
 - 3.4.33.1 promoting and ensure the effective implementation of the Council's Equal Opportunity Policy

- 3.4.33.2 refusal of applications for grant aid for voluntary bodies which are of a national nature
- 3.4.33.3 changing the titles of the posts of the Chief Officers in consultation with the relevant staff
- 3.4.33.4 implementation of decisions of the National Joint Councils and Joint Negotiating Committees relating to conditions of service of Officers
- 3.4.33.5 agreement to changes in purchaser's titles in respect of conveyances of land (delegated to Head of Paid Services subject to any such amendment being reported to the Executive)
- 3.4.33.6 To authorise directed surveillance operations under RIPA 2000 (as amended)

Deputy Chief Executive

- 3.4.34 Within the overall resources allocated by the Council and in direct support of the Council's objectives and policies to act on behalf of the Council on all matters relating to , the delivery of Transformation and ICT services Strategic Communications, Corporate Administration, Elections Services, Democratic Services, Legal services, Commissioning and Procurement Land Charges, Freedom of Information 2000, Data Protection Act 1998 and Environmental Information Regulations 2004 requests, street naming and numbering and Customer Services.
- 3.4.35 To approve requests for road closures under the Town Police Clauses Act 1847
- 3.4.36 To have overall responsibility for the Council's Information Management Systems (which for the avoidance of doubt does not include ICT)
- 3.4.37 To consider any appeals received in respect of a determination of a nomination to register as Asset of Community Value
- 3.4.38 To instruct and retain Counsel and external solicitors and obtain any advice in relation to any matter whenever it is considered to be in the best interests of the Council
- 3.4.39 To settle on appropriate terms any litigation or claim taken by or against the Council.

- 3.4.40 To authorise the issue, defence, withdrawal, compromise or the taking of any other action in relation to claims or legal proceedings, civil or criminal, including tribunal (except in relation to prosecutions where the authorisation of prosecutions is expressly delegated to another Officer)
- 3.4.41 To authorise officers of the Council to attend the Magistrates or County Court.

Director Finance and Assets

- 3.4.42 Within the overall resources allocated by the Council and in direct support of the Council's objectives and policies to act on behalf of the Council on all matters relating to Financial Services (accountancy) Internal Audit, Risk, Assets (except to the extent that they are delegated to another Officer), Revenue and Benefits services, Council Offices, allotments, Land Drainage ,the Harborough Innovation Centre and the Harborough Grow On Centre and Human Resources .
- 3.4.43 The Director, Finance and Assets is designated as the Corporate Property Officer for the Council and is authorised to submit any application for planning permission or listed building consent and any associated consents for and on behalf of the Council in its capacity as landowner.
- 3.4.44 In consultation with the Cabinet member with portfolio responsibility for Assets or, in his or her absence the Leader, the Director Finance and Assets to authorise the acquisition, re-use, appropriation and disposal of the Council's land and buildings, together with the granting or taking assignment or surrender of leases, tenancies, licenses, easements, wayleaves and variations of rent of the Council's land and buildings in accordance with the Financial Procedure Rules.
- 3.4.45 To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.
- 3.4.46 To be the Proper Officer under section 115 of the Local Government Act 1972
- 3.4.47 To have overall responsibility of the internal audit function in accordance with the Accounts and Audit Regulations 2003 (or any amending or substituted legislation, or legislation with a similar purpose or made for similar purposes)
- 3.4.48 To have responsibility for borrowing and lending within limits approved by the authority
- 3.4.49 To make various determination on an annual basis relating to capital expenditure Write-off of debts up to the value of £10,000.

- 3.4.50 To authorise directed surveillance under RIPA 2000 (as amended)

Director Communities and Wellbeing

- 3.4.51 Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters in relation to the discharge of the Council's functions and responsibilities for Environmental Health, Food and Safety, Air Quality and Contaminated Land, Animal Welfare and Pest Control (except in relation to those functions specifically delegated to another Officer), , operation of CCTV, Lifeline, Private Sector Housing, General Housing, Economic Development, Environmental Services including Refuse, Recycling and Garden Waste Collections, Waste Management, Street Cleansing, and the removal and disposal of abandoned vehicles and other refuse under the Civic Amenities Act 1967 , Community Safety (including authorising applications for anti- social behaviour orders to the Magistrates Court), Housing Needs (including maintenance of a register of those needing housing), Car Parking Physical Activity (including Leisure services), Health and Wellbeing, Grants (Community, Section 106 and Sports Grants), Armed Forces Covenant and Community and Parish Liaison.
- 3.4.52 To authorise directed surveillance under RIPA 2000 (as amended)

Director Planning

- 3.4.53 Within the overall resources allocated by the Council and in direct support of the Council's objectives to act on behalf of the Council on all matters relating to the discharge of the Council's functions and responsibilities on all matters relating to Strategic Planning, Development Management (to the extent that it is an executive function and not delegated to another officer)and Building Control including the setting of fees, and taking all actions necessary in respect of dangerous buildings under the provisions of the Building Act 2004 (as amended)
- 3.4.54 To determine nominations received to register an Asset of Community Value To authorise directed surveillance under RIPA 2000 (as amended)

General Delegation to Chief Officers:

3.4.55 In connection with the preparation and execution of all agreements/ contracts in respect of which the Service is concerned:

3.4.55.1 to deal with minor amendments to plans;

3.4.55.2 to authorise a variation in specification and materials when necessary;

3.4.55.3 to give instructions to general contractors to place orders for prime cost items;

3.4.55.4 to have the authority to award and sign agreements/ contracts up to the value of £50,000;

3.4.55.5 to take any agreements/ contracts to the Cabinet for a decision if it is above the **EC Procurement threshold for supplies**

3.4.56 Subject to budgetary allocation, and in consultation with Corporate Management Team and the Human Resource Team, to determine the need for new posts (temporary or otherwise), extensions to temporary contracts or planned overtime.

3.4.57 Adjust working hours of their staff to facilitate the work of the Authority and their employees, in consultation with the relevant staff.

3.4.58 Consultation should be held with Legal Services before instigating any legal proceedings.

3.4.59 Issue cautions provided that:

3.4.59.1 authority exists for the issue of prosecution proceedings in relation to that matter; and,

3.4.60 The caution is administered with due regard to the relevant Circular and associated national standards for cautioning issued by the Home Office.



Part 3, Section 5:

Delegation of Responsibility for Executive Functions

Delegation of Functions by the Cabinet

- 3.5.1 The Leader may allocate a Portfolio of the Cabinet's areas of work to each Cabinet Member so that that Cabinet Member may:
- 3.5.1.1 provide leadership on related issues within the Cabinet through Portfolio expertise; and
 - 3.5.1.2 act as consultee in relation to a power delegated to an Officer where such consultation is a requirement upon the Officer exercising that function.
- 3.5.2 The Leader has the power to delegate Executive functions allocated under **Part 2 Article 5 of this Constitution**, to a Cabinet committee, an area committee (if so established in a form to enable receipt of that delegation), individual Cabinet members or Officers. This list of delegations is outlined at **Part 3, Section 5 of this Constitution**.
- 3.5.3 When it does, it shall be recorded by the Leader.

Standing or other (general) Committee of the Cabinet

- 3.5.4 Delegation may be to a Standing Committee of the Cabinet or a further Committee appointed by the Cabinet, provided that there are no more than four such general Committees of the Cabinet at any one time, in accordance with **Part 2 Article 5 of this Constitution**.

Specific Function Committees of the Cabinet

- 3.5.5 Delegation may be made to a Specific Function Committee of the Cabinet to carry out certain tasks or functions, provided that full Council has agreed to their establishment in accordance with **Part 2 Article 5 of this Constitution**.



Part 4, Section 1: Council Procedure Rules

Contents	Page
Meetings	136
Questions	141
Petitions from the Public	144
Motions	145
Rules of Debate	147
Voting	151
Minutes	152
Record of Attendance	152
Exclusion of the Public	152
Conduct	152
Appointment of Substitutes	153
Suspension and Amendment of Council Procedure Rules	154
Application to Committees and Sub-Committees	154

Meetings

- 4.1.1 All meetings of Council shall usually be held at the councils main offices at 6.30 pm unless the Council decides otherwise. The time and place of meetings will be confirmed in the summons to the meeting issued by the Head of Paid Service in accordance with the Access to Information Rules (see Part 4, Section 2 of this Constitution).
- 4.1.2 If a hearing is accessible remotely the summons may include reference to the meeting location being more than one place – that is the physical location and an electronic, digital or virtual location such as internet locations, web addresses or conference call telephone numbers.
- 4.1.3 The Chairman may adjourn a meeting of Council at such time or times as seem to them appropriate for breaks, taking into account the length of the meeting and the likely needs of councillors.

Duration of meetings

- 4.1.4 At a meeting of the Council, unless the majority of councillors present vote for the meeting to continue, the Chairman shall, when three hours have elapsed after the commencement of the meeting, interrupt the meeting and call for the vote immediately on the item under discussion. Any councillor speaking must immediately cease to do so. The vote will be taken without further discussion.
- 4.1.5 Remaining business will be considered at a date and time fixed by the Chairman. If they do not fix a date, the remaining business will be considered at the next ordinary meeting of the Council.

Notice of, summons to and cancellation of meetings

- 4.1.6 The Head of Paid Service shall, at least five clear days before a meeting, issue a summons to every councillor and give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules (see further Part 4, Section 2 of the Constitution).
- 4.1.7 The Head of Paid Service may, with the agreement of the Chairman of the Council, cancel an ordinary meeting of the Council where there is insufficient business to justify calling it or there are unusual circumstances which make it impossible or impracticable to hold the meeting. If the meeting is cancelled for reasons other than an absence of business a new date to hold the meeting will be arranged.

Annual meeting of Council

- 4.1.8 In a year when there is an ordinary election of councillors to the Council, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May⁴¹.
- 4.1.9 The Annual meeting will, in the following order:
- 4.1.9.1 elect a person (who must not be a member of the Cabinet) to preside if the Chairman and Vice Chairman of the Council are not present;
 - 4.1.9.2 elect the Chairman of the Council;
 - 4.1.9.3 elect the Vice-Chairman of the Council;
 - 4.1.9.4 approve the minutes of the last meeting;
 - 4.1.9.5 pass a vote of thanks to the retiring Chairman;
 - 4.1.9.6 receive any declarations of interest from councillors;
 - 4.1.9.7 receive any announcements from the Chairman and / or the Head of Paid Service;
 - 4.1.9.8 receive a report from the Returning Officer on the outcome of the district elections in an election year;
 - 4.1.9.9 receive a report from the Monitoring Officer outlining a review of the Constitution over the previous 12 months;
 - 4.1.9.10 elect the Leader of the executive (the Cabinet)⁴²;
 - 4.1.9.11 be notified by the Leader of the number and identity of councillors to be appointed to the Cabinet, and their intended portfolio of responsibilities;
 - 4.1.9.12 establish such committees⁴³ as are required by statute and such other committees as it considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions⁴⁴ (as set out in Articles 2 and 5 of this Constitution) and determine their size, membership and terms of reference;

⁴¹ Pursuant to Paragraph 1 of Schedule 12 to the Local Government Act 1972

⁴² If the Council fails to elect the Leader at the relevant annual meeting, or a vacancy in the office arises, the Leader is to be elected at a subsequent meeting

⁴³ Such committees may be known as boards, panels or commissions

⁴⁴ i.e. the Local Choice functions

- 4.1.9.13 decide the allocation of seats to political groups in accordance with the political balance rules;
 - 4.1.9.14 appoint to committees and outside bodies except where appointment to those bodies has been delegated by the Council;
 - 4.1.9.15 appoint the Chairman of each committee.
 - 4.1.9.16 agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Article 4 (The Council) and Part 3 (Scheme of Delegations) of this Constitution);
 - 4.1.9.17 receive the documents presented by the Leader in accordance with the Executive Procedure Rules;
 - 4.1.9.18 approve a programme of ordinary meetings of the Council for the year; and
 - 4.1.9.19 consider any business set out in the notice convening the meeting.
- 4.1.10 In a year when there is an ordinary election of councillors the annual meeting may be split into two parts in order to separate the civic ceremonial business from other business. The adjournment shall be after item 4.1.9.5 and last no longer than 30 minutes.
- 4.1.11 Items of business set out at 4.1.9.1 to 4.1.9.4 cannot be displaced but, subject to this, the order of business may be varied as follows:
- 4.1.11.1 at the discretion of the Chairman; or
 - 4.1.11.2 by resolution passed on a motion (which need not be in writing) duly moved and seconded, which will be moved and put without discussion.

Ordinary meetings

- 4.1.12 The Council may, in addition to the annual meeting, hold other meetings⁴⁵. At such an ordinary meeting, it may amend the programme of ordinary meetings agreed at the annual meeting.
- 4.1.13 The order in which business, apart from items 4.1.15.1 to 4.1.15.5, is dealt with and set out on the agenda for each ordinary meeting shall be determined by the Chairman in consultation with the Head Of Paid Service.
- 4.1.14 During each meeting the order of business set out on the agenda (apart from items 4.1.15.1 to 4.1.15.5) may be changed by resolution passed on a motion (which need not be in writing) duly moved and seconded, which will be moved and put to the vote without discussion.

⁴⁵ Paragraph 2 of Sf Schedule 12 to the Local Government Act 1972

- 4.1.15 The business to be conducted at an ordinary meeting of the Council shall be as follows and normally dealt with in the order set out below, subject to statute and paragraphs 4.1.13 and 4.1.14 above:
- 4.1.15.1 elect a person to preside⁴⁶ if the Chairman and Vice-Chairman are not present;
 - 4.1.15.2 receive any declarations of interest from Councillors;
 - 4.1.15.3 approve the minutes of the last meeting;
 - 4.1.15.4 receive apologies for absence;
 - 4.1.15.5 receive any announcements from the Chairman;
 - 4.1.15.6 receive petitions and deputations from the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions in accordance with paragraphs 4.1.46 to 4.1.54;
 - 4.1.15.7 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions in accordance with paragraphs 4.1.25 to 4.1.38;
 - 4.1.15.8 receive a report from the Leader of the Council or the Cabinet, who will answer any questions received from Councillors;
 - 4.1.15.9 deal with questions to the Council from Councillors in accordance with paragraph 4.1.39.
 - 4.1.15.10 deal with any business remaining from previous meetings;
 - 4.1.15.11 receive reports and recommendations from:
 - 4.1.15.11.1 the Cabinet;
 - 4.1.15.11.2 Council committees;
 - 4.1.15.11.3 joint arrangements and external organisations; and
 - 4.1.15.11.4 statutory officers.
 - 4.1.15.12 consider motions in the order submitted in accordance with paragraph 4.1.55.
 - 4.1.15.13 consider any other business specified in the summons to the meeting.

Extraordinary Meetings

⁴⁶ This cannot be a member of the Cabinet. Due regard should be given to the past experience of any Councillor who has previously chaired meetings of Council

- 4.1.16 Those listed below may request the Head of Paid Service to call a Council meeting in addition to ordinary meetings⁴⁷:
- 4.1.16.1 the Council by resolution;
 - 4.1.16.2 the Chairman of the Council;
 - 4.1.16.3 the Statutory Chief Officers;
 - 4.1.16.4 any five councillors if they have signed a requisition presented to the Chairman of the Council who has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- 4.1.17 The Head of Paid Service shall fix the date and time of the extraordinary meeting in consultation with the Chairman and Leader of the Council
- 4.1.18 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. There shall be no consideration of previous minutes or reports from Committees etc. except that the Chairman, may at their absolute discretion, permit other items of business to be conducted for the efficient discharge of the Council's business.

Chairman of the meeting

- 4.1.19 The person presiding at a meeting of the Council may exercise any power or duty of the Chairman.

Quorum

- 4.1.20 The quorum of a meeting will be one quarter of the whole number of councillors⁴⁸. If a meeting at any stage becomes inquorate, the Chairman will adjourn it immediately. Remaining business will be considered at a time and date fixed by the Chairman. If the Chairman does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 4.1.21 A Councillor may attend a meeting remotely provided that they are able to satisfy all of the following conditions⁴⁹:
- 4.1.21.1 to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other councillors in attendance; and

⁴⁷ Paragraph 3 of Schedule 12 to the Local Government Act 1972

⁴⁸ Paragraph 6 of Schedule 12 to the Local Government Act 1972

⁴⁹ As set out at Section 5 of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

- 4.1.21.2 to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
- 4.1.21.3 to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- 4.1.22 A councillor in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in paragraph 4.1.21 are not met. In such circumstance the Chairman may, as they deem appropriate:
 - 4.1.22.1 adjourn the meeting for a short period to permit the conditions for remote attendance of a councillor contained in paragraph 4.1.21 to be re-established; or
 - 4.1.22.2 continue to transact the remaining business of the meeting in the absence of the councillor in remote attendance.
- 4.1.23 A Councillor may attend and participate in a meeting remotely however they cannot form part of the quorum or be able to vote on any matter as long as legislation requires meetings to be conducted via physical attendance.
- 4.1.24 A councillor in remote attendance for discussion of a confidential or exempt item must verify that their link to the meeting is secure, they are alone and that no recording of the proceedings is being made by any person.

Questions

- 4.1.25 Subject to paragraph 4.1.28 questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.
- 4.1.26 Questions may only be asked on notice if they are submitted in writing to Democratic Services no later than midday on the **seventh working day** before the day of the meeting⁵⁰. Each question must give the name and address of the questioner.
- 4.1.27 Any person or organisation may submit more than one question for a meeting, but a second question will be asked only after all first questions received have been answered (and similarly in respect of subsequent questions).
- 4.1.28 The Head of Paid Service may reject a question if it:
 - 4.1.28.1 is not about a matter for which the Council has a responsibility or which affects the District;

⁵⁰ For example, midday on the Thursday of the second week before a meeting held on Monday

- 4.1.28.2 is defamatory, frivolous or offensive;
- 4.1.28.3 is vexatious, abusive or otherwise inappropriate;
- 4.1.28.4 is substantially the same as a question, petition or issue considered by the Council in the previous six months;
- 4.1.28.5 requires the disclosure of confidential or exempt information;
- 4.1.28.6 is an unintelligible question, lengthy or a speech;
- 4.1.28.7 relates to a matter which is of purely personal concern to an individual, family member or organisation, including requests for compensation;
- 4.1.28.8 relates to court action or threatened court action involving the Council, or any matter where there is a right of appeal to the courts, a tribunal or to a government minister;
- 4.1.28.9 contains a statement which is untrue;
- 4.1.28.10 relates to a matter on which the Council has, or may, determine a policy;
- 4.1.29 If a question is rejected, reasons will be provided to the questioner.
- 4.1.30 Once accepted, the Head of Paid Service will send a copy of the question to the councillor to whom it is to be put.
- 4.1.31 Copies of all accepted questions will be included in the agenda for the meeting.
- 4.1.32 The Chairman will invite the questioner to put the question. The questioner may speak for no more than 5 minutes. If the questioner is unable to be present they may ask the Chairman to put the question on their behalf. The Chairman may:
 - 4.1.32.1 ask the question on the questioner's behalf; or
 - 4.1.32.2 indicate that a written reply will be given; or
 - 4.1.32.3 decide, in the absence of the questioner, that the question will not be dealt with.
- 4.1.33 The Councillor to whom a question is put may:
 - 4.1.33.1 give a direct oral answer at the meeting lasting no more than 5 minutes; or
 - 4.1.33.2 where the desired information is in a publication of the Council or other published work, provide a reference to that publication; or
 - 4.1.33.3 supply a written answer, which will be made available for public inspection if asked in open session, circulated within 10 working days to the questioner and all other councillors of the relevant body.
- 4.1.34 A questioner asking a question in person may also ask one supplementary question, arising directly out of the original question or the reply, lasting no more than 3 minutes, to the councillor replying to their question. The answer to the supplementary question may be:

4.1.34.1 given in the meeting and last no more than 1 minute; or

4.1.34.2 provided in writing after the meeting; or

4.1.34.3 no answer offered.

4.1.35 The Chairman may reject a supplementary question on any of the grounds set out in paragraph 4.1.28.1 to 4.1.28.10.

4.1.36 Any question which is not dealt with at the meeting, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

4.1.37 Unless the Chairman decides otherwise, no discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be put to the vote without discussion.

From the public

4.1.38 Members of the public living or working within the Harborough District may ask a question of the Council on any matter which is the responsibility of the Council. The total time for questions by the public must not exceed 30 minutes.

By Councillors without notice

4.1.39 At a meeting of the Council, other than the annual meeting, a Councillor may ask the Leader or the Chairman of a committee any question without notice upon an item of the report of the Cabinet or a committee when that item is being received or under consideration by the Council.

4.1.40 Such a question may be asked under the appropriate agenda item even where no relevant report is made to the meeting provided the question relates to seeking an explanation or clarification of a decision made since the last meeting of the Council.

By Councillors on Notice

4.1.41 Subject to paragraph 4.1.26 a councillor may ask:

4.1.41.1 the Chairman;

4.1.41.2 a member of the Cabinet; or

4.1.41.3 the Chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the District, provided that it does not meet any of the grounds set out in paragraph 4.1.28.1 to 4.1.28.10.

4.1.42 Subject to paragraph 4.1.28, a member of a committee or sub-committee may ask the Chairman of it a question on any matter in relation to which the Council

has powers or duties or which affects the District and which falls within the terms of reference of that committee or sub-committee, provided that it does not meet any of the grounds set out in paragraph 4.1.28.1 to 4.1.28.10.

4.1.43 A Councillor may ask a question under 4.1.41 or 4.1.42 if they have either:

4.1.43.1 given notice in accordance with paragraph 4.1.26, or

4.1.43.2 the question relates to urgent matters and they have:

4.1.43.2.1 the consent of the Chairman or Councillor to whom the question is to be put; and

4.1.43.2.2 the content of the question is given to Democratic Services by no later than noon on the working day prior to the day of the meeting.

4.1.44 The time allowed for consideration of questions submitted by Councillors on notice shall not, without the consent of the Council, exceed 15 minutes.

4.1.45 At the conclusion of the answer to the question under consideration at the expiry of 15 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chairman shall conclude the agenda item and remaining questions shall be responded to in writing before the next Council meeting.

Petitions from the public⁵¹

4.1.46 If a member of the public wishes to present a petition to a Council meeting, notice must be given in writing to Democratic Services no later than midday on the seventh working day before the meeting⁵².

4.1.47 Petitions to be debated at a Council meeting must be signed by at least 200 persons residing or working in the District and will be presented to the meeting in order of receipt.

4.1.48 The Head of Paid Service may reject a petition if it:

4.1.48.1 is not about a matter for which the Council has a responsibility or which affects the District;

4.1.48.2 is defamatory, frivolous or offensive;

4.1.48.3 is vexatious, abusive or otherwise inappropriate

4.1.48.4 is substantially the same as a question, petition or issue considered by the Council in the previous six months;

⁵¹ This Council Standing Order does not affect the rights of the public to address a petition to a committee or sub-committee on any matter. It applies only to petitions that the organisers wish to be received at meetings of the full Council.

⁵² For example, midday on the Thursday of the second week before a meeting held on Monday

- 4.1.48.5 relates to a matter which is of purely personal concern to an individual, family member or organisation, including requests for compensation;
- 4.1.48.6 relates to court action or threatened court action involving the Council, or any matter where there is a right of appeal to the courts, a tribunal or to a government minister;
- 4.1.48.7 contains a statement which is untrue;
- 4.1.48.8 relates to a matter on which the Council has, or may, determine a policy;
- 4.1.49 The petition organiser will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition.
- 4.1.50 Councillors may not form part of the delegation presenting the petition.
- 4.1.51 The Council will debate the petition for a maximum of 15 minutes and decide how to respond to the petition at the meeting. Such response may include:
 - 4.1.51.1 take the action the petition requests;
 - 4.1.51.2 not to take the action requested;
 - 4.1.51.3 commission further investigation into the matter, e.g. by the relevant Scrutiny Panel;
 - 4.1.51.4 where the issue is one on which Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision;
- 4.1.52 The petition organiser will receive written confirmation of the outcome of the debate, which will also be published on the Council's website.
- 4.1.53 At any one meeting no person or organisation may present more than one petition.
- 4.1.54 A maximum of two petitions will be considered at a Council meeting with any petitions not presented as a result of this limit being presented to the next ordinary meeting of Council in the order in which they were received.

Motions

On notice

- 4.1.55 Except for motions which can be moved without notice under paragraph 4.1.60 notice of every motion must be given in writing⁵³. The notice must be signed by the Councillors moving and seconding the motion and sent to Democratic Services not later than 4.30pm on the seventh working day before the Council

⁵³ this includes email

meeting at which it is to be considered⁵⁴. The notice of motion must either set out the wording of the motion in full or explicitly endorse the wording of the motion as stated in another named Councillor's written notice.

- 4.1.56 Motions must be about matters for which the Council has a responsibility or which affect the District⁵⁵. They will be listed on the agenda in the order determined by the Chairman.
- 4.1.57 No Councillor may give notice of more than one motion for any Council meeting, except with the consent of the Chairman.
- 4.1.58 The time allowed for consideration of motions on notice shall not, without the consent of the Council, exceed 30 minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chairman shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:
 - 4.1.58.1 if the speech to be concluded is a speech proposing a motion, the Chairman shall allow the motion to be formally seconded (without comment);
 - 4.1.58.2 if the speech to be concluded is a speech moving an amendment, the Chairman shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
 - 4.1.58.3 otherwise, the Chairman shall allow the mover of the motion to exercise their right of reply.
- 4.1.59 Any remaining motions on notice shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

Motions without notice

- 4.1.60 The following motions may be moved without notice:
 - 4.1.60.1 to appoint a Chairman of the meeting at which the motion is moved;

⁵⁴ for example, 4.30pm on the Thursday of the second week before a meeting held on Monday.

⁵⁵ Councillors are encouraged to consider whether there is an alternative to submitting a motion which will achieve the same outcome such as :

- a. referring the matter to an Overview and Scrutiny Committee for preliminary consideration; or
- b. requesting the matter be brought to a Cabinet meeting, Committee meeting or informal briefing.

Councillors are requested to provide reasons why alternatives were felt to be inappropriate when submitting a motion on notice.

- 4.1.60.2 in relation to the accuracy of the minutes;
- 4.1.60.3 to change the order of business in the agenda;
- 4.1.60.4 to refer something to an appropriate body or individual;
- 4.1.60.5 to appoint a committee or Councillor arising from an item on the summons for the meeting;
- 4.1.60.6 to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- 4.1.60.7 to withdraw a motion;
- 4.1.60.8 to amend a motion, subject to the provisions of the Budget and Policy Framework Rules in relation to amendment of the Cabinet's proposals for the Council's Budget and Policy Framework;
- 4.1.60.9 to proceed to the next business;
- 4.1.60.10 that the question be now put;
- 4.1.60.11 to adjourn a debate;
- 4.1.60.12 to adjourn a meeting;
- 4.1.60.13 to suspend a particular Council Procedure Rule;
- 4.1.60.14 to exclude the public and press in accordance with the Access to Information Rules;
- 4.1.60.15 to not hear further a Councillor named under paragraph 4.3.101 or to exclude them from the meeting under paragraph 4.3.102; and
- 4.1.60.16 to give the consent of the Council where its consent is required by this Constitution.

Rules of debate

Speeches

- 4.1.61 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded. When seconding a motion or amendment, a Councillor may reserve their speech until later in the debate.
- 4.1.62 Speeches must be directed to the question under discussion or to a personal explanation or point of order, and may not exceed 5 minutes without the consent of the Chairman.
- 4.1.63 When the Council's annual budget is under discussion, the leader of each political group on the Council and the Cabinet Member presenting the budget may speak for up to ten minutes or such longer period as the Chairman shall allow.

- 4.1.64 A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- 4.1.64.1 to speak once on an amendment moved by another Councillor;
 - 4.1.64.2 to move a further amendment if the motion has been amended since they last spoke;
 - 4.1.64.3 if their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he spoke was carried);
 - 4.1.64.4 in exercise of a right of reply;
 - 4.1.64.5 on a point of order; and
 - 4.1.64.6 by way of personal explanation.

Alteration of motions

- 4.1.65 A Councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 4.1.66 A Councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 4.1.67 Only alterations which could be made as an amendment may be made.
- 4.1.68 A Councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Amendments to motions

- 4.1.69 An amendment to a motion must be relevant to the motion and will either be:
- 4.1.69.1 to leave out words; or
 - 4.1.69.2 to leave out words and insert or add others; or
 - 4.1.69.3 to insert or add words
- as long as the effect of 4.1.69.1 to 4.1.69.3 is not to negate the motion.
- 4.1.70 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 4.1.71 The Chairman will ask the proposer of the original motion if they are willing to alter their motion in accordance with the amendment. If they accept, the amendment becomes the substantive motion and is debated. If the proposer of the original motion is unwilling to alter their motion, the Chairman will ask if there

is a seconder for the amendment. If there is a seconder, the amendment will then be debated and voted upon.

- 4.1.72 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 4.1.73 The mover of the amendment has no right of reply to the debate on their amendment.
- 4.1.74 If an amendment is not carried, other amendments to the original motion may be moved.
- 4.1.75 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 4.1.76 After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Debate

- 4.1.77 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 4.1.78 When a motion is under debate, no other motion may be moved except the following procedural motions:
 - 4.1.78.1 to withdraw a motion;
 - 4.1.78.2 to amend a motion;
 - 4.1.78.3 to proceed to the next business;
 - 4.1.78.4 that the question be now put;
 - 4.1.78.5 to adjourn a debate;
 - 4.1.78.6 to adjourn a meeting;
 - 4.1.78.7 to exclude the public and press in accordance with the Access to Information Rules; and
 - 4.1.78.8 to not hear further a Councillor named under paragraph 4.1.101 or to exclude them from the meeting under paragraph 4.1.102.
- 4.1.79 A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
 - 4.1.79.1 to proceed to the next business;
 - 4.1.79.2 that the question be now put;
 - 4.1.79.3 to adjourn a debate; or

4.1.79.4 to adjourn a meeting.

- 4.1.80 If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 4.1.81 If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is carried they will give the mover of the original motion a right of reply before putting his or her motion to the vote.
- 4.1.82 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 4.1.83 A point of order is a request from a Councillor to the Chairman to rule on an alleged irregularity in the procedure of the meeting. A Councillor may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Councillor must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chairman on the matter will be final.

Personal explanation

- 4.1.84 A Councillor may make a personal explanation at any time provided it relates to a material part of an earlier speech by the Councillor which appears to have been misunderstood in the debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

Previous decisions and motions

- 4.1.85 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least ten councillors.
- 4.1.86 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least ten councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

Voting

Majority

- 4.1.87 Unless this Constitution or statute provides otherwise, any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put. Councillors attending the meeting remotely are unable to vote.

Casting vote

- 4.1.88 If there are equal numbers of votes for and against, the Chairman will have a second or casting vote⁵⁶. There will be no restriction on how the Chairman chooses to exercise a casting vote.

Form of vote

- 4.1.89 Unless a recorded vote is demanded under 4.1.90 or required under 4.1.91 the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 4.1.90 If five councillors request it, the vote or abstention of each councillor on the motion or amendment will be recorded and reflected in the minutes (a recorded vote).
- 4.1.91 At the Budget meeting of Council all motions and amendments relating to budget decisions will be conducted by recorded vote and the minutes of the meeting will record the names of those voting for and against the decision or who abstained from voting in accordance with the **Budget and Policy Framework Rules at Part 4, Section 3** of this constitution.
- 4.1.92 Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion, or abstained from voting.
- 4.1.93 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

⁵⁶ Paragraph 39(2) of Schedule 12 to the Local Government Act 1972

Minutes

- 4.1.94 The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 4.1.95 Where in relation to any meeting the next meeting for the purpose of signing the minutes is an Extraordinary meeting⁵⁷, the next following ordinary or annual meeting will be treated as a suitable meeting for the purposes of signing of minutes⁵⁸.
- 4.1.96 Minutes will summarise the business of the meeting in the order it was conducted.

Record of attendance⁵⁹

- 4.1.97 All councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance, adding their time of arriving or leaving if this was after the start of the meeting or before the end of the meeting.
- 4.1.98 The remote attendance of Councillors will be noted in the minutes of the meeting but remote attendance will not count towards calculations in respect of the six month rule.

Exclusion of the public

- 4.1.99 Members of the public and press may only be excluded from a meeting either in accordance with the [Access to Information Rules in Part 4 of this Constitution or paragraphs 4.1.104 and 4.1.105](#) (Disturbance by Public).

Conduct

Councillors

⁵⁷ called under paragraph 3 of Schedule 12 to the Local Government Act 1972

⁵⁸ for the purposes of paragraph 41(1) and (2) of Schedule 12 of the Local Government Act 1972 (signing minutes)

⁵⁹ Paragraph 40 of Schedule 12 to the Local Government Act 1972

- 4.1.100 Councillors must observe the following when attending and speaking at a meeting of the Council:
- 4.1.100.1 Stand unless permitted by the Chairman to remain seated;
 - 4.1.100.2 Address all comments through the Chairman;
 - 4.1.100.3 Abide by the Chairman's determination of the order in which councillors will be heard if more than one councillor indicates a desire to speak;
 - 4.1.100.4 Remain silent whilst another councillor is speaking, unless raising a point of order or a point of personal explanation;
 - 4.1.100.5 Stop speaking when the Chairman speaks during a debate;
 - 4.1.100.6 Respect the ruling of the Chairman on matters of procedure.
- 4.1.101 If a councillor persistently disregards the ruling of the Chairman, the Chairman may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.
- 4.1.102 If the Councillor continues to behave inappropriately⁶⁰ after such a motion is carried, the Chairman may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 4.1.103 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they think necessary.

Public

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

Appointment of substitutes

- 4.1.106 Subject to any other restrictions elsewhere in the Constitution, any councillor is permitted to act as a substitute on a Council body provided that:
- 4.1.106.1 Democratic Services is notified of the arrangement not less than one hour before the meeting to which it applies commences;

⁶⁰ that is improperly, offensively or deliberately obstructs the conduct of business

4.1.106.2 the substitute is of the same political group as the nominating councillor;

4.1.106.3 where attendance at specific training is a pre-requisite for participation in a committee or sub-committee⁶¹, the substitute has completed the required training.

4.1.107 Substitutes will have all the powers and duties of a member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

4.1.108 Substitutes may attend meetings in that capacity only:

4.1.108.1 to take the place of the councillor for whom they are substituting;

4.1.108.2 where the nominating councillor will be absent for the whole of the meeting;

Suspension and amendment of council procedure rules

4.1.109 All of these Council Procedure Rules except 4.1.92, 4.1.95 and this paragraph 4.1.109 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

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

Application to committees and sub-committees

4.1.111 All of the Council Procedure Rules apply to meetings of the full Council.

4.1.112 None of the rules apply to meetings of the Cabinet or its committees.

4.1.113 All of the Council Procedure Rules apply to meetings of committees and sub-committees of Council except 4.1.1 (time and venue of meeting), 4.1.8 to 4.1.18 (meetings of full council), 4.1.20 (quorum); 4.1.99 (exclusion of public) and 4.1.100.1 (standing to speak). References to the Chairman also include the Chairman of Committees and Sub-Committees where these rules apply.

4.1.114 Where these Council Procedure Rules conflict with statutory provisions, the statutory provisions shall prevail.

⁶¹ For example regulatory or quasi-judicial committees (i.e. Licensing and Planning) and appointment or disciplinary bodies



Part 4, Section 2:

Access to Information Rules

Contents	Page
Scope	157
Meetings	157
Summary of Public Rights	160
Exclusions of Access to Information	160
Member Rights of Access	163
Key Decision Procedure	166
Executive Decision Records	168
Private Meetings of the Executive	168
Compliance with Access to Information Requirements	169

Scope

- 4.2.1 These Access to Information Rules apply to all meetings of the Council, Cabinet and Overview and Scrutiny Panels, including their committees and sub-committees, together called 'Meetings', unless otherwise specified⁶²;
- 4.2.2 Where these Rules apply, they must be followed by all councillors and employees of the Council but they do not take precedence over specific rights to information that are contained elsewhere in this Constitution or as may be provided by law⁶³.
- 4.2.3 Within this Constitution, particularly these Rules, documents are:
 - 4.2.3.1 'open to inspection' - when they are published on the Council's website;
 - 4.2.3.2 'published' when they are posted, published or otherwise made available during normal office hours at the Council Offices, The Symington Building, Market Harborough, Leicestershire, and accessible on the Council's website.
- 4.2.4 The "Proper Officer" for the purposes of these Rules is the Monitoring Officer.

Meetings

Notice⁶⁴

- 4.2.5 The Council will give at least five clear days' notice to the public of any Meeting by publishing details of the Meeting and making copies of the Notice of Meeting available for inspection. The Notice will specify the business proposed to be transacted at the Meeting.
- 4.2.6 The Council will summon Councillors and Co-opted Members required to attend Meetings and inform them of the business to be transacted at the Meeting to which they are summoned. Councillors are presumed to have consented to electronic transmission of the summons by email to the councillor's designated email address⁶⁵ unless that consent is withdrawn by notice to the Head of Paid Service, in which case alternative arrangements will be made.

⁶² Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

⁶³ Such as the Freedom of Information Act 2000 or Data Protection Act 2018

⁶⁴ Regulation 4 of Schedule 12 to the Local Government Act 1972

⁶⁵ This will usually be the councillor's Council email address in accordance with the Council's ICT policies

- 4.2.7 Any member of the public is entitled to attend a Meeting unless excluded by these Rules or as permitted by law⁶⁶.

Reporting and Recording

- 4.2.8 Any person entitled to attend a Meeting may report on it. Reporting, for the purpose of this Constitution, means:
- 4.2.8.1 filming, photographing or making an audio recording of the Meeting; or
 - 4.2.8.2 using any other means for enabling persons not present to see or hear proceedings at a Meeting as it takes place or later; or
 - 4.2.8.3 reporting or providing commentary on proceedings at a Meeting, orally or in writing, so that the report or commentary is available as the Meeting takes place or later if the person is not present.

However, anyone present at a Meeting as it takes place is not permitted to conduct an oral commentary or report. This is to prevent the business of the Meeting being disrupted. The right to report and / or record is therefore subject to the Council's power to suppress or prevent disorderly conduct or other misbehaviour at a meeting of the Council.

- 4.2.9 Any person is able to film or otherwise record a Meeting to enable those not present to see or hear the proceedings, either as they take place or later, and to enable the reporting of those proceedings. Those wishing to record proceedings should, as a courtesy, inform the Chairman of the Meeting of their intention prior to the commencement of the Meeting and must comply with the provisions of the **Protocol for Filming or Recording Meetings** (see further Part 5, Section 7 of this Constitution).
- 4.2.10 Any person attending a Meeting may take written notes of the proceedings.

Agenda

- 4.2.11 The Council will publish the agenda and any reports, unless confidential or exempt, at least five clear days before the Meeting⁶⁷ and make copies available for the public at the Meeting.
- 4.2.12 Where a Meeting is convened at shorter notice, or where an item is added to an agenda, the revised agenda and reports will be published and open to inspection from the time the Meeting is convened or from the time the item is added to the agenda.

⁶⁶ Section 100 A of the Local Government Act 1972

⁶⁷ Section 100B of the Local Government Act 1972

Background Papers

- 4.2.13 The author of any report will set out in the report a list of background documents relating to the subject matter of the report which in their opinion:
- 4.2.13.1 discloses any facts or matters on which the report, or an important part of the report, is based; and
 - 4.2.13.2 which have been relied on to a material extent in preparing the report but the list will not include published works or those which disclose exempt or confidential information or, in respect of Cabinet reports, the advice of a political advisor.

Minutes and records of decision etc

- 4.2.14 The Council will retain and make available for public inspection after a Meeting copies of the following:
- 4.2.14.1 the minutes of the Meeting, excluding any part of the minutes of proceedings when the Meeting was not open to the public or which disclosed exempt or confidential information;
 - 4.2.14.2 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; and
 - 4.2.14.3 the agenda and any reports considered while the meeting was open to the public.
- 4.2.15 As soon as reasonably practicable after a Significant Operational Decision is taken by an officer⁶⁸, the officer will produce a written record of the decision and arrange for its publication with the report in relation to the decision made. The record will include:
- 4.2.15.1 a record of the decision including the date it was made;
 - 4.2.15.2 a statement of the reasons for the decision;
 - 4.2.15.3 details of any alternative options considered and rejected by the officer at the time of making the decision; and
 - 4.2.15.4 a record of any interest declared by any Councillor consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

Inspection and supply of copies

⁶⁸ Regulation 7 of The Openness of Local Government Bodies Regulations 2014.

- 4.2.16 Agendas, reports, minutes, decision records and background papers, (excluding reports or parts of a report which contains marked 'Not for Publication') will be published on the Council's website and made available for inspection at the Council Offices during normal office hours.
- 4.2.17 The Council will supply copies of agendas, reports, minutes, decision records and background papers (excluding reports or parts of a report which contains information marked 'Not for Publication') to any person upon request. The copies will not be provided until such time as payment of a charge to cover the costs reasonably incurred by the Council in fulfilling the request has been received. However, copies of documents will not be provided where the Council is not the copyright owner and has no licence to reproduce copies.

Summary of public rights

- 4.2.18 The written summary of the rights of the public to attend meetings and to inspect and copy documents are contained in these Rules, which form part of the Constitution. The Constitution is held at the Council Offices and is available on the Council's website.

Exclusions of Access to Information

Confidential information - requirement to exclude

- 4.2.19 The public⁶⁹ must be excluded⁷⁰ 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. Likewise, public access to reports and background papers relating to that business will also be excluded.
- 4.2.20 Confidential information means:
- 4.2.20.1 information given to the Council by a Government Department on terms which forbid its public disclosure; or
 - 4.2.20.2 information the disclosure of which to the public is prohibited by or under another Act or by Court Order. Generally personal information which

⁶⁹ Unlike local council meetings, the right of admission to local authority meetings applies to the public generally, including the press – it is not restricted to council taxpayers, electors or local residents. Members of the Council and officers attending the meeting in the course of their employment shall not be considered to be members of the public.

⁷⁰ No resolution is required for an item of business that includes confidential information because it is a statutory requirement that requires the exclusion of the public. Therefore, it is sufficient for a meeting chairman to request that the public withdraw so that the item of business containing confidential information can be dealt with in private.

identifies an individual, must not be disclosed under data protection and human rights rules.

Exempt information

4.2.21 The public may be excluded from meetings whenever it is likely, in view of the nature of the Non-Executive business to be transacted or the nature of the proceedings, that exempt information would be disclosed provided:

4.2.21.1 the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies; and

4.2.21.2 that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (see paragraph 4.2.23), the description of the exempt information giving rise to the exclusion of the public; and

4.2.21.3 that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, public access to reports and background papers will also be excluded.

4.2.22 The public must be excluded from a meeting of the Cabinet or a Cabinet Committee where Executive business is to be transacted, or information considered, which is exempt from disclosure.

4.2.23 Exempt information⁷¹ means the categories of information set out below, which is exempt as long as the public interest⁷² in maintaining the exemption outweighs the public interest in disclosing the information and any additional condition indicated:

⁷¹ This definition of exempt information is specific to local government and should therefore be brought to the attention of partners before they share information with the Council.

⁷² The starting point of the public interest test is that there is a general public interest in the release of the information and the Council has to decide, on the facts of each case, whether it would serve the interest of the public better to either disclose or withhold the information. There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

- There is a distinction between the public interest and what merely interests the public;
- Does disclosure further the understanding of, and participation in, the public debate of issues of the day?
- Would disclosure promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does the disclosure of information allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Will disclosure bring to light information affecting public health and public safety?

Category	Additional Condition(s)
1. Relating to any Individual:	None
2. Likely to reveal the identity of an individual	None
3. Relating to the financial or business affairs of any particular person (including the authority holding that information).	<ul style="list-style-type: none"> - Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts or the Charities Act 2011. - "Financial or business affairs" includes contemplated, as well as past or current, activities
4. Relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.	<ul style="list-style-type: none"> - "Labour relations matter" are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter
5. In respect of which a claim to legal professional privilege could be maintained in legal proceedings	None
6. Revealing 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	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined
7. Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice:</p> <ul style="list-style-type: none"> (a) Criminal investigations and proceedings; or (b) The apprehension or prosecution of offenders; or (c) The administration of justice; or (d) The assessment or collection of any tax or duty or of any imposition of a similar nature; or

	(e) Regulatory enforcement; or (f) Any civil proceedings; or (g) Health and safety; or (h) Information obtained from confidential sources; and (i) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
[Standards Committee only] 7A. which is the subject to any obligation of confidentiality	None
[Standards Committee only] 7B. which relates in any way to matters concerning national security	None

- 4.2.24 Information falling within any of paragraphs 4.2.23 (1) to (7) is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- 4.2.25 Where a 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.

Disorderly Conduct – discretion to exclude public

- 4.2.26 The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

Member rights of access

To Non-Executive information and documents

- 4.2.27 Councillors and co-opted members of committees (together referred to as 'Members') are entitled to information and to see such documents, including those held electronically, as are reasonably necessary to enable them to carry out their duties. They are not however entitled to Council documents which contain exempt information, include the advice of a political adviser or are in draft form only.

- 4.2.28 Members should, before requesting access to any information or document, consider whether such access is necessary for them to discharge their duties.
- 4.2.29 Officers will provide relevant information, access to documents, advice and any explanation that Members may reasonably request and is necessary for the Members to fulfil their responsibilities.
- 4.2.30 Members requesting information may be asked to demonstrate a 'need to know' where this is not otherwise apparent by virtue of their membership of the Cabinet, committees, sub-committees, panels or their representational role. Members do not have a roving commission to access information and cannot demand inspection of information out of curiosity or for an improper or indirect motive. A request for information will be refused where the Member has not established a need to know the information in order to perform their duties.
- 4.2.31 The Proper Officer may withhold any document which, in their opinion, contains exempt information.
- 4.2.32 In the event of a dispute as to whether a Member has a 'need to know' and can therefore access information, the decision of the Head of Paid Service will be final.

To Executive information and documents

- 4.2.33 A member of an Overview and Scrutiny Panel of a relevant local authority is entitled to a copy of any document which:
- 4.2.33.1 is in the possession or under the control of the executive⁷³ of that authority; and
 - 4.2.33.2 contains material relating to:-
 - 4.2.33.2.1 any business that has been transacted at a meeting of a decision-making body of that authority;
 - 4.2.33.2.2 any decision that has been made by an individual member of that executive in accordance with Executive Arrangements; or
 - 4.2.33.2.3 any decision that has been made by an officer of the authority in accordance with executive arrangements.
- 4.2.34 Subject to paragraph 4.2.35, where a member of an overview and scrutiny panel requests a document which falls within paragraph 4.2.33, the executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.
- 4.2.35 No member of an Overview and Scrutiny Panel is entitled to a copy:

⁷³ i.e The Leader, Cabinet, portfolio holders, cabinet committees or officers discharging executive functions.

4.2.35.1 of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:

4.2.35.1.1 an action or decision that that member is reviewing or scrutinising; or

4.2.35.1.2 any review contained in any programme of work of such a committee or sub-committee of such a committee; or

4.2.35.2 of a document or part of a document containing advice provided by a political adviser or assistant.

4.2.36 Where the Cabinet determines that a member of an overview and scrutiny panel is not entitled to a copy of a document or part of it, Cabinet must provide the relevant overview and scrutiny panel with a written statement setting out its reasons for that decision.

Councillor attendance at Meetings

4.2.37 In respect of a matter of importance relating to the Ward a Councillor represents, that Councillor may:

4.2.37.1 attend any meeting or part of a meeting (of which they are not a Member) at which planning functions will be discharged by or on behalf of the authority and:

4.2.37.1.1 make representations to the meeting;

4.2.37.1.2 respond to any questions put to them on a matter of fact by the Chairman; and

4.2.37.1.3 reply at the end of the debate to clarify any matter of fact raised during the course of the debate, and which the Councillor believes to be erroneous based upon their knowledge of the Ward represented;

but may otherwise not take part in any debate and may not vote.

4.2.37.2 attend any meeting or part of a meeting of a Committee, Panel or Forum of which they are not a Member and speak, take part in any debate but not vote.

4.2.38 In the event of a dispute as to whether there is a matter of importance to the Ward the Councillor represents and can therefore address a Committee, Panel or Forum, the decision of the Head of Paid Service will be final.

Key Decision Procedure

The Forward Plan⁷⁴

- 4.2.39 The Council will maintain a document, known as the 'Forward Plan', setting out forthcoming Key Decisions that will be taken. A Key Decision may not be taken until it has been published on the Forward Plan for at least 28 clear calendar days. The Forward Plan will be published and available for inspection by the public.
- 4.2.40 The Forward Plan will include for each proposed Key Decision:
- 4.2.40.1 details of the matter in respect of which it is to be made;
 - 4.2.40.2 the identity of the decision maker, whether a body or an individual;
 - 4.2.40.3 the date on which, or the period within which, it is to be made;
 - 4.2.40.4 a list of documents to be submitted to the decision maker for consideration in relation to the matter;
 - 4.2.40.5 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is or will be available;
 - 4.2.40.6 that other documents relevant to those matters may be submitted to the decision maker; and
 - 4.2.40.7 the procedure for requesting details of those documents (if any) as they become available.
- 4.2.41 The Forward Plan will be updated from time to time as required and will be published by the Council – usually on a monthly basis - and available for inspection by the public.
- 4.2.42 The Forward Plan may not contain confidential information, exempt information or advice from a political assistant.

General Exception to publication of Key Decisions on the Forward Plan⁷⁵

- 4.2.43 If a matter which is likely to be a Key Decision:
- 4.2.43.1 has not been published in the Forward Plan for 28 clear calendar days before the decision is planned to be taken; and

⁷⁴ Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

⁷⁵ Regulation 10 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- 4.2.43.2 the decision must be taken before it can be published for 28 clear calendar days in the Forward Plan,
- then, subject to paragraph 4.2.44 below (special urgency), the decision may still be taken if:
- 4.2.43.3 the Proper Officer has informed the Chairman of the relevant Overview and Scrutiny Panel (or each member of the relevant Overview and Scrutiny Panel if there is no Chairman), by notice in writing⁷⁶, of the matter about which the decision is to be made; and
- 4.2.43.4 the Proper Officer has published and made available to the public a copy of the notice given pursuant to paragraph 4.2.43.3; and
- 4.2.43.5 five clear days have elapsed following the day on which the proper officer made available the notice referred to in paragraph 4.2.43.4.

Special Urgency⁷⁷

- 4.2.44 If, by virtue of the date by which a decision must be taken, the general exception provisions do not apply, the Key Decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of:
- 4.2.44.1 the Chairman of the relevant Overview and Scrutiny Panel; or
- 4.2.44.2 if there is no such person available, the Chairman of the Council; or
- 4.2.44.3 where there is no Chairman of either the relevant Overview and Scrutiny Panel or the Chairman of the Council, the Vice-Chairman of the Council, that the making of the decision is urgent and cannot reasonably be deferred.
- 4.2.45 As soon as reasonably practicable after agreement has been secured in accordance with paragraph 4.2.44, the decision maker must make available for inspection, and publish, a notice setting out the reasons why the meeting is urgent and cannot be reasonably deferred.

Decision wrongly treated

- 4.2.46 If an Overview and Scrutiny Panel thinks that a decision has been taken which was not:
- 4.2.46.1 treated as a Key Decision; and
- 4.2.46.2 should have been treated as a Key Decision

⁷⁶ This includes email notification

⁷⁷ Regulation 11 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

the Panel may, by resolution, require Cabinet to submit a report to the Full Council in respect of that decision⁷⁸ (see further paragraph 4.2.54).

Executive decision records

4.2.47 Executive decisions will be recorded as set out at paragraphs 4.4.55 to 4.4.58 of the **Executive Procedure Rules** at Part 4, Section 4 of this Constitution⁷⁹.

Private meetings of the Executive⁸⁰

Wholly or partially in private

4.2.48 If Cabinet or its committees wish to conduct a meeting wholly or partially in private to take a decision that involves exempt or confidential information, the Meeting can only take place if:

4.2.48.1 Notice has been published giving the reasons why the meeting is to be held in private at least 28 clear days before the meeting. This notice will be included in the Forward Plan; and

4.2.48.2 A further notice is published at least five clear days before the meeting giving the reasons for holding the meeting in private and any representations received. This will form part of the Cabinet agenda.

4.2.49 If it is not possible to comply with the terms outlined above because a decision is considered to be urgent, the following people can authorise the meeting to take place and the decision to be taken:

4.2.49.1.1 The Chairman of an Overview and Scrutiny Panel; or

4.2.49.1.2 The Chairman of Council (if no Overview and Scrutiny Panel Chairman is able to act); or

4.2.49.1.3 The Vice Chairman of Council (in the absence of the Chairman of the Council)

4.2.50 A notice setting out the reasons why a private meeting is urgent and cannot reasonably be deferred will be published as soon as reasonably practical after agreement to hold the meeting in private has been obtained.

⁷⁸ See further paragraphs 4.5.66 - of the **Overview and Scrutiny Procedure Rules** at Part 4, Section 5 of this Constitution

⁷⁹ Decisions taken by officers will also be subject to the requirements of the **Scheme of Delegation at Part 3 of this Constitution**

⁸⁰ Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Attendance at a private meeting of the Executive

- 4.2.51 The media and the public must be excluded from a Meeting whenever it is likely that confidential information will be disclosed⁸¹ (see further paragraphs 4.2.22 and 4.2.23).
- 4.2.52 The media and the public may be excluded from a Meeting whenever it is likely that exempt information will be disclosed and the public interest in maintaining the exclusion outweighs the public interest in disclosing the information⁸² (see further paragraph 4.2.24 to 4.2.26).
- 4.2.53 The public may also be excluded from Meetings, where it so resolves⁸³, to maintain orderly conduct or prevent misbehaviour at a Meeting.

Compliance with Access to Information Requirements

- 4.2.54 The Leader will report to each ordinary Council in respect of each occasion on which the following have occurred since the last ordinary meeting of Council (unless it occurred within 14 calendar days of the next meeting, in which case the Leader may choose to make the report to the next ordinary meeting of Council):
- 4.2.54.1 Executive Decisions taken in a private meeting without 28 days notice of intention to hold a meeting in private being given (see Access to Information Rules, paragraph 4.2.48);
 - 4.2.54.2 Executive Decisions taken with notice on the Forward Plan of between 5 and 27 days (see Access to Information Rules, general exception, paragraph 4.2.43);
 - 4.2.54.3 Executive Decisions taken with notice on the Forward Plan of less than 5 days and the consent of the relevant individual (see Access to Information Rules, special urgency, paragraph 4.2.44);
 - 4.2.54.4 Executive Decisions considered by an Overview and Scrutiny Committee to have been wrongly treated (see Access to Information Rules at paragraph 4.2.46);
 - 4.2.54.5 Executive Decisions not recorded in accordance with paragraphs 4.4.55 – 4.4.58 of the **Executive Procedure Rules**;
- 4.2.55 The report shall set out:

⁸¹ Regulation 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

⁸² Regulation 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

⁸³ In accordance with either the **Council Procedure Rules** or the **Executive Procedure Rules**

- 4.2.55.1 the number of decisions taken in each category;
 - 4.2.55.2 the decision taken;
 - 4.2.55.3 a summary of the circumstances which led to the exception procedures being implemented;
 - 4.2.55.4 what steps will be taken to avoid similar future exception procedures being necessary.
- 4.2.56 The Monitoring Officer, in consultation with the Chairmen of the Overview and Scrutiny Panels, shall report to the full Council on the operation of the Call-in and exceptions arrangements on an annual basis.



Part 4, Section 3:

Budget and Policy Framework

Rules⁸⁴

Contents	Page
The Framework for Executive Decisions	172
Process for developing the Budget and Policy Framework	172
Virement	175
In-Year Changes to the Budget and Policy Framework	175
Decisions Outside of the Budget or Policy Framework	176
Urgent Decisions Outside the Budget or Policy Framework	176
Call-in of Decisions Outside the Budget or Policy Framework	177

⁸⁴ Part of the standing orders as required by Regulation 3 (i) (b) (ii) and Part II of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001(as amended).

The framework for executive decisions

- 4.3.1 Council is responsible for determining the budget and approving the policy framework⁸⁵ while Overview and Scrutiny Panels are responsible for developing and reviewing policy⁸⁶.
- 4.3.2 The Leader and Cabinet are responsible for implementing the policy framework within the budget set by the Council. Cabinet may also initiate and approve policy consistent with the policy framework, and make in-year changes to the budget subject to any restrictions imposed by the Council under paragraphs 4.3.4 and 4.3.5 of these Rules.
- 4.3.3 In these Rules 'plan, strategy, budget or precept' means the budget and policy framework set out in [Article 4](#) and matters falling within Schedule 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Process for developing the budget and policy framework

Policy

- 4.3.4 The Council is required to include certain policies in its policy framework (see further [Article 4](#)⁸⁷) and can choose to include other policies also. The context for all policy development is the Council's Corporate Plan. All policy development must clearly link to and support the desired outcomes of the Corporate Plan. The Leader and Cabinet must be kept informed of, and consulted on, policy development within the Council.
- 4.3.5 The Leader and Cabinet will:
 - 4.3.5.1 publish, in the Forward Plan, a timetable⁸⁸ for making proposals to Council for the adoption of any plan, strategy, budget or precept that forms part of the Budget and Policy Framework, including arrangements for consultation. The Chairmen of the Overview and Scrutiny Panels may add consideration of the proposals to their work programme and can investigate, research or report in detail to the Cabinet with recommendations before the end of the consultation period; and
 - 4.3.5.2 ensure that proposals for the plan, strategy, budget or precept within the Budget and Policy Framework have been informed by views of local stakeholders as appropriate and in a manner suitable to the matter under

⁸⁵ [Article 4](#), Part 2 of the Constitution

⁸⁶ [Article 6](#) (Overview and Scrutiny Panels), Part 2 of the Constitution

⁸⁷ Paragraphs [2.4.5](#) and [2.4.6](#)

⁸⁸ At least two months prior to the date of adoption

consideration with the consultation period generally being not less than 6 weeks; and

4.3.5.3 receive the views of the appropriate overview and scrutiny panel, having conducted such investigations and research as the panel may determine is necessary in preparing a response to the Cabinet; and

4.3.5.4 formulate a final proposal to Council which takes account of responses received during the consultation process and includes any comments the Leader wishes to make.

4.3.6 Council may:

4.3.6.1 adopt the Cabinet's proposals as recommended; or

4.3.6.2 amend them; or

4.3.6.3 refer them back to the Leader and Cabinet for further consideration; or

4.3.6.4 substitute its own proposals in their place

subject to the provisions of paragraph 4.3.9 below.

4.3.7 In considering the proposed policy framework, the Council will have before it the report from the Leader or Cabinet and the Overview and Scrutiny Panel, including a report of any minority views expressed.

4.3.8 The Council's decision on the proposed policy framework must be published and provided to the Leader. The notice of decision will be dated and will either:

4.3.8.1 state that the decision will be effective immediately (if the Council accepts the proposals without amendment or if the Leader has consented to any amendment(s) during or following the debate); or (if the Council has any objections to the proposals),

4.3.8.2 specify the objections and instruct the Leader that the Cabinet is required to reconsider, in the light of the objections, the proposals which were submitted to Council. The notice must specify a period of at least 5 clear days beginning on the day after the Leader receives the notice, within which the Leader may:

4.3.8.2.1 submit for the Council's consideration a revision of the proposal as amended by the Cabinet, with the Cabinet's reasons for any amendments to the draft proposal; or

4.3.8.2.2 inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the reasons for any such disagreement.

4.3.9 If the Council raises objections to a draft proposal in accordance with paragraph 4.3.8.2, the matter will be reconsidered by the Council at its next meeting. The Council must at that meeting, before making its final decision on the matter, take into account:

- 4.3.9.1 any amendments made to the draft proposals;
- 4.3.9.2 the reasons for the amendments;
- 4.3.9.3 any disagreement that the Cabinet has with any of the Council's objections and the reasons for that disagreement

which the Leader has submitted to the Council, or informed the Council of, within the period specified. The Council will make its final decision based on a simple majority. The decision will then be published and take effect immediately.

- 4.3.10 In approving any part of the Policy Framework, the Council may also specify the extent to which in year changes⁸⁹ to the Policy Framework may be made by the Leader and Cabinet. Any other changes to the policy framework are reserved to the Council.
- 4.3.11 Chief Officers⁹⁰ may amend the text of approved documents to update factual information, reflect changes in the law or other matters not affecting the substance of the policy or strategy subject to prior notification of such changes to the Leader, any relevant Cabinet Member and the Chairman of the relevant Overview and Scrutiny Panel.

Budget

- 4.3.12 As part of the budget preparations each Autumn a report will be presented to Cabinet on the proposed process and timeline for the preparation of the next years budget. Following that each January, Cabinet will consider the Draft Budget for consultation. Followed by the Final Budget in February, which will then be submitted for consideration by Council. The Draft Budget will review the issues relating to the Budget for the forthcoming financial year, and in relation to the next years budget include:
 - 4.3.12.1 the allocation of financial resources to different services and projects;
 - 4.3.12.2 proposed contingency funds;
 - 4.3.12.3 the Council Tax base;
 - 4.3.12.4 setting the Council Tax;
 - 4.3.12.5 decisions relating to the:
 - 4.3.12.5.1 control of the Council's borrowing requirement,
 - 4.3.12.5.2 control of its capital expenditure
- 4.3.13 Provided Cabinet submits its Budget Proposals to Council (and Council considers it) before the end of February for the following financial year, if, having

⁸⁹ amendments, modifications or variation

⁹⁰ see further the [Officer Scheme of Delegation](#) at Part 3 of this Constitution

considered the Budget Proposals, Council has any objections to them, it must apply the provisions of paragraph 4.3.9.

- 4.3.14 In approving the budget framework, the Council will also specify the extent of virement within the budget. Any other changes to the budgetary framework are reserved to the Council.
- 4.3.15 A recorded vote will be held for any decision made in relation to the Budget Proposals, including in respect of amendments⁹¹.
- 4.3.16 Where the Council makes Budget Proposals which do not reflect the Cabinet's estimates or amounts, the decision to use different estimates or amounts can only be made with a two thirds majority⁹² of the councillors present and voting on the question at a meeting of the Council.

Virement

- 4.3.17 The Council shall have directorate budgets as specified from year to year in the Annual Budget approved by Council and other budget headings which may from time to time be appropriate.
- 4.3.18 Steps taken by the Cabinet, a committee of the Cabinet, an officer, or joint arrangements discharging executive functions to implement Council policy shall not result in those budgets allocated to each directorate budget being exceeded unless to meet statutory obligations or in exceptional circumstances (all such instances of potential overspend are to be immediately reported to the Chief Financial Officer and reported in the next quarterly financial performance report). However, such bodies or individuals shall be entitled to vire between budgets subject to the virement controls set by Council.

In-year changes to the budget and policy framework

- 4.3.19 The responsibility for agreeing the Budget and Policy Framework lies with Council, and decisions by the Cabinet, a committee of the Cabinet, officer, or joint arrangements discharging executive functions must conform to it. No changes to any policy and strategy which make up the budget and policy framework may be made by those bodies or individuals except those changes:
 - 4.3.19.1 which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or

⁹¹ Regulation 15 of Schedule 2 of the Local Authorities (Standing Orders)(England) Regulations 2001

⁹² Regulation 12 of Schedule 2 of the Local Authorities (Standing Orders)(England) Regulations 2001

4.3.19.2 which are necessary to ensure compliance with the law, ministerial direction or government guidance; or

4.3.19.3 where, when approving the framework, the Council gave specific authority to the Cabinet to make in-year changes.

4.3.20 The Chief Officers may amend the text of approved documents to update information, reflect changes in the law or other matters not affecting the substance of the policy or strategy subject to prior notification of such to the Leader, any relevant Cabinet Member and the Chairmen of the relevant Overview and Scrutiny Panels.

Decisions outside of the budget or policy framework

4.3.21 Subject to the provisions of paragraph 4.3.6, the Cabinet, Committees of the Cabinet and any Officers or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Council, then the decision may only be taken by Council.

4.3.22 If the Cabinet, Committees of the Cabinet and any Officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and / or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to / 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 in accordance with paragraphs 4.4.45 to 4.4.51 of the **Executive Procedure Rules** unless the decision is a matter of urgency, in which case the provisions in paragraph 4.3.24 apply.

Urgent decisions outside the budget or policy framework

4.3.23 The Cabinet, Committees of the Cabinet and any Officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to, or not wholly in accordance with, the Budget approved by Council if the decision is a matter of urgency. However, the decision may only be taken in compliance with the provisions of paragraphs 4.4.52 to 4.4.54 of **the Executive Procedure Rules**.

Call-in of decisions outside the budget or policy framework

- 4.3.24 Where an Overview and Scrutiny Panel is of the opinion that an executive decision is, or if made would be, contrary to the Policy Framework, or contrary to / not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and / or Chief Finance Officer.
- 4.3.25 Decisions which are outside of the budget or policy framework are reported to Council in accordance with the procedure set out in paragraphs 4.5.73 to 4.5.75 of the **Overview and Scrutiny Procedure Rules** (see further Part 4, Section 5 of this constitution).



Part 4, Section 4:

Executive Procedure Rules

Contents	Page
Responsibility for Executive Functions	179
Conflicts of Interest	181
Cabinet Meetings	181
Business	182
Attending and Addressing Cabinet	183
Taking Executive Decisions	185
Records of Executive Decisions Taken	187
Implementation of Executive Decisions	189
Decisions which appear to have been wrongly treated	191
Access to Information	191

Responsibility for Executive functions

- 4.4.1 The Council operates a Leader and Cabinet style of governance⁹³ as set out in [Article 5](#) of this constitution. This means that the Council and its committees are responsible for anything expressly reserved to them by law or in this Constitution (Non-Executive functions) and the Leader and Cabinet make all other decisions for the Council (Executive functions).

Who can make executive decisions

- 4.4.2 The Leader is responsible in law for the discharge of the Executive functions. They may:
- 4.4.2.1 discharge any executive functions; or
 - 4.4.2.2 arrange for the discharge of executive functions collectively by all councillors appointed to the Cabinet (see further [Article 5](#) at Part 2 of the Constitution); or
 - 4.4.2.3 delegate the discharge of executive functions to:
 - 4.4.2.3.1 an individual Cabinet Member⁹⁴;
 - 4.4.2.3.2 a committee of the Cabinet;
 - 4.4.2.3.3 an officer;
 - 4.4.2.3.4 joint arrangements⁹⁵; or
 - 4.4.2.3.5 another local authority⁹⁶.
- 4.4.3 The [Council Procedure Rules](#) (see further Part 4, Section 1 of the Constitution) require the Leader to inform the annual meeting of Council of the number of councillors to be appointed to the Cabinet, their identity and portfolios of responsibility (the “Executive Arrangements”). Following the annual meeting of the Council, the Proper Officer will update the constitution to reflect the Executive Arrangements, including:
- 4.4.3.1 the extent of any authority delegated to individual Cabinet Members, including any limitation on their authority;

⁹³ Section 9C(3) and (5) of Part 1A of the Local Government Act 2000

⁹⁴ Subject to any provisions made under Local Government Act 2000 in relation to the discharge of functions by area committees, another local authority or jointly.

⁹⁵ Regulation 9 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012

⁹⁶ Part 3 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012

- 4.4.3.2 the terms of reference and constitution of such Cabinet committees or panels as the Leader appoints;
 - 4.4.3.3 the nature and extent of any delegation of executive functions to any other authority or any joint arrangements; and
 - 4.4.3.4 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.
- 4.4.4 The Leader may amend the Executive Arrangements at any time, which changes become effective upon publication of the decision notice unless otherwise stated. The Proper Officer will update the Constitution accordingly and the Leader will report the changes to the next ordinary meeting of the Council. A decision to change the allocation of portfolios or the number of Cabinet Members cannot be called-in.
- 4.4.5 All Cabinet Members are required to undertake the mandatory training for executive councillors as identified within the councillor training and development programme.
- 4.4.6 The Cabinet is not subject to political balance requirements and no substitution provisions apply. Neither the Chairman or Vice-Chairman of the Council can be appointed to the Cabinet.

Sub-delegation of executive functions

- 4.4.7 Where the Cabinet or a committee of the Cabinet is responsible for an executive function, it may delegate further to joint arrangements or an officer unless the Leader directs otherwise.
- 4.4.8 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole⁹⁷.
- 4.4.9 Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

Cabinet Advisory Panels

- 4.4.10 Cabinet Advisory Panels have the role and functions set out in Article 5 of this constitution. They support Cabinet and its Committees and are bound by these Executive Procedure Rules but make no executive decisions.

⁹⁷ That is these Executive Procedure Rules

Conflicts of Interest

- 4.4.11 All councillors must comply with the **Councillor Code of Conduct** (see further Part 5, section 1 of this constitution).
- 4.4.12 Councillors declaring a Disclosable Pecuniary Interest (recorded on their declaration of interests form and disclosed in the meeting) in a matter to be considered at the meeting must not speak or vote on the matter. They may remain in the room where the meeting is taking place unless they consider that it would be inappropriate in the circumstances to remain in the room while the matter is dealt with.
- 4.4.13 Where a matter arises at a meeting which relates to or affects an Other Registerable Interest the councillor must declare the existence and nature of the interest. They may speak and vote on the matter under consideration.
- 4.4.14 A Cabinet member exercising delegated powers, either in a Cabinet committee or as an individual member, with a conflict of interest which would require them not to make or participate in the decision to comply with the Code of Conduct, must notify the Leader of the conflict. The Leader will decide who will make the decision, taking into account any advice from the Monitoring Officer.

Cabinet meetings

- 4.4.15 Cabinet meetings will be convened and held in public in accordance with the **Access to Information Rules** (see further Part 4 section 2 of this Constitution). If the business under consideration is exempt⁹⁸ or confidential⁹⁹, the provisions of the **Access to Information Rules** which relate to Cabinet meeting wholly or partially in private will apply.
- 4.4.16 If Cabinet is considering a Key Decision, the Key Decision Procedure as set out in the **Access to Information Rules** will apply.
- 4.4.17 The Leader will, having taken advice from the Statutory Chief Officers:
 - 4.4.17.1 convene as many Cabinet meetings as they consider appropriate;
 - 4.4.17.2 cancel and / or reschedule meetings where necessary;
 - 4.4.17.3 determine the agenda of Cabinet meetings.
- 4.4.18 Cabinet meetings will usually be held at the main Council offices at 6.30 pm unless the Leader decides otherwise. The time and place of meetings will be confirmed in the summons to the meeting which will issued in accordance with the **Access to Information Rules** and published on the Council's website.

⁹⁸ As defined in the **Access to Information Rules** at paragraphs 4.2.21 – 4.2.25

⁹⁹ As defined in the **Access to Information Rules** at paragraphs 4.2.27 – 4.2.32

Quorum

- 4.4.19 The quorum for a meeting of the Cabinet shall be 3 councillors who are eligible to vote including the Leader or Deputy Leader.
- 4.4.20 The quorum for a meeting of a committee of the Cabinet shall be agreed when the Committee is established but will be a minimum of 2 Cabinet members.

Chairing

- 4.4.21 The Leader (if present) will preside at any meeting of the Cabinet or its committees. In the absence of the Leader, the Deputy Leader will preside. If neither the Leader nor Deputy Leader is present, the Leader may appoint another person to preside. If no such appointment is made, those present at the meeting shall decide by majority who should preside.
- 4.4.22 The Chairman of a Cabinet Committee or Advisory Panel has the same powers as the Leader has in respect of the conduct of those meetings.

Agenda

- 4.4.23 The agenda for each meeting of the Cabinet will comprise:
 - 4.4.23.1 apologies for absence
 - 4.4.23.2 approval of the record of decisions and minutes of the last meeting;
 - 4.4.23.3 declarations of interest, if any;
 - 4.4.23.4 matters referred to Cabinet by full Council or an overview and scrutiny committee;
 - 4.4.23.5 any report by a Statutory Chief Officer;
 - 4.4.23.6 matters set out in the agenda for the meeting (which shall indicate which are Key Decisions and which are not).
 - 4.4.23.7 such other items as the Leader decides, which may include:
 - 4.4.23.7.1 public question time;
 - 4.4.23.7.2 Councillor question time
 - 4.4.23.7.3 issues and reports brought forward by the relevant Cabinet Member or Chief Officers;

Business

- 4.4.24 At each meeting of the Cabinet the business set out in the agenda will be conducted.

- 4.4.25 The Leader may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any officer in respect of that matter.
- 4.4.26 Any member of the Cabinet may require the Head of Paid Service to include an item on the agenda of the next available meeting of the Cabinet for consideration.
- 4.4.27 The Statutory Chief Officers, individually or collectively, may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- 4.4.28 The Leader may decide that there are special circumstances that justify an item of business, not included on the agenda, being considered as a matter of urgency. The reasons for considering the item at the meeting must be stated in the meeting and be recorded in the minutes.
- 4.4.29 In the case of any dispute during the proceedings of any Cabinet body the relevant parts of this Constitution will apply and after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and their ruling will be final.

Reports

- 4.4.30 Reports for decision by Cabinet or its committees must include sufficient information to allow an effective evidence based decision to be made and shall include any requirements specified by the Statutory Chief Officers, including but not limited to:
 - 4.4.30.1 legal and financial implications of the proposed decision;
 - 4.4.30.2 consideration of the public sector equality duty;
 - 4.4.30.3 consideration of the outcome of any public consultation, if required; and
 - 4.4.30.4 whether or not the proposed decision achieves best value.
- 4.4.31 Reports will contain details and outcomes of any consultation undertaken with councillors, external bodies or the public. The scope and level of consultation required will be appropriate to the nature of the matter under consideration, including legal obligations to undertake public and / or stakeholder consultation

Attending and addressing Cabinet

Councillors

- 4.4.32 Subject to the [Access to Information Rules](#) any councillor may attend any meeting of the Cabinet or its committees.

- 4.4.33 Councillors may, subject to the [Access to Information Rules](#), make representations to the Cabinet for a maximum of five minutes on a matter before the meeting takes a decision on it. At the discretion of the meeting, the councillor may speak further and / or take part in any ensuing debate on the matter but cannot vote on it. The councillor must notify, in writing, Democratic Services and the Leader of the Council at least 24 hours prior to the proposed time of the meeting that they wish to address the meeting and identify which item on the agenda they intend to speak on.
- 4.4.34 All councillors may observe a Cabinet or Cabinet Committee meeting, subject to the provisions of the [Access to Information Rules](#), but in that capacity may not speak, unless the person presiding consents and a majority of members present agree. Observing councillors may not vote.

Chairman of an Overview and Scrutiny Panel

- 4.4.35 If Cabinet is considering a report from an Overview and Scrutiny Panel, the Chairman of that Panel has the right to speak to the report at the Cabinet meeting.

Mover of a Motion referred to Cabinet

- 4.4.36 Where a Motion has been referred to Cabinet for consideration and or deliberation in accordance with paragraph 4.1.60.4 of the Council Procedure Rules, the mover of the Motion may attend the Cabinet when their motion is under consideration and explain it.

Officers

- 4.4.37 The Statutory Chief Officers and their deputies are entitled to attend and speak at any meeting at which executive functions are discharged.

Other Persons

- 4.4.38 Subject to the [Access to Information Rules](#), any other person(s) may be invited to attend a meeting of the Cabinet, a Cabinet Committee or a Cabinet Advisory Panel. They may speak or take part in the debate, but not vote, during consideration of relevant items provided their involvement could assist the business of the meeting.

Public

- 4.4.39 Members of the public are entitled to attend meetings of the Cabinet, its Committees or Panels except when confidential or exempt information is to be considered and the meeting resolves to proceed in private in accordance with the [Access to Information Rules](#). They will only be able to speak at the meeting with the consent of the Leader of the Council.

Taking Executive decisions

- 4.4.40 Executive Decisions must comply with the Budget and Policy Framework (see further the Budget and Policy Framework at Part 4 Section 3 of this constitution) and [Article 10 \(Decision-making\)](#).
- 4.4.41 Decisions taken at a meeting of the Cabinet, its committees or panels will be by consensus as evidence of collective responsibility wherever possible. However, if a vote is required, this will be with a show of hands and by simple majority. The Leader will have a second or casting vote in the event of equality. Any Cabinet Member may require, after the vote is completed, that the Minutes of the meeting record how they voted or abstained.
- 4.4.42 Cabinet may take into account verbal representations made at its meeting when making decisions but must not consider any additional documentation submitted without compliance with the [Access to Information Rules](#) set out in this Constitution.

Key Decisions

- 4.4.43 Key Decisions will be taken in accordance with the procedure for Key Decisions set out in the [Access to Information Rules](#).
- 4.4.44 The Leader shall submit to Council¹⁰⁰ on an annual basis a report containing details of each Executive Decision taken during the preceding municipal year where the making of that decision was agreed as urgent in accordance with paragraphs 4.2.54 to 4.2.56 of the Access to Information Rules (Compliance with Access to Information Rules requirements).
- 4.4.45 If it is intended to make an Executive Decision which might be considered to fall outside the Budget or Policy Framework the decision taker shall take advice from the Monitoring Officer and / or the Chief Finance Officer as to whether the decision they want to make would be contrary to the budget and policy framework.
- 4.4.46 Where an Overview and Scrutiny Panel is of the opinion that an Executive Decision is, or if made would be, contrary to the budget and policy framework,

¹⁰⁰ Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

then it shall seek advice from the Monitoring Officer and / or Chief Finance Officer.

- 4.4.47 In the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision would not be a departure from the budget and policy framework they shall prepare a report to the relevant Overview and Scrutiny Panel with a copy to the Cabinet.

Referral to Council

- 4.4.48 If a decision has yet to be made, or has been made but not yet implemented, and the Monitoring Officer and / or the Chief Finance Officer are of the view that the proposed decision would be contrary to the budget and policy framework, and the decision taker still intends to make or to implement the decision:
- 4.4.48.1 the Monitoring Officer and / or the Chief Finance Officer shall report to the Cabinet, with a copy to the relevant Overview and Scrutiny Panel and to every member of the Council;
 - 4.4.48.2 the Cabinet shall meet to consider the report of the Monitoring Officer and / or the Chief Finance Officer and shall prepare a report to Council; and
 - 4.4.48.3 the decision-taker shall refer the decision to the full Council for decision or ratification as appropriate.
- 4.4.49 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 28 days of the referral by the decision-taker. At the meeting it will receive the Cabinet's report of the decision or proposals and the advice of the Monitoring Officer and / or the Chief Finance Officer.
- 4.4.50 If Council decides that the decision is not contrary to the budget and policy framework it shall endorse the decision as falling within the existing Budget and Policy Framework.
- 4.4.51 If Council decides that the decision is contrary to the budget and policy framework it may either:
- 4.4.51.1 approve or ratify the decision outside the budget and policy framework;
 - 4.4.51.2 amend the Council's budget and policy framework as necessary to encompass the decision and approve or ratify the decision with immediate effect; or
 - 4.4.51.3 require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer and / or the Chief Finance Officer.

Urgent decisions outside the Budget or Policy Framework¹⁰¹

- 4.4.52 Any decision which is contrary to the policy framework¹⁰², or not wholly in accordance with the budget¹⁰³ approved by full Council, may only be taken by the Council, unless:
- 4.4.52.1 the decision is urgent and it is not practical to convene a quorate meeting of the full Council;
 - 4.4.52.2 the decision-taker has briefed the Chairman of a relevant Overview and Scrutiny Panel¹⁰⁴ about why it is not practical to convene a quorate meeting of full Council; and
 - 4.4.52.3 the Overview and Scrutiny Panel Chairman agrees that the decision is urgent.
- 4.4.53 The reasons why it is not practical to convene a quorate meeting of full Council, and the consent of the Chairman of the relevant Overview and Scrutiny Panel to the decision being taken as a matter of urgency, must be noted on the record of the decision, together with the reasons for the Chairman's consent.
- 4.4.54 The decision-taker will provide a full report to the next available Council meeting after the decision is taken explaining:
- 4.4.54.1 the decision;
 - 4.4.54.2 the reasons for it; and
 - 4.4.54.3 why the decision was treated as a matter of urgency.

Records of Executive Decisions taken¹⁰⁵

At a meeting

- 4.4.55 As soon as reasonably practicable, and in any event within 2 working days, after any meeting of the Executive or within 10 working days of any of its committees, the Council will produce a record of every decision taken at that meeting and

¹⁰¹ Regulation 5(2) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

¹⁰² Or amendments which may be made to the policy framework in accordance with the provisions for in year changes to policy framework set out in the [Budget and Policy Procedure Rules](#)

¹⁰³ Or virements made in accordance with the [Budget and Policy Procedure Rules](#)

¹⁰⁴ Or in the absence of the Chairman of the relevant Overview and Scrutiny Panel the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman of the Council.

¹⁰⁵ Part 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

publish it on the Council's website together with the report in relation to the decision made. The record will include:

- 4.4.55.1 a record of the decision including the date it was made,
- 4.4.55.2 the reasons for each decision,
- 4.4.55.3 details of any alternative options considered and rejected at the meeting; and
- 4.4.55.4 a record of any interest declared by any Councillor together with a note of any dispensation granted in respect of that interest.

By a Councillor acting alone

- 4.4.56 As soon as reasonably practicable after an Executive Decision has been taken under the Executive Arrangements¹⁰⁶, the Council will prepare a record of the decision and publish it on the website together with the report in relation to the decision made. The record will include;
- 4.4.56.1 the identity of the decision taker;
 - 4.4.56.2 the decision taken, and the date it was made;
 - 4.4.56.3 the reasons for the decision;
 - 4.4.56.4 details of any alternative options considered and rejected by the decision taker at the time of making the decision; and
 - 4.4.56.5 a record of any interest declared by any Cabinet Member consulted by the decision taker together with a note of any dispensation granted in respect of that interest.

By Officers

- 4.4.57 As soon as reasonably practicable after a Key or Significant Operational Decision¹⁰⁷ has been taken by an officer they will prepare a record of the decision and arrange for its publication on the Council's website. The record will include:
- 4.4.57.1 the identity of the decision maker;
 - 4.4.57.2 the source of the delegated authority to make the decision;
 - 4.4.57.3 a record of the decision including the date it was made;
 - 4.4.57.4 a statement of the reasons for the decision;

¹⁰⁶ The Leader may take decisions in relation to the Cabinet Member Portfolios and executive delegations to officers as set out in Part 3 of the Constitution.

¹⁰⁷ as defined at [Article 10 in Part 2](#) of this Constitution

4.4.57.5 details of any alternative options considered and rejected by the officer at the time of making the decision; and

4.4.57.6 a record of any interest declared by any Cabinet Member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest

and comply with any further requirements set out in the **Scheme of Delegation** in Part 3 of this Constitution.

4.4.58 There is no formal requirement to record Administrative Decisions¹⁰⁸ for the purpose of Council or Public Access, however officers are responsible for retaining a record of administrative decisions, and the reasons for them, which is sufficient for audit and evidential purposes, and for ensuring that all those who need to know are informed promptly of the administrative decision.

Implementation of Executive Decisions

4.4.59 Decisions which are subject to the Call-in procedure (set out in the **Overview and Scrutiny Procedure Rules**) should not be implemented until the Call-in procedure is exhausted in relation to those decisions¹⁰⁹.

Decisions Eligible for Call-in

4.4.60 Subject to the exceptions set out below, the following may be called-in to be reviewed and scrutinised by the relevant Overview and Scrutiny Panel¹¹⁰:

4.4.60.1 all decisions of Cabinet;

4.4.60.2 Executive Decisions taken by the Leader or a Cabinet Member;

4.4.60.3 Executive Decisions taken by Officers.

4.4.61 To ensure that the Call-in provisions do not cause unreasonable delay and are not abused, the power to Call-in decisions does not extend to decisions:

4.4.61.1 which have been the subject of a previous Call-in;

¹⁰⁸ As defined at **Article 10** of this Constitution

¹⁰⁹ The Call-in procedure will be exhausted when:

- the Call-in period expires if the decision is not called in;
- at the end of the Call-in meeting if the decision is released for implementation; or
- when the decision has been confirmed or amended in accordance with these rules (if the decision was subject to a recommendation that it be reconsidered)

¹¹⁰ Where a decision falls within the terms of reference of more than one Overview and Scrutiny Panel the Overview and Scrutiny Panel Chairmen shall agree which Panel will handle the decision.

- 4.4.61.2 made in accordance with the **Budget and Policy Framework Procedure Rules**;
- 4.4.61.3 made by the Leader in relation to the Executive Arrangements;
- 4.4.61.4 taken by a Committee or Sub-Committee described in Article 7 of this Constitution;
- 4.4.61.5 made under regulatory arrangements;
- 4.4.61.6 made by Joint Committees; or
- 4.4.61.7 not taken by the authority.

Exemption from Call-in

- 4.4.62 The decision taker may declare a decision as being exempt from Call-in if they consider that the decision is urgent as set out in the Overview and Scrutiny Procedure Rules (paragraphs 4.5.563 to 4.5.67.) Records of decisions taken under this exemption, and therefore exempt from Call-in, will indicate:
 - 4.4.62.1 what the implications would be if the decision were to be delayed by the operation of the Call-in mechanism; and
 - 4.4.62.2 why the decision could not have been taken earlier so as to have been eligible for Call-in.
- 4.4.63 There is no appeal against a decision to exempt a decision from Call-in, however the operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review of the arrangements if necessary, in compliance with paragraph 4.2.49 of the **Access to Information Rules**.
- 4.4.64 The Call-in process is set out in the **Access to Information Rules**.

Reconsideration of decisions Called-in.

- 4.4.65 If the Overview and Scrutiny Panel recommends that a Called-in decision should be reconsidered, a report will be submitted to the decision maker setting out the basis for the recommendation and any suggestions of the Panel. The decision maker may then either confirm or vary the decision and will produce a revised record of the decision, reflecting the additional deliberations, for publication in accordance with the above recording provisions.

Decisions not subject to Call-in

- 4.4.66 Decisions which are not subject to, or are exempt from, Call-in should be recorded as required by these Executive Procedure Rules and implemented as soon as they are taken.

Decisions which appear to have been wrongly treated¹¹¹

- 4.4.67 Where an Executive Decision has been made but was not treated as a Key Decision, and a relevant Overview and Scrutiny Panel thinks that it should have been treated as a Key Decision, that Overview and Scrutiny Panel may require, by resolution passed at a meeting of that Panel, the Decision Taker to submit a report to the Council in accordance with paragraphs 4.5.68 to 4.5.69 of the Overview and Scrutiny Procedure rules.

Access to Information

Public Access to Documents

- 4.4.68 Public rights of access to documents and records of meetings and decisions published in accordance with these rules are set out within the **Access to Information Rules** at Part 4 Section 2 of this constitution.
- 4.4.69 Paragraphs 4.2.19 – 4.2.25 of **the Access to Information Rules** set out the provisions in relation to public rights of access to exempt or confidential information.

Member Access to Information

- 4.4.70 Paragraphs 4.2.33 to 4.2.36 of the **Access to Information Rules** apply to information held by the Executive

¹¹¹ Regulation 18 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012



Part 4, Section 5:

Overview and Scrutiny Procedure Rules

CONTENTS	Page
Arrangements	193
Meetings	194
Business	195
Rules	195
Agenda Items	196
Policy Review and Development	197
Call-in	199
Failure to follow the Key-Decision Process	204
Procedure at Panel Meetings	205
Matters within the remit of more than One Panel	205

Arrangements

- 4.5.1 Council will appoint Overview and Scrutiny Panels as set out in Article 6 of this Constitution to discharge the overview and scrutiny function and act as the Council's designated Crime and Disorder Committee¹¹².
- 4.5.2 The Panels may appoint smaller groups (known as Task and Finish groups) to carry out detailed examination of specific topics and report back to them. Task and Finish groups shall either be for a fixed period, on the expiry of which they shall cease to exist, or to undertake a specified piece of overview and scrutiny work, on the completion of which they shall cease to exist. No more than two Task and Finish Groups will exist at any one time unless agreed by the Head of Paid Service. The Task and Finish groups are not committees or sub-committees and therefore are not within scope of the Access to Information Rules (see further Part 4, Section 2 of this constitution).
- 4.5.3 All councillors, except the Chairman of the Council and councillors discharging executive functions¹¹³, are eligible for appointment to an Overview and Scrutiny Panel. However, no councillor may be involved in scrutinising a decision in which they have been directly involved.
- 4.5.4 Overview and Scrutiny Panels may co-opt additional non-voting members to serve on the Panel and may withdraw that appointment at any time. The appointments in total will be:
 - 4.5.4.1 up to five non-voting co-opted members for a term of office which does not go beyond the next Annual Meeting of the Council; and
 - 4.5.4.2 up to two non-voting co-opted members for the term of a particular overview and scrutiny topic.
- 4.5.5 Crime and Disorder¹¹⁴ co-opted members shall be appointed subject to such terms of appointment as the Overview and Scrutiny Panel may impose including:
 - 4.5.5.1 any limit on the matter or type of matter in relation to which the co-optee may participate;
 - 4.5.5.2 whether the co-optee shall be entitled to vote;
 - 4.5.5.3 the term of the co-optee's appointment.

¹¹² Section 19 of the Police and Justice Act 2006.

¹¹³ Section 9FA(3) Local Government Act 2000

¹¹⁴ Police and Justice Act 2006 S20; Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

- 4.5.6 A substitute member, appointed in accordance with paragraphs 4.1.106 to 4.1.108 of the Council Procedure Rules, shall be entitled to attend an Overview and Scrutiny Panel meeting in place of a regular Councillor.
- 4.5.7 The quorum for any Overview and Scrutiny Panel shall be as set out in the Council Procedure Rules.
- 4.5.8 Overview and Scrutiny Panels should not normally scrutinise decisions taken by other committees of the Council, particularly those relating to regulatory functions.
- 4.5.9 The views of all members of the Overview and Scrutiny Panels should be taken into account when determining the work plan, and the views of councillors dissenting from a majority recommendation should be reflected in reports to decision-makers.

Meetings

- 4.5.10 Each Overview and Scrutiny Panel ('the Panel(s)') will meet at least six times in each municipal year¹¹⁵, with additional meetings as might be required. The Panels will usually meet at the Council's main offices, or any other location agreed by the Panel Chairman. Meetings will be convened and managed in accordance with the provisions of the [Access to Information Rules](#) (see further Part 4, Section 2 of this Constitution) and the [Council Procedure Rules](#) (Part 4, Section 1 of this Constitution) .
- 4.5.11 At each meeting, the Panel will consider all Executive Decisions referred to it in accordance with the call-in procedure (see further paragraph 4.5.42). The Panel may also:
- 4.5.11.1. establish Task and Finish groups to carry out specific tasks or scrutinise specific areas;
 - 4.5.11.2. require any member of the Cabinet or the Chairman of any committee to attend a meeting of the Panel and if they do so it is the duty of that councillor to attend;
 - 4.5.11.3. require any officer of the Council to attend a meeting of the Panel and if they do so it is the duty of that officer to attend;
 - 4.5.11.4. ask to see any documents belonging to the Council which the Panel has a need to know about for the purpose of carrying out its functions in accordance with the provisions of the [Access to Information Rules](#) (see further Part 4, Section 2 of this Constitution).

¹¹⁵ To be four discrete meetings of each panel and two joint panel meetings per year.

- 4.5.11.5. publish reports relating to any of its functions but not normally without first asking for the comments of the Cabinet.

Business

- 4.5.12 Each Panel will exercise the functions set out in the terms of reference of the Panel, as set out at [Article 6](#) of this constitution.
- 4.5.13 As soon as reasonably possible after the start of the municipal year, each Panel will prepare a work programme setting out the matters it proposes to scrutinise. A copy of the programme will be provided to Council for information, but the Panel need not keep to the published work programme.
- 4.5.14 The work programme must take account of the wishes of councillors who are not members of the largest political group on the Council. Any member of a Panel may request that the Panel of which they are a member considers a matter relevant to that Panel's functions¹¹⁶.
- 4.5.15 All Panels shall participate in the development of the Council's Budget and the Policy Framework as set out in the [Budget and Policy Framework Rules](#).

Rules

- 4.5.16 The provisions set out within the [Council Procedure Rules](#) (see further Part 4 Section 1 of this Constitution) in respect of substitution, co-option, quorum and voting shall apply to the Panels.
- 4.5.17 Notice of Panel meetings shall be given in accordance with [the Access to Information Rules](#) (see further Part 4, Section 2 of this Constitution) and, subject to any statutory prohibitions and to the provisions of this Part, all formal meetings of a Panel shall be open to the public in accordance with the Access to Information Rules. This shall be without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.
- 4.5.18 A Panel may resolve to exclude the press and public from a meeting (whether the whole or part only of the proceedings) in accordance with the [Access to Information Rules](#).
- 4.5.19 Minutes of Panel meetings will be published in accordance with the [Access to Information Rules](#).

¹¹⁶ Section 9FC(1a&b) Local Government Act 2000

Agenda items

- 4.5.20 A councillor who is not a member of a Panel may give written notice to the Head of Paid Service to refer any 'local government matter' relevant to the Panel's functions¹¹⁷. The Head of Paid Service shall arrange for the item to be included on the agenda of the appropriate Panel for consideration at the earliest practicable opportunity.
- 4.5.21 A 'local government matter' is a matter which relates to the discharge of any function of the authority, affects all or part of the electoral area for which the Councillor is elected or any person who lives or works in that area and is not an 'excluded' matter. Excluded matters¹¹⁸ are:-
- 4.5.21.1 licensing decision;
 - 4.5.21.2 planning decision;
 - 4.5.21.3 a matter relating to an individual or entity where there is already a statutory right of a review or appeal (other than the right to complain to the Local Government and Social Care Ombudsman); or
 - 4.5.21.4 a matter which is vexatious, discriminatory or not reasonable to be included on the agenda or discussed at the Panel meeting.
- 4.5.22 In relation to paragraph 4.5.21.1 to 4.5.21.3, in the limited circumstances of an allegation that a function for which the authority is responsible has not been discharged or that its discharge has failed or is failing on a systematic basis, the item can, in appropriate circumstances, be placed on the agenda even if it relates to a planning or licensing decision or an individual or entity and the individual or entity have a separate legal right of review or appeal.
- 4.5.23 The decision concerning the inclusion or exclusion of matters listed in paragraph 4.5.21.4 will be made by the Chairman of the Panel (or their vice-chairman if absent) having taken advice from the Council's Monitoring Officer and, where practicable, having afforded the councillor concerned the opportunity to make representations in the matter.
- 4.5.24 The Panels shall respond to any request from Council and, where it considers it appropriate, the Cabinet, to review particular areas of Council activity as soon as the agreed work programme permits. The Panels shall report any findings and make any recommendations to Council or the Cabinet as appropriate. Council or Cabinet shall consider a Panel report within two months of receiving any findings or recommendation.

¹¹⁷ Sometimes known as a 'Councillor Call for Action' – in considering whether to exercise this right to refer the councillor shall consider any guidance for the time being issued by the Secretary of State

¹¹⁸ The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008

4.5.25 Each Panel is expected to consider the following business (in no particular order) at an ordinary meeting:

4.5.25.1 exclusion of public;

4.5.25.2 late items;

4.5.25.3 declarations of interest;

4.5.25.4 apologies for absence;

4.5.25.5 minutes of the last meeting;

4.5.25.6 items referred to the Panel;

4.5.25.7 the business otherwise set out on the agenda for the meeting; and

4.5.25.8 the Panel's work programme

The order of the items upon the agenda shall be determined by the Chairman of the relevant Panel.

Policy Review and Development

4.5.26 The role of the Panels in relation to the development of the Council's budget and policy framework is set out in the **Budget and Policy Framework Rules** in Part 4, Section 3 of this Constitution.

4.5.27 Outside of the budget and policy framework, the Panels may make proposals to the Cabinet on matters within their terms of reference.

4.5.28 A Panel may hold inquiries and investigate the available options for future policy development and officers may be called upon to assist in this process. A Panel may do all that it reasonably considers necessary to inform their deliberations, including asking witnesses to attend to address the commission on any matter under consideration and may reimburse expenses for attending.

Reports from Panels

4.5.29 The Panel will prepare a formal report, which sets out any conclusions reached on a matter, and submit it to the Head of Paid Service for consideration by the Council or the Cabinet. A report of a Task and Finish group shall be submitted to the relevant Panel.

4.5.30 Unless the Panel agree the report to Council or the Cabinet with no member voting against, one minority report may be prepared and submitted for consideration by the Council or the Cabinet with the majority report.

4.5.31 Council or the Cabinet shall consider the report of the Panel within two months of receipt by the Head of Paid Service and shall provide comments on it to the body making the report within a further two months.

Consideration of reports by the Cabinet

- 4.5.32 The **Executive Procedure Rules** ensure that the agenda for all meetings of the Cabinet has provision for issues referred from the Overview and Scrutiny Panels. A report from a Panel referred to the Cabinet shall be taken at that point in the agenda, unless considered as a part of a separate substantive item on the agenda.
- 4.5.33 Where, for any reason, the Cabinet does not consider a report within two months, the matter shall be referred to Council for review. The Head of Paid Service will arrange for the matter to be considered at a meeting of the Council which may make a recommendation to the Cabinet.
- 4.5.34 The Panels shall have access to the Forward Plan which sets out the Cabinet's timetable for decisions and arrangements for consultation. Where an item is not the subject of proposals from the Panel following consideration of policy and service developments, the Panel may respond as a part of the consultation in relation to any key decision.

Rights of access to documents

- 4.5.35 In addition to their rights as Councillors, members of Panels have additional rights of access to documents and notice of meetings as set out in the **Access to Information Rules** in Part 4, Section 2 of this Constitution.
- 4.5.36 Nothing in these rules prevents more detailed liaison between the Cabinet and the Panels as appropriate depending on the particular matter under consideration.

Member and officer accountability

- 4.5.37 The Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any function of the Council. They may review documentation and may require:
- 4.5.37.1 any member of the Cabinet;
 - 4.5.37.2 the Chief Executive;
 - 4.5.37.3 Chief Officers;
 - 4.5.37.4 Deputy Chief Officers;
 - 4.5.37.5 any officer below Deputy Chief Officer (but only following consultation with any of the officers referred to above by the Chairman of the Panel requiring the attendance and agreement having been reached that the attendance is necessary and appropriate);
- to attend and answer questions on matters within their area of responsibility and concerning:

4.5.37.6 a particular decision or series of decisions;

4.5.37.7 the extent to which actions taken implement Council policy;

4.5.37.8 the performance of any service for which the officer has a responsibility.

4.5.38 It is the duty of any person whose attendance is required at a meeting to attend as required. Any unresolved requests for officer attendance are to be brought to the attention of the Chairman of the relevant Panel and the Head of Paid Service.

4.5.39 Where any councillor or employee is required to attend a Panel, its Chairman will inform the Head of Paid Service who shall then inform the councillor or employee in writing. At least five clear days' notice of the meeting at which they are required to attend will be given. The notice will provide a summary of the matter being scrutinised and indicate whether any documentation is required to be made available. Where the production of a report is required the councillor or employee concerned will be given sufficient notice to allow for preparation and publication of the report.

4.5.40 Where, in exceptional circumstances, the councillor or employee is unable to attend on the required date, the Panel shall, in consultation with the councillor or employee concerned, arrange an alternative date.

Attendance by others

4.5.41 The Panels may invite any person, not including a person referred to in paragraph 4.5.37 above, to address the Panel, raise issues of local concern and / or answer questions. The Panels may hear from residents, stakeholders, members and officers from other public sector bodies and shall invite such people to attend, recognising that their attendance cannot be required.

Call-In

4.5.42 When an executive decision is made, notice of the decision is published in accordance with the **Access to Information Rules** in Part 4, Section 2 of this Constitution. The period between the date of publication of the notice of decision and the date on which a decision will take effect shall be known as the 'call-in period'.

4.5.43 Subject to these Rules, decisions by the following may be called-in for scrutiny:

4.5.43.1 Cabinet;

4.5.43.2 A Cabinet member (including the Leader and Deputy Leader of the Council);

4.5.43.3 A committee of the Cabinet;

4.5.43.4 An officer in the case of a Key Decision.

- 4.5.44 The discretion to call-in a decision may only be exercised in accordance with these Rules and where there is evidence that the decision was not made in accordance with the principles of decision making set out in **Article 10** of this Constitution (see paragraph 2.10.19).
- 4.5.45 When exercising the discretion to call-in a decision, councillors should take into account the desirability of co-ordination and avoidance of duplication. Each Panel has the power¹¹⁹ to 'call-in' for scrutiny all decisions made by the Cabinet but not implemented, and recommend that they are reconsidered, reviewed or scrutinised by Council.
- 4.5.46 A decision that is called-in cannot be implemented until the call-in process is completed. A decision can only be called-in once. A Cabinet recommendation to Council is not a decision and therefore may not be called in.
- 4.5.47 Any called-in matters that are subsequently considered by Council under this arrangement will be dealt with in accordance with the **Council Procedure Rules** rather than these **Overview and Scrutiny Procedure Rules**.
- 4.5.48 A decision which is alleged to be contrary to the budget or the policy framework is not subject to call-in but may be dealt with under the provisions of paragraphs 4.5.73 to 4.5.75.

Requests to call-in

- 4.5.49 During the call-in period the Panel Chairmen, or any five Councillors (not including a member of the decision-making body), may request that a decision be called-in. The request shall be made to the Head of Paid Service in writing within the call-in period, before the date of implementation.
- 4.5.50 The notice of call-in shall be submitted in writing or electronically via the appropriate form to the Head of Paid Service and provide the following information:
- 4.5.50.1 the resolution(s) that the councillors wish to call in;
 - 4.5.50.2 the reasons why the Panel should review or scrutinise the decision and consider referring it back to the decision maker;
 - 4.5.50.3 whether it is considered to be outside of the budget or the policy framework;
 - 4.5.50.4 the alternative course of action or recommendations they wish to propose; and
 - 4.5.50.5 be signed and dated by the required Councillors set out in paragraph 4.5.49.

¹¹⁹ section 9F(2) and 9(F)(4) of the Local Government Act 2000 (as amended by the Localism Act 2011)

- 4.5.51 The Head of Paid Service will determine the call-in request to be valid unless any of the following apply:
- 4.5.51.1 The procedures set out above have not been properly followed; or
 - 4.5.51.2 The decision has been recorded as urgent as set out in paragraph 4.5.63 below; or
 - 4.5.51.3 The request for call-in is not a proper use of the call-in provisions having regard to factors such as:
 - 4.5.51.3.1. the extent of any pre-decision scrutiny by a Panel;
 - 4.5.51.3.2. changes to the nature of the decision being made since any pre-decision scrutiny of the proposals;
 - 4.5.51.3.3. a decision taken by Cabinet when preparing the annual budget or new policy proposals for submission to Council for decision;
 - 4.5.51.3.4. the extent of impact of the proposal (i.e, the number of wards and or portfolios affected);
 - 4.5.51.3.5. the number of public representations on the proposal;
 - 4.5.51.3.6. the extent of legal, financial or propriety issues relating to the proposal;
 - 4.5.51.3.7. whether the decision taker failed to seek or to take into account any views previously expressed by the relevant Panel;
 - 4.5.51.3.8. the extent of concern or distress to the local community, or prejudice to individuals within it;
 - 4.5.51.3.9. the extent of consultation;
 - 4.5.51.3.10. the significance of damage to the interests of the Council from delay in taking or implementing the decision.
- 4.5.52 Valid call-in requests will be referred to a meeting of the relevant Panel ('the call-in meeting'). The Panel will consider the matter and the decision taker will be notified that the decision is subject to call-in and may not therefore be implemented. Where the Head of Paid Service does not find the call-in request to be valid, they will provide a written record setting out the reasons for their decision.

Meetings at which a call-in is considered

- 4.5.53 The Head of Paid Service will, in consultation with the Chairman of the relevant Panel, determine the date of the meeting at which the call-in is to be considered ('the call-in meeting'). Five clear days' notice of the meeting must be given in accordance with the provisions of the Access to Information Rules.

- 4.5.54 Where the Panel is already scheduled to meet within the period in which a call-in meeting would otherwise be called and take place, the scheduled meeting shall consider the call-in.
- 4.5.55 The call-in meeting should take place no later than 10 clear days following the receipt of the call-in request. If the call-in meeting is not held within this period, the decision should take effect at the expiry of the 10 clear working days.
- 4.5.56 A councillor who has signed a call-in request is not eligible to be considered as a substitute for a member of the Panel which will consider the call-in request but may participate in the debate of that call-in by the Panel, irrespective of whether they are a member of the Panel.
- 4.5.57 The call-in meeting may, subject to the provisions set out below, resolve to deal with the call-in in one of the following ways:
- 4.5.57.1 reject the call-In and endorse the decision;
 - 4.5.57.2 refer the matter to the decision taker for reconsideration;
 - 4.5.57.3 subject to paragraph 4.5.60, refer the matter to Council.

Endorse the decision

- 4.5.58 If the Panel decide to accept the decision, the decision shall take effect on the date of the Panel's acceptance.

Referral to the person or body which took the decision

- 4.5.59 If the Panel decide to refer the matter back to the decision taker it shall set out in writing its reasons for so doing. The person or body concerned shall receive a revised report setting out those reasons and shall:

- 4.5.59.1 reconsider the decision having regard to them; and
- 4.5.59.2 address each specific issue raised in the revised report.

The decision taker may amend or confirm the original decision, which shall be final and take immediate effect.

Referral to Council

- 4.5.60 The Panel may only refer a matter to Council where there has been a significant or repeated breach of the principles of decision making warranting the involvement of Council. A meeting of Council shall consider the matter within 10 clear days of the decision to refer the matter. On consideration of the referral the Council may:

- 4.5.60.1 endorse the decision; or

4.5.60.2 refer the matter back to the decision taker.

- 4.5.61 Where Council endorses the decision or does not meet within 10 clear working days, the decision shall take effect on the day of the Council meeting or on expiry of 10 clear days, whichever is sooner. Where Council refers the matter back to the decision-maker it shall set out in writing its reasons for so doing. The decision-maker shall reconsider the original decision and may amend or confirm the original decision, which shall be final and take immediate effect.

Abuse of call-in

- 4.5.62 The Panel may only call-in a reasonable¹²⁰ number of decisions each year. Where the Cabinet considers that an unreasonable number of decisions are subject to call-in, it may prepare and refer a report to the Panel or the Council (or one of its committees) for consideration.

Urgent implementation

- 4.5.63 The call-in procedure will not apply to urgent decisions if the decision taker declares that the decision is exempt from call-in in accordance with paragraph 4.4.62 of **the Executive Procedure Rules**. The decision will have immediate effect providing:
- 4.5.63.1 in deciding the urgency of Key Decisions, paragraphs 4.2.43 or 4.2.44 of the Access to Information Rules at Part 4, Section 2 of this constitution (general exception and special urgency) apply; or
 - 4.5.63.2 in deciding the urgency of decisions which are contrary to the Budget and Policy Framework, the procedure in paragraphs 4.3.23 to 4.3.25 of the **Budget and Policy Framework Rules** at Part 4, Section 2 of this constitution apply; or
 - 4.5.63.3 in all other cases the final decision as to whether a decision is urgent will rest with the Head of Paid Service or in their absence the Monitoring Officer.
- 4.5.64 For this purpose, an urgent decision is one which cannot reasonably wait until the full call-in process would otherwise have been completed because the delay would seriously prejudice either or both of the following:
- 4.5.64.1 the legal or financial position of the Council;

¹²⁰ As determined by the Head of Paid Service, informed by the impact on staff resources

- 4.5.64.2 the interests of the residents of the District.
- 4.5.65 Where a decision-maker considers that a decision requires urgent implementation they shall:
- 4.5.65.1 consult with the Monitoring Officer; and
 - 4.5.65.2 record the fact that the decision requires urgent implementation and shall not be subject to call-in on the record of the decision and in any notice by which it is made public; and
 - 4.5.65.3 obtain approval to implement the decision from the Chairman of the relevant Panel or, in their absence the Vice Chairman or, in the absence of both, the agreement of two members of the Panel; and
 - 4.5.65.4 on the day that any approval is provided, notify in writing the leader of each political group of the use of this provision.
- 4.5.66 All decisions taken under paragraph 4.5.63 shall be reported to the next meeting of Council together with the reasons in support of urgent implementation.
- 4.5.67 The operation of arrangements relating to call-in and urgent implementation will be monitored and an annual report shall be submitted to Council with such recommendations as may be considered appropriate¹²¹.

Failure to follow the key decision process¹²²

- 4.5.68 Where an Executive Decision was made and:
- 4.5.68.1 was not treated as being a key decision; and
 - 4.5.68.2 an Overview and Scrutiny Panel is of the opinion that the decision should have been treated as a key decision
- the relevant Panel may pass a resolution at a meeting requiring the Cabinet to submit a report to Council within such reasonable time as the Panel specifies¹²³ setting out:
- 4.5.68.3 the decision and the reasons for the decision;
 - 4.5.68.4 the decision maker who made the decision; and
 - 4.5.68.5 the reasons as to why the decision was not treated as a key decision.

¹²¹ See further paragraph 4.2.54 of the [Access to Information Rules](#).

¹²² Regulation 18 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

¹²³ See further paragraph 4.2.46 of the [Access to Information Rules](#) at Part 4, Section 2 of this Constitution

- 4.5.69 The relevant Chief Officer will prepare a report for submission to the next available meeting of the Council¹²⁴ following the end of the period specified by the Overview and Scrutiny Panel. The report to Council will set out particulars of the:
- 4.5.69.1 decision;
 - 4.5.69.2 reasons for the decision;
 - 4.5.69.3 individual or body making the decision; and
 - 4.5.69.4 if the Leader is of the opinion that it was not a key decision, the reasons for that opinion

Procedure at Panel meetings

- 4.5.70 Where the Panel conducts an investigation, it may also ask people to attend to give evidence at meetings. The meetings shall be conducted in accordance with the following principles:
- 4.5.70.1 the investigation shall be conducted fairly and all members of the Panel shall be given the opportunity to ask questions of persons attending, to contribute and speak;
 - 4.5.70.2 the persons assisting the Panel by giving evidence shall be treated with courtesy and respect;
 - 4.5.70.3 the investigation shall be conducted so as to maximise the efficiency of the investigation or analysis.
- 4.5.71 At the conclusion of any investigation or review, the Panel shall prepare a report for submission to the Cabinet and / or the Council, as appropriate, and shall make its report and findings public.

Matters within the remit of more than one Panel

- 4.5.72 Where a matter for consideration falls within the remit of more than one Panel, the decision as to which Panel will consider the matter shall be resolved by the Panel Chairmen. In exceptional circumstances, they may decide to convene as a joint panel.

¹²⁴ Allowing a minimum of 5 clear working days to prepare the report prior to dispatch of the summons to Council. If the notice to submit a report to Council is received within 14 calendar days of the next Full Council meeting, the Leader may elect to report to the following ordinary Full Council meeting.

Decisions outside the budget and / or the policy framework

- 4.5.73 Where the Panel determines that a decision taken in the discharge of an executive function is, or if made would be, contrary to or not wholly in accordance with the Council's budget or contrary to the policy framework, the Panel shall seek the advice of the Chief Finance Officer and the Monitoring Officer in accordance with [paragraph 4.4.46 of the Executive Procedure Rules](#).
- 4.5.74 If either or both the Chief Finance Officer and the Monitoring Officer provide a written report in respect of whether a matter is inside the budget and or policy framework, a copy of that report shall be provided to the Cabinet with a copy sent to every member of the Council. The Cabinet shall meet to decide what action will be taken in respect of the report and to prepare a report to Council in the event that it is the conclusion of the Chief Finance Officer and Monitoring Officer that the decision was a departure, and to the Panel if the conclusion is that the decision was not a departure.
- 4.5.75 If the decision has not been made, or it has been made but not implemented, and the advice of the Chief Finance Officer and the Monitoring Officer is that the decision is, or would be, contrary to or not wholly in accordance with the budget or contrary to the policy framework, the Panel may refer the matter to Council. No action may be taken to implement the decision until Council has met and considered the matter. The Council shall meet within 7 clear days of the request by the Panel to receive a report of the decision and the advice of the Chief Finance Officer and the Monitoring Officer. The Council may:
- 4.5.75.1 endorse the decision as one that falls within the budget and policy framework and take no further action;
 - 4.5.75.2 endorse the decision as an approved exception to the budget and policy framework or amend the budget and policy framework so that it includes the decision and take no further action;
 - 4.5.75.3 determine that the decision is contrary to or not wholly in accordance with the budget or contrary to the policy framework and require the Cabinet to reconsider the matter in accordance with the advice of the Chief Finance Officer and Monitoring Officer.



Part 4, Section 6: Financial Procedure Rules for Officers

Contents

Introduction:

Why do we have Financial Procedure Rules

General Responsibilities of the Chief Finance Officer

Financial Procedure Rule A	Taking Financial Decisions
Financial Procedure Rule B	Emergency or Disaster
Financial Procedure Rule C	Medium-Term Financial Strategy
Financial Procedure Rule D	Annual Budget and Council Tax Setting
Financial Procedure Rule E	Capital Programme and Spending
Financial Procedure Rule F	Financial Control
Financial Procedure Rule G	Financial Management
Financial Procedure Rule H	Maintenance and Use of Reserves
Financial Procedure Rule I	In Year Financial Reporting
Financial Procedure Rule J	Accounting and Statement of Accounts
Financial Procedure Rule K	Risk Management
Financial Procedure Rule L	Internal Audit
Financial Procedure Rule M	Irregularities, Fraud, Bribery and Corruption
Financial Procedure Rule N	Treasury Management
Financial Procedure Rule O	Acquisition and Disposal of Property Interests
Financial Procedure Rule P	Information and Communications Technology
Financial Procedure Rule Q	Financial Administration

Why do we have Financial Procedure Rules?

- 4.6.1 Financial Procedure Rules provide the framework for the management of the public money and other resources under the Council's stewardship. They identify the financial responsibilities that apply to every Member and Officer of the authority and anyone acting on its behalf.
- 4.6.2 These rules are intended to be flexible while ensuring that financial propriety and governance is upheld and that the use of resources is legal, properly authorised, and provides value for money.
- 4.6.3 The rules are also a balance between officers being able to do their operational jobs while providing safeguards for members about strategy, policy, decision-making and oversight.
- 4.6.4 The Corporate Management Team are responsible for ensuring that all staff are aware of the Financial Procedure Rules, Contract Regulations, accounting instructions or procedures and that they are observed.
- 4.6.5 Provided officers and members operate within these Financial Procedure Rules, they will have the full authority of the Council. However, if officers and/or members operate outside these rules, they will leave themselves and the Council in a vulnerable position, and the Council may decide to take appropriate action.

General Responsibilities of the Chief Finance Officer

- 4.6.6 The Chief Finance Officer is, under Section 151 of the Local Government Act 1972, responsible for the proper administration of the Council's financial affairs.
- 4.6.7 The Chief Finance Officer is also the Responsible Officer for the purposes of Section 114 of the Local Government Finance Act 1988 (unlawful expenditure etc.) and to ensure the proper administration of the financial affairs of the Council as required by the Accounts and Audit (England) Regulations extant at any time.
- 4.6.8 The Chief Finance Officer will nominate a Deputy Chief Finance Officer who, in the absence of the Chief Finance Officer, has the authority to make decisions about the application these Financial Procedure Rules and the financial aspects of the Council's Constitution.
- 4.6.9 The Chief Finance Officer shall review these Financial Procedure Rules and associated guidance on a regular basis but at least every three years, including any financial limits contained in the rules and the constitution and will report to the Constitutional Review Committee and the Council.

- 4.6.10 In order to administer the financial affairs of the Council, the Chief Finance Officer has the authority to issue such detailed instructions as they may deem appropriate and these should be considered as part of this framework.

Financial Procedure Rule A: Taking Financial Decisions

- 4.6.11 Budget Holders, Deputy Chief Officers, Chief Officers and the Chief Executive can make a financial decision if:
- 4.6.11.1 the decision is consistent with the budget and policy framework; and;
 - 4.6.11.2 it is in accordance with an agreed and written scheme of delegation from the Chief Executive or Chief Officers to Deputy Chief Officers and Budget Holders consistent with the scheme of delegation between officers and members within the Council's Constitution.
- 4.6.12 If Budget Holders, Deputy Chief Officers, Chief Officers and the Chief Executive are in any doubt about the above they should consult the Chief Finance Officer and/or the Monitoring Officer.

Financial Procedure Rule B: Emergency or Disaster

- 4.6.13 In the event of an emergency or disaster as defined by the Civil Contingencies Act or by the Chief Executive as a local emergency, these Financial Regulations will be suspended and the Chief Executive and Chief Officers will have delegated powers to take any action deemed necessary subject to such action and associated expenditure (and claims) being reported to the Cabinet as soon as practicable.

Financial Procedure Rule C: Medium-Term Financial Strategy

- 4.6.14 The Chief Finance Officer will, based on the information available to them, set out the financial prospects for the Council in a Medium Term Financial Forecast as part of quarterly financial monitoring and develop a 5-Year Medium Term Financial Strategy with the Corporate Management Team and the Cabinet for recommendation to Council as part of the budget setting process. Existing proposals will be re-examined in the light of changing circumstances and the Council's objectives and priorities, and new proposals will be added for the succeeding years if required.

Financial Procedure Rule D: The Annual Budget and Council Tax Setting

- 4.6.15 The Chief Finance Officer will prepare annually, in consultation with the Corporate Management Team,

- 4.6.15.1 Revenue Budget and a Medium-Term Financial Strategy that includes estimates of income and expenditure for the ensuing year (the budget year) and projections for four years thereafter, and
- 4.6.15.2 a 5 year Capital Programme.
- 4.6.16 The Budget, MTFS and Capital Programme will be expected to be consistent with the general directions of the Cabinet and corporate priorities.
- 4.6.17 The Chief Finance Officer, in consultation with the Corporate Management Team, will set out the process and timetable for the preparation of the budget.
- 4.6.18 The Corporate Management Team will provide the information requested by the Chief Finance Officer in the form requested.
- 4.6.19 The Corporate Management Team and Deputy Chief Officers will review their base budgets annually with a view to correcting over and under spending within their overall approved budgets, releasing any budgets no longer required, and identifying any service pressures, but ensuring that service budgets are developed based on the Cabinet approved budget principles.
- 4.6.20 The Chief Financial Officer will prepare a report for Cabinet that states the principles on which the budget will be produced; it is expected that Cabinet will approve these budget principles prior to the Draft Budget thereby giving sufficient time for officers to develop their budget and MTFS proposals. It is expected that officers will produce budgets based on these principles and any variation will be reported to Cabinet at the draft budget approval stage.
- 4.6.21 The process of approving the Budget & MTFS will follow a 2- stage process; Draft and Final budget. The Draft budget will include the main budget assumptions and the Final will reflect any subsequent changes prior to presentation to Council. It is expected that Scrutiny will review the Draft budget once considered by Cabinet.
- 4.6.22 The Chief Finance Officer will submit a report to the Cabinet for recommendation to the Council in February of each year, including:
 - 4.6.22.1 The proposed revenue budget requirement for the Council and its element of the Council Tax;
 - 4.6.22.2 the proposed capital programme;
 - 4.6.22.3 the Chief Finance Officer's statement of the robustness of estimates and the adequacy of reserves as required under legislation;
 - 4.6.22.4 other requirements including the treasury management policy and policies required by the Prudential Code for Local Authority Borrowing;
 - 4.6.22.5 special expenses and other precepts and their impact on the Council Tax; and
 - 4.6.22.6 the Council Tax resolutions to set a legal Council Tax.

Financial Procedure Rule E: Capital Programme and Spending

- 4.6.23 Expenditure on an item or related group of items is normally defined as capital expenditure if it will last for more than a year, and cost more than £10,000 in total, excluding VAT. Such items form the Council's Capital Programme following a rigorous selection process and are funded from the Council's capital funds.
- 4.6.24 The Chief Finance Officer will provide guidance for bids to the capital programme and these will be appraised by an appropriate officer group before consideration by Cabinet for onward recommendation to Council.
- 4.6.25 Deputy Chief Officers and Chief Officers will consult with the Chief Finance Officer on the categorisation of expenditure as capital or revenue.
- 4.6.26 The Council's capital programme consists of approved "programmes" (e.g. planned maintenance, landlord's responsibilities) and "specific schemes" (e.g. a new building).
- 4.6.27 When planning capital expenditure, officers are responsible for providing "fair estimates" of the actual cost of the project based on sound business cases; such estimates are to include a contingency not exceeding 5%; officers will be expected to keep within the cost estimate.
- 4.6.28 However, once a project is underway and it becomes evident that a further capital allocation is needed; if the additional allocation is
 - 4.6.28.1 <10%, this will need to be agreed by the Chief Financial Officer and the Portfolio Holder for Finance - with a supporting statement by the service Chief Officer and Portfolio Holder.
 - 4.6.28.2 >10%, then the service will report to Cabinet who will request additional resources from Council.
- 4.6.29 Additional capital allocations will be financed as follows; either:
 - 4.6.29.1 A direct revenue allocation (direct revenue financing, grant or similar), or
 - 4.6.29.2 A contingency capital programme allocation, representing 5% of that years capital programme will be maintained. This capital allocation will be "unfinanced" but if it is needed, then the respective service will have an additional capital financing (MRP) charge.
- 4.6.30 For amounts exceeding the amount in (4.6.28.2), this will be from a direct revenue contribution (underspend) or reallocation of capital resources from another project. If the latter, Cabinet will approve from which other capital allocation will be applied.

- 4.6.31 Chief Officers have the authority to spend on a specific scheme if:
- 4.6.31.1 it is in the capital programme approved by Council;
 - 4.6.31.2 the Cabinet has approved the detailed proposals and financial aspects, (including any business case) of the specific scheme if this has not been carried out before the approval of the capital programme by the Council;
 - 4.6.31.3 the total cost of the scheme is within that budgeted for in the approved capital programme, including any revenue consequences;
 - 4.6.31.4 the process of asking for and accepting Tenders adheres to the contract rules; and
 - 4.6.31.5 the scheme has a named Senior Responsible Officer and appropriate project management arrangements and governance.
- 4.6.32 Chief Officers have the authority to spend on a programme if:
- 4.6.32.1 it is in the capital programme approved by Council;
 - 4.6.32.2 there is a clearly set out plan for the programme of works agreed by the Cabinet if this has not been carried out before the approval of the capital programme by the Council;
 - 4.6.32.3 the total cost of the programme is within that budgeted for in the approved capital programme, including any revenue consequences;
 - 4.6.32.4 the process of asking for and accepting Tenders adheres to the contract rules; and
 - 4.6.32.5 the programme has a named Senior Responsible Officer.
- 4.6.33 If any specific scheme or programme, after tender, is likely to exceed approved budgets the Chief Finance Officer must be informed before any commitments are made.
- 4.6.34 The Chief Finance Officer, in consultation with the Chief Executive, Leader of the Council and the Cabinet Member responsible for Finance, has the authority to bring forward capital spending on the condition that the overall scheme or programme is within its overall budget and total capital spend for the year in question is within the annual capital budget. The exercise of this authority is subject to reporting to the next available Cabinet meeting for in year financial reporting as set out in Financial Procedure Rule I.

Financial Procedure Rule F: Financial Control (see also FPR Q)

- 4.6.35 The Chief Finance Officer shall be informed immediately of any decision, course of action or entry of item of account, actual or proposed which may give rise to a report under Section 114 (2) of the Local Government Finance Act 1988. Where the Chief Finance Officer believes that the Council, the Cabinet, one of its committees or one of its officers is about to make a decision which would be unlawful then they must, as required by Section 114 of the Local Government Finance Act 1988 to report this to Council.
- 4.6.36 The Monitoring Officer shall report on any contravention of law or of a code of conduct and any act of maladministration in accordance with the Local Government and Housing Act 1989.

Financial Procedure Rule G: Financial Management

- 4.6.37 The Council operates an "incremental" budget system; in that, parts of a budget are controlled by the Deputy Chief Officer and other parts are controlled centrally. Budget Holders, Deputy Chief Officers, Chief Officers and the Chief Executive are responsible and accountable for achieving their budgets and for the security, custody and control of all resources within their control.
- 4.6.38 Every officer will at all times endeavour to secure the best value for money and will establish:
- 4.6.38.1 service standards and output measures for its various services and functions; and
 - 4.6.38.2 sound arrangements for the planning, appraisal, authorisation and control of all resources and ensure that these are functioning properly in order to achieve economy, efficiency and effectiveness
- 4.6.39 In order that they may exercise proper budgetary control each Chief Officer will have direct access to financial information contained within the Authority's Financial Management system. In addition, the Chief Finance Officer will provide each Budget Manager, Deputy Chief Officer, and Chief Officer with periodical statements of income received and expenditure incurred, as and when requested.
- 4.6.40 Each Budget Holder, Deputy Chief Officer and Chief Officer will provide to the Chief Finance Officer information regarding outstanding commitments and expected income and expenditure for the remainder of the financial year upon request.

- 4.6.41 Any report to Council, or any body of the Council which would involve the Council in any income and expenditure shall indicate full financial implications, authored by the report writer, and includes a commentary on the available budget (revenue or capital) and the forecast outturn (such commentary to include reasons for variances). Such financial implications should be agreed with the Chief Finance Officer.
- 4.6.42 The Chief Finance Officer will be notified as soon as possible with respect to any matter which is liable to affect substantially the finances of the Council and for which provision is not made in the current budget, before any commitment is incurred. The Chief Finance Officer will then report to the Chief Executive in order that the necessary action can be taken, including reporting to the Cabinet and if required the Council.
- 4.6.43 Virements are a permanent change to budget allocations and will apply across the MTFS. Deputy Chief Officers and Chief Officers are authorised to vire between the cost centres that they are responsible for. Virements between Chief Officers are authorised, subject to agreement between respective Portfolio Holders. No virement can increase the Net Expenditure in any financial year and virements between years are not permitted.
- 4.6.44 All virement is subject to the following conditions:
- 4.6.44.1 there are no changes in the level of service (including grant giving budgets) and no changes in policy as set out by the Cabinet or Council;
 - 4.6.44.2 no virement will commit expenditure in future years above the currently agreed budgets;
 - 4.6.44.3 the Deputy Chief Officers service related cost centre subject to the virement is not overspent;
 - 4.6.44.4 the aggregate of the Chief Officers service related cost centres are not overspent;
- 4.6.45 The Chief Finance Officer will be informed of all virement in a prescribed form to reflect them in financial systems.
- 4.6.46 The exercise of virement over £50,000 in aggregate within and between service costs centres will be reported to the Cabinet on a quarterly basis for information in accordance with Financial Procure Rule I.
- 4.6.47 In exceptional circumstances any underspend of a budget will be considered by the Cabinet for carry forward into the next financial year on condition that:
- 4.6.47.1 the overall budget of the Council is not overspent;
 - 4.6.47.2 that the Chief Officer level budget is not overspent;
 - 4.6.47.3 that the proposed carry forward is essential to meeting service standards or objectives of the Council; and
 - 4.6.47.4 whether, on balance, the underspend was not in management's control.

Financial Procedure Rule H: Maintenance and Use of Reserves

- 4.6.48 **General Fund (Unallocated) Reserve (GFUR):** Proposals for the application of forecast service under or overspends against the GFUR will be reported to Cabinet on a quarterly basis. Cabinet will confirm if they accept the reported forecasts and if there is a need for a specific contribution to/from the GFUR, this will be actioned via a Budget Surplus Reserve. In this way, the GFUR will be consistently maintained at the agreed MLR of 20% and contribution's to/from Earmarked Reserves will be transparently seen.
- 4.6.49 **Earmarked Reserves:** Earmarked Reserves will be established or deleted in line with the principles for reserves (Risk, Prudential Financial Management, Medium-Term Financial Strategy and Funding Source of Last Resort). However, there will be predetermined controls around their operation as follows:
- 4.6.49.1 The Chief Finance Officer will be able to create reserves, following consultation with the Portfolio Holder for Resources.
- 4.6.49.2 Earmarked Reserves will only be able to be removed with the agreement of Cabinet.
- 4.6.49.3 Contributions to/from Earmarked Reserves will:
- 4.6.49.3.1. either be in line with statutory requirements or service need,
- 4.6.49.3.2. and only be made when agreed with the Chief Finance Officer.
- 4.6.50 **Capital Receipts Reserve:** The Council will receive capital receipts through the sale of capital assets that support general service activity these receipts will only be applied for similar such activity. The first call for the application of such receipts will be to finance in-year capital expenditure, this will have the effect of minimising the Council's statutory obligations in respect of Minimum Revenue Provision.
- 4.6.51 **Capital Grants Unapplied Reserve** This reserve will only hold capital grants that will have been acquired by the Council for a specific purpose. The use of these grants will be in line with regulations.

Financial Procedure Rule I: In Year Financial Reporting

- 4.6.52 The Chief Finance Officer will report to the Cabinet on the Council's financial position in relation to its budget on a quarterly basis unless circumstances dictate that a report is brought to the Cabinet prior to the quarterly reports.
- 4.6.53 Budget holders, Chief Officers and the Chief Executive will provide realistic budget projections for the year to the Finance Team.

Financial Procedure Rule J: Accounting and Statement of Accounts

- 4.6.54 The Chief Finance Officer is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom and other related guidance.
- 4.6.55 In preparing this Statement of Accounts, the Chief Finance Officer will:
- 4.6.55.1 select suitable accounting policies and then apply them consistently;
 - 4.6.55.2 make judgements and estimates that are reasonable and prudent;
and
 - 4.6.55.3 comply with the Local Authority Code of Accounting practice and related advice; subject to any statutory overrides or the use of the Chief Financial Officer "True & Fair View Override" (although the use of CFO override is highly unlikely and will be subject to external audit review).
- 4.6.56 The Chief Finance Officer will:
- 4.6.56.1 keep proper accounting records on financial systems which are up to date;
 - 4.6.56.2 take reasonable steps for the prevention and detection of fraud, bribery, corruption and other irregularities;
 - 4.6.56.3 prepare and submit all financial returns, reports and statistics to meet both Council and statutory requirements; and
 - 4.6.56.4 prescribe the form, security and maintenance of financial records kept by the Council.
- 4.6.57 In order to administer the financial affairs of the Council, the Chief Finance Officer shall have authority to issue such detailed instructions as they may deem appropriate.
- 4.6.58 The Chief Finance Officer shall be consulted regarding the proposal of any new financial procedures and will ensure that a satisfactory and, so far as possible, uniform system is adopted across the Council.

Financial Procedure Rule K: Risk Management

- 4.6.59 The Monitoring Officer is responsible for risk management and will ensure the Council's risk management strategy and processes are reviewed annually and that the Council's strategic risk register is reviewed quarterly. Both will be reported to the Audit and Standards Committee.

- 4.6.60 Chief Officers, Deputy Chief Officers and Project/Programme Managers are responsible for maintaining service/project/programme level risk registers in the format prescribed by the Monitoring Officer and to provide information to the Monitoring Officer for the strategic risk register.

Financial Procedure Rule L: Internal Audit

- 4.6.61 Internal Audit must report functionally to the Audit & Standards Committee (those charged with governance).
- 4.6.62 The Chief Financial Officer will maintain:
4.6.62.1 an adequate and effective internal audit of all activities of the Council
- 4.6.63 day-to-day operational oversight of Internal Audit, and be Internal Audit's first point of contact with the Council.
- 4.6.64 Internal Audit has a right of access to all Council departments at all times to such offices, officers, records, physical assets, correspondence and other documents relating to any financial and other transactions of the Council and Council property that appear necessary for the purpose of the audit.
- 4.6.65 The Head of Internal Audit must establish effective communication with, and have free and unfettered access to, the Chief Executive and the Chair of the Audit and Standards Committee.
- 4.6.66 Internal Audit will receive such explanations as are necessary concerning any matter under examination.
- 4.6.67 The Head of Internal Audit shall report to the Chief Finance Officer who shall refer audit reports to the appropriate officers. Chief Officers have a responsibility to respond to Internal Audit recommendations and to implement agreed actions within agreed timescales.
- 4.6.68 Where a report concerns the Chief Finance Officer or Monitoring Officer in person, the Head of Internal Audit will report direct to the Chief Executive.
- 4.6.69 Where a report concerns the Chief Executive in person, the Head of Internal Audit will report direct the Chief Finance Officer who will report to the Leader of the Council and Chair of the Audit and Standards Committee.

Financial Procedure Rule M: Irregularities, Fraud, Bribery and Corruption

- 4.6.70 Any officer or Councillor will notify the Chief Finance Officer immediately of any suspected or apparent fraud, irregularity, bribery or corruption concerning Council resources or the exercise of the functions of the Council in accordance with the Council's Whistleblowing Policy and/or its Anti Theft, Fraud, Corruption and Bribery Policy. This should include any evidence of wrongdoing that is available.
- 4.6.71 The Chief Finance Officer will arrange, where appropriate, for an internal audit investigation and for the Council's external auditors and the Council's insurers to be informed. The Chief Finance Officer, in consultation with the Monitoring Officer and Chief Executive, will decide whether to refer any such issue to the police or other authorities and will make external auditors aware of the allegations and actions to be taken.
- 4.6.72 The Chief Finance Officer is responsible for ensuring that the Council's Anti Theft, Fraud, Corruption and Bribery Policy is subject to periodic review and will make recommendations to the Audit and Standards Committee.
- 4.6.73 The Monitoring Officer is responsible for keeping the Council's Whistleblowing Policy is subject to periodic review and will make recommendations to the Audit and Standards Committee.
- 4.6.74 Chief Officers are responsible for ensuring their staff are aware of the relevant policies and of their contents.
- 4.6.75 If the allegation of wrongdoing is against the Chief Finance Officer or the Monitoring Officer this should be reported to the Chief Executive who will make the necessary arrangements to investigate the matter. If the allegation of wrongdoing is against the Chief Executive this should be reported to the Chief Finance Officer and the Monitoring Officer.

Financial Procedure Rule N: Treasury Management

- 4.6.76 The Chief Finance Officer has the responsibility for the execution and administration of treasury management decisions. They will act in accordance with the Council's Borrowing and Investment Strategy under the extant Prudential Code, agreed treasury management practices and the Chartered Institute of Public Finance and Accountancy's (CIPFA's) Code of Practice for Treasury Management.

Financial Procedure Rule O: Acquisition and Disposal of Property

- 4.6.77 It is the responsibility of the Corporate Property Officer to maintain a land and property database for all land and property currently owned or used by the Council.
- 4.6.78 The acquisition and disposal of any interest in land and buildings or any other property will be in accordance to the delegations to the Corporate Property Officer as set out in O3 below, the Constitution, the Corporate Property Strategy, the Disposals, Acquisitions & Community Asset Transfer Policy, and other supporting policies.
- 4.6.79 Decisions on disposals and acquisitions of land and property are delegated as set out below:

	Small Land – such land is <0.25 acres and will be subject to disposal as per the "Small Land Sales Policy"	
For land greater than 0.25 acres and all land acquisition		
1	£0 - £500k	Chief Finance Officer + Chief Executive + Cabinet Member for Finance.
2	£500k - £1m	As (O3-1) + the Leader
3	£1m - £2.5m	As (O3-2) + consultation with all Cabinet Members
4	+ £2.5m	Cabinet decision

Financial Procedure Rule P: Information and Communications Technology

- 4.6.80 All information and communications technology (ICT) equipment, digital equipment, computer programs, or IT consultancy must be approved by the Deputy Chief Officer for ICT in consultation with the Chief Finance Officer, so as to ensure best price and system compatibility and interoperability with the Council's ICT infrastructure.
- 4.6.81 The Deputy Chief Officer for ICT is responsible for the procurement of all telephony.
- 4.6.82 Any new proposal for the acquisition of ICT that is a Major Project or greater than £100k; this should be highlighted to Internal Audit for assessing for potential inclusion in the audit plan.

- 4.6.83 Any new application or system shall not be operated with live data until the Deputy Chief Officer for ICT has confirmed in writing that all requirements have been met.

Financial Procedure Rule Q: Financial Administration

Banking

- 4.6.84 All banking arrangements, including agreement of bank charges and overdraft levels will be made by the Chief Finance Officer in the name of the Council and who is authorised to operate all necessary bank accounts.
- 4.6.85
- 4.6.86 No member of staff or Councillor has authority to set up bank accounts on behalf of the Council or to liaise with the Council's bankers or alternative bankers other than the Chief Finance Officer and their designated officers.
- 4.6.87 All cheques will be ordered only on the written authority of the Chief Finance Officer who shall also make arrangements for their safe custody upon receipt.
- 4.6.88 The normal method of Council payment shall be by bank automated clearing system (BACS) or Faster Payments. The use of clearing house automated payment systems (CHAPS) or cheque will be a last resort.
- 4.6.89 Such authorised officers shall include the Chief Finance Officer and such other officers they may determine. The Chief Finance Officer shall be authorised to delete authorised signatories from the list with immediate effect.
- 4.6.90 For all payroll payments (by BACS), the total value of the payment shall be reconciled by the Payroll team to the payroll system and authorised by the Deputy Chief Finance Officer or in their absence, one of the designated authorising officers.
- 4.6.91 The Chief Finance Officer shall make arrangements for all the Council's bank accounts to be reconciled and ensure that this is undertaken on a regular basis.

Salaries, Wages and Other Emoluments

- 4.6.92 The Chief Finance Officer is responsible for the calculation of all salaries, wages, compensation and other emoluments to officers and Councillors and the production of other necessary records in connection with pensions, national insurance, income tax, maternity and sick pay.

- 4.6.93 The Chief Finance Officer is responsible for the payment of members' allowances and for the authorisation and payment of salaries, wages and other emoluments.
- 4.6.94 Chief Officers will notify the Chief Finance Officer as soon as possible in a form to be prescribed, after consultation with HR, of all matters affecting the payment of such emoluments and in particular:
- 4.6.94.1.1. appointments, resignations, dismissals, suspensions, secondments and transfers;
 - 4.6.94.2 absences from duty for sickness or other reason, apart from approved leave;
 - 4.6.94.3 changes in remuneration, other than normal increments and pay awards and agreements of general application; and any information which is necessary to maintain records of service for pensions, income tax, national insurance, etc.
- 4.6.95 Appointments of all employees of the Council will be within the agreed budget by Chief Officers.
- 4.6.96 Approval of new posts outside of the agreed budget of a Chief Officer will be by the Chief Executive and should be within agreed corporate budgets for managing capacity.
- 4.6.97 Deputy Chief Officers and Chief Officers are responsible for keeping HR informed to keep records up to date.

Allowances and Expenses

- 4.6.98 All claims for the payment of car allowances, subsistence, removal and other incidental expenses will be submitted promptly in a form approved by the Chief Finance Officer. After certification, by or on behalf of the appropriate Deputy Chief Officer or Chief Officer, details of amounts due will be submitted to the Chief Finance Officer for payment.
- 4.6.99 The names of officers authorised to sign such records, together with specimen signatures, will be sent to the Chief Finance Officer and will be amended on the occasion of any change. Certification shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses were properly and necessarily incurred, and that the allowances are properly payable by the Council.
- 4.6.100 Payments to members, including any co-opted members of the Council or its committees, who are entitled to claim travelling or other allowances, will be made by the Chief Finance Officer, upon receipt of the prescribed form duly completed.

Contracts for Works, Goods and Services

- 4.6.101 The Monitoring Officer, in consultation with the Chief Finance Officer, will advise upon all aspects of all contracts before acceptance and will keep a contracts register showing particulars of all contracts entered into by the Council for works, goods and services and will retain copies of all contract documents.
- 4.6.102 The appointed Supervising Officer/Contract Manager will:
- 4.6.102.1 put in place proportionate contract management arrangements and retain a copy of the contract for this purpose; and
 - 4.6.102.2 give written orders in respect of all variations from the specification of the works, goods or services included in the contracts and copies of these orders shall be forwarded to the Monitoring Officer and the Chief Finance Officer with the estimated variations in cost noted thereon and budgetary provision relied upon.
- 4.6.103 Payments to contractors on account of contracts for works will be made only on a certificate issued by the Senior Responsible Officer/Contract Manager which will show the total amount of the contract, the value of work, goods or services executed to date, retention money, the amount paid to date and amount certified as due. Details of variations and fluctuations included in the value of work to date shall accompany the certificate.
- 4.6.104 On completion of a contract for works and before the issue of the certificate for final payment thereunder, the appointed Senior Responsible Officer shall produce to the Chief Finance Officer a detailed statement of the work under the contract, with all vouchers and documents relating to prime cost and provisional sums and any other particulars required showing full measurements, additions, deductions and omissions. The Final Certificate shall not be issued nor shall the contractor be informed that the final account is agreed and the balance under the contract paid until the Chief Finance Officer and Monitoring Officer are satisfied that final payment should be made.
- 4.6.105 Claims from contractors in respect of matters not clearly within the terms of an existing contract shall be referred to the Chief Finance Officer and Monitoring Officer for consideration of the Council's legal liability and for consideration before a settlement is reached.

Raising Orders

- 4.6.106 Chief Officers and Deputy Chief Officers are responsible for procurement or the raising of orders in accordance with the Council's Statement of Required Practice for Procurement ('The Procurement SORP') and Contract Procedure Rules.
- 4.6.107 The Chief Finance Officer will determine the procedures and processes in electronic systems, providing that they do not weaken existing controls.

- 4.6.108 The Chief Finance Officer will approve the design of all official order forms.
- 4.6.109 All work, goods or services must have an official order.
- 4.6.110 The Council's ordering system must not be used to order or seek quotes or estimates for works, goods or services for personal use. Any abuse of the Council's ordering system for personal use will be regarded as a serious breach of trust, and will result in disciplinary action.
- 4.6.111 An order for goods or services must not be raised if the cost is not covered by an approved budget, or if it contravenes a standing order, contract rule or financial rule.
- 4.6.112 Chief Officers will send a list of names, signatures and authorised limits of staff allowed to sign or authorise orders on their behalf, to the Chief Finance Officer.
- 4.6.113 Official orders must clearly show the materials, work or services together with an estimated total value. They must also show whether the materials, work or services are covered by a 'Contract Price' or by an 'Agreed Price'.
- 4.6.114 Suppliers must be asked to send invoices direct to the Council and to show on invoices the official order number and where they have delivered the goods or services.
- 4.6.115 In exceptional cases where orders are placed by phone or, in case of emergency, by verbal instruction; these must be confirmed by an official order (which may be an electronic order) the next working day at the latest.
- 4.6.116 Full advantage must be taken of any contract that has been arranged centrally, e.g. for stationery, and to make sure that the standard and quality of goods or services ordered is right for what is wanted.
- 4.6.117 Chief Officers and Deputy Chief Officers must use contractors or suppliers for works, goods or services procured in accordance with the Procurement SORP.

Paying Invoices

- 4.6.118 All Deputy Chief Officers are authorised to certify invoices for payment within their service areas up to a limit of £50,000.
- 4.6.119 Chief Officers are authorised to certify invoices for payment within their service areas up to a limit of £100,000.

- 4.6.120 Payments over £100,000 are to be authorised by the relevant Chief Officer and the Chief Finance Officer (or the deputy Chief Finance Officer or the Chief Executive).
- 4.6.121 Before certifying an invoice for payment the authorised officers will satisfy themselves that:
- 4.6.121.1 a division of duty between ordering and goods receipting has been complied with;
 - 4.6.121.2 the work, goods or services to which the account relates have been received, carried out, examined and approved;
 - 4.6.121.3 the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
 - 4.6.121.4 the relevant expenditure has been properly incurred and within budget and coded adequately;
 - 4.6.121.5 appropriate entries have been made on copy orders and in inventories, stores records or stock books as required electronic or otherwise;
 - 4.6.121.6 the account has not been previously passed for payment and is a proper liability of the Council; and
 - 4.6.121.7 the payment is lawful.
- 4.6.122 The names of officers authorised to certify such documents shall be notified in advance to the Chief Finance Officer, together with specimen signatures, and any change in such authorisation will be similarly notified to the Chief Finance Officer.

Income

- 4.6.123 Arrangements for the collection of all money due to the Council shall be approved by the Deputy Chief Officer and reported to the Chief Finance Officer.
- 4.6.124 Chief Officers and Deputy Chief Officers will ensure that all money received in their service areas by an officer on behalf of the Council will be receipted in a manner specified by the Chief Finance Officer and will, without delay, be deposited the Council's bank.
- 4.6.125 Chief Officers and Deputy Chief Officers will take into account the cost of collection of income against raising an invoice. There should be no invoice raised below £10 for collection. If there are charges less than £10 then these should be collected in advance.
- 4.6.126 No deduction shall be made from income except to the extent that the Chief Finance Officer authorises it.

- 4.6.127 All claims for grant income will be submitted on time. Any potential late claims will be reported to the Chief Finance Officer.
- 4.6.128 Every officer who receives money on behalf of the Council or for which they are accountable to the Council, shall keep such records as required by the Chief Finance Officer, and shall produce them for inspection as and when required by the Chief Finance Officer.
- 4.6.129 The Chief Finance Officer shall be responsible for arranging or supervising arrangements for ordering and maintaining stocks of all receipt books and other numbered accounting documents.

Write Off of Debts

- 4.6.130 The Chief Finance Officer has the authorisation to write off any individual debt or the aggregate for any one debtor up to and including £10,000 subject to all procedures for recovery of the debt being completed or legislative requirements deeming the debt to be irrecoverable. Over this amount the Cabinet must approve any write off of an individual debt or the aggregate for any one debtor.

Petty Cash

- 4.6.131 The Chief Finance Officer will approve such advance amounts as they consider appropriate. These shall be operated on an imprest basis and in a manner specified by the Chief Finance Officer.
- 4.6.132 Where they consider it appropriate, the Chief Finance Officer will open an account with the Council's bankers, or such other financial institution as deemed appropriate, for the use by the imprest holder. Under no circumstances is the account to go overdrawn and if this arises will be notified to the Chief Finance Officer promptly.
- 4.6.133 Income received on behalf of the Council will not be paid into an imprest/advance account but shall be banked or paid to the Council as provided elsewhere in these Financial Procedure Rules.
- 4.6.134 Payments shall be limited to minor items of expenditure (£30 or less) and to such other items as the Chief Finance Officer will approve and will be supported by a receipt voucher.
- 4.6.135 Under no circumstances should an imprest account be used for any personal/non – Council transactions.
- 4.6.136 An officer responsible for an advance amount shall certify as to the state of the advance on the 31 March in each year.

- 4.6.137 On leaving the employment of the Council or otherwise ceasing to be entitled to hold the advance, an officer shall account to the Chief Finance Officer for the amount of the advance.

Stocks, Stores and Inventories

- 4.6.138 Chief Officer and Deputy Chief Officers are responsible for the care, custody and recording of stocks and stores held by their services on behalf of the Council. The Chief Financial Officer will agree the form and content of records to be kept for this purpose.
- 4.6.139 Stocks shall not exceed the quantities considered necessary by the Chief Officer and Deputy Chief Officer concerned to meet the reasonable requirements of the Council.
- 4.6.140 Deputy Chief Officers responsible for stocks will arrange for periodical checks of stocks by persons other than those responsible for the stocks and will ensure that such checks are made at least once in every financial year.
- 4.6.141 The Chief Finance Officer is authorised to write-off physical differences or losses (including obsolescence) of stocks, stores or other assets. Losses will be reported to the Audit and Standards Committee on an annual basis.
- 4.6.142 Chief Officers or Deputy Chief Officers responsible for stocks and stores will provide the Chief Finance Officer as soon as possible after 31 March in each year a certificate as to the value of stocks held at the close of the financial year on a valuation basis determined by the Chief Finance Officer.
- 4.6.143 Chief Officers and Deputy Chief Officers will maintain an inventory to record an accurate description of furniture, fittings, equipment, plant and machinery so as to enable identification. They are responsible for an annual check of the inventory. The extent to which the property of the Council will be recorded and the form in which the inventory will be kept will be specified by the Chief Finance Officer.

Security

- 4.6.144 Deputy Chief Officers and Chief Officers are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, and other resources under their control. They will consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed. Wherever possible assets of the Council will be marked as the property of the Council.
- 4.6.145 The maximum limit for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without their express permission.

- 4.6.146 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of such keys must be reported to the Chief Finance Officer immediately the loss is discovered.

Insurance

- 4.6.147 The Chief Finance Officer will review annually and affect insurance cover and prescribed procedures for claims, consulting with Chief Officers as appropriate.
- 4.6.148 Deputy Chief Officers and Chief Officers will notify the Chief Finance Officer promptly of all new risks, property or vehicles to be insured and every matter which may affect existing insurances.
- 4.6.149 Deputy Chief Officers and Chief Officers will notify forthwith in writing any loss, liability or damage or any event likely to lead to a claim to the Chief Finance Officer, who will, in turn, notify the Council's Insurers. In appropriate instances, the Chief Finance Officer shall inform the police or other authorities.
- 4.6.150 The Chief Finance Officer shall ensure that all relevant employees of the Council are included in a suitable fidelity guarantee insurance.
- 4.6.151 Chief Officers will consult the Chief Finance Officer with respect to the terms of any indemnity, warranty or guarantee that the Council is requested to give.



Part 4, Section 6.1: Statement of Required Practice for Procurement ('The SORP')

Contents	Page
Introduction	229
Exemptions from the SORP rules	230
Absence of competition	230

Introduction

- 4.6.1.1 Whenever work, goods, services or materials are procured by, or on behalf of, the Council the procedure followed must comply with the Council's constitution and rules as defined by the SORP, UK law, including the current Public Contract Regulations, any relevant financial regulations, and the Scheme of Delegations. The SORP will be updated from time to time and the current version will be available on the Harborough District council website. European Union (EU) Procurement Directive (as implemented in the UK through the Public Contract Regulations 2015, [PCR2015] must also be followed where applicable.
- 4.6.1.2 These Rules are supported by detailed, practical guidance available in the Procurement Toolkit, which can be accessed via the Welland Procurement Partnership portal. Welland Procurement Partnership will provide access to a Procurement support officer.
- 4.6.1.3 The Procurement support officer and/or the Monitoring Officer will give or procure advice on procurement and entering into contracts.
- 4.6.1.4 The rules of the SORP must be read in conjunction with the Financial Procedure Rules and Contract Procedure Rules.
- 4.6.1.5 All decisions relating to procurement and the reasons for those decisions must be recorded and kept in an electronic form suitable for audit purposes; the Procurement support officer will be responsible for ensuring that a suitable electronic system is available for use by the Council.
- 4.6.1.6 If approval by the Council Cabinet is required before procuring goods, works or services, the report should recommend that authority is delegated to the relevant Chief Officer and the relevant Portfolio Holder, in consultation with the relevant portfolio holder to procure, negotiate and award the necessary contract.
- 4.6.1.7 The Cabinet may reserve final approval so that a further report is submitted indicating the preferred provider before completion; however, officers and members should be mindful of the risk of legal challenge if a decision identifying a preferred provider were to be overturned.
- 4.6.1.8 It is important that members are involved in key commissioning and procurement decisions: in some cases, this involvement may consist of determining the service specification, criteria for evaluation and weighting et cetera. In certain circumstances, it may be appropriate and valuable for members to participate in the assessment of a tender as members of the evaluation panel.
- 4.6.1.9 Where the Council is procuring through a partnership, shared service or delegation arrangement, it may be possible to apply the Procurement Rules of the Lead Authority; however officers must seek guidance from the

Procurement support officer and/or the Monitoring Officer to ensure that any conflict with Harborough District Council's Procurement SORP is acknowledged and managed appropriately.

- 4.6.1.10 Where the value of a proposed contract is in excess of any threshold prescribed in any of the EU Public Contracts Directive and the PCR 2015 applicable to a contract of that type, then the award of the contract shall be carried out in all respects in accordance with such regulations. The provisions of the SORP shall continue to apply to such contracts only to the extent that they do not conflict with the provisions of the Public Procurement Regulations.

Exemptions from the SORP rules

- 4.6.1.11 In certain circumstances, it may be necessary to disregard the requirements of the SORP. The following exceptions may only be invoked after consultation between the officer responsible for the procurement ('the Lead Officer') and the Procurement support officer and/or the Monitoring Officer. The Chief Officer who has strategic responsibility for the Service must also be consulted and the decision must be recorded using the 'Exemption from Procurement Rules' form (as appended to the Procurement Plan)

Absence of competition

- 4.6.1.12 Contracts need not be let in accordance with the SORP where:
- 4.6.1.12.1 The goods are proprietary articles, or are sold only at the same fixed price irrespective of the seller so that no reasonably satisfactory alternative is available;
 - 4.6.1.12.2 The work to be executed or the goods or materials to be supplied consist of repairs, replacement or maintenance (including the supply of parts) of existing proprietary machinery or plant;
 - 4.6.1.12.3 A warranty is in force in relation to systems or equipment which would be invalidated if a supplier other than the incumbent was procured.
 - 4.6.1.12.4 The service to be procured consists of maintenance of equipment, software or works; and the original supplier is uniquely able to provide the service satisfactorily or economically.
 - 4.6.1.12.5 The Council is procuring a licence to use software, or purchasing software modules, or access to software provided externally ('Cloud' or 'Software as a Service') for ICT services or products that it has already procured; and a change of provider would be impractical because of the implications for the Council's ICT infrastructure and potential disruption of service.
 - 4.6.1.12.6 The prices of the goods or materials are wholly controlled by trade organisations or government order, and no reasonably satisfactory alternative is available;

- 4.6.1.12.7 The work to be executed is of such a specialist nature that there would be no genuine competition; or the particular reputation or personal and professional expertise or experience of the contractor is of central importance to the contract (for example, an expert witness, specialist consultant or advocate). This may also apply if work previously undertaken by the provider means that they are clearly and uniquely best equipped to carry out the new work.
- 4.6.1.12.8 For other reasons, there would be no genuine competition;

Emergencies.

- 4.6.1.13 Contracts need not be let in accordance with the SORP where goods and services are required in an emergency, or where the operational need means that insufficient time exists to use a competitive procedure.
- 4.6.1.14 The Lead Officer shall certify why the requirement was urgent and seek the agreement of a relevant Chief Officer. The decision must be reported to the Cabinet at the first available opportunity.

Consortium and joint procurement

- 4.6.1.15 Contracts need not be let in accordance with these rules where:
- 4.6.1.15.1 The Council has joined other bodies in a consortium to make one joint contracting party, or is undertaking a joint procurement led by another authority. The adopted practices or regulations for awarding contracts of the consortium or those of another authority may be followed subject to the agreement of the Procurement support officer and/or the Monitoring Officer, who must be satisfied that they secure fair competition and value for money and comply with relevant legislation relating to public contracts.

Contract extensions.

- 4.6.1.16 Contracts need not be let in accordance with these rules where goods or services constitute a variation or an extension of an existing contract, subject to the following:
- 4.6.1.17 Extensions are permissible if the original contract specifies that it may be extended; such extensions must comply with the terms and conditions of the contract.
- 4.6.1.18 Extensions to contracts (other than extensions which are already facilitated as an integral part of that contract) shall not be made more than twice; the value of any single extension must not exceed the original total contract price (the aggregate value across the original term of the contract); and any amendment to the contract rates must be agreed by variation. Any extension is subject to adequate budgetary provision being available prior to agreeing the extension;
- 4.6.1.19 All contract extensions shall be reported to the relevant Chief Officer prior to

the extension being formally agreed, together with details of the additional costs involved and budget arrangements;

- 4.6.1.20 Variations which increase the Contract Price by more than the original total, or which involve substantial changes in the character of the works/ goods/ services involved may also be reported by the relevant Chief Officer to the Cabinet for approval prior to agreeing the extension with the contractor or supplier, if this is considered appropriate. Alternatively, such extensions may be approved by the relevant Chief Officer in consultation with the Portfolio Holder.
- 4.6.1.21 If a decision to award a contract is made by the Cabinet, it may determine that any future extensions or variations are referred to it for approval.
- 4.6.1.22 The Public Contract Regulations 2015 (Section 6, 72.) include provisions governing the extension of contracts to which the Regulations apply; any decision of Council Officers must comply with these provisions.

Exemptions; general.

- 4.6.1.23 All exemptions from these rules made on the grounds listed in 4.6.1.1 above, must be recorded by the Procurement support officer for audit purposes using the 'Exemption from Procurement Rules'. Where a contract worth more than £10,000 is exempt from the tendering procedure, the contract and the exemption relied upon shall be reported to CMT for information. At the discretion of the Corporate Management Team, in consultation with the , Procurement support officer, any exemption may be reported to the Council Executive for approval if there are grounds for believing that scrutiny of the decision is desirable or necessary.
- 4.6.1.24 If the exemptions listed in 4.6.1.1 above, do not apply, exceptions to these rules may only be made by the Cabinet or Council where it has received a report by the appropriate Manager, in consultation with the relevant Portfolio Holder(s), Chief Finance Officer and Monitoring Officer. The Cabinet or Council must be satisfied that special circumstances exist to justify departure from them; the special circumstances shall be recorded in the minutes of the Cabinet or Council meeting.
- 4.6.1.25 Exemptions from the SORP will not be permitted if as a consequence the Council would breach the European Union (EU) Public Contracts Directive, PCR 2015 or other statutory or regulatory requirements.

Determining Procurement methods

- 4.6.1.26 A number of considerations will determine the appropriate method of procurement: first, the Lead Officer must decide in consultation with the Procurement support officer whether the thresholds defined by European

Union (EU) Public Contracts Directive and the PCR 2015 apply. If the regulations are relevant, the procurement must comply with them to protect the Council from the possibility of legal challenge.

- 4.6.1.27 If the EU Directive and PCR 2015 do not apply, the Lead Officer must follow the Council's own rules as defined in the SORP in determining the method of procurement.
- 4.6.1.28 The value of the contract to be awarded is of prime importance in determining which approach to procurement is to be used. Whenever a contract is proposed, the Lead Officer should estimate its anticipated value; the estimated value should be based on previous prices obtained or quotes given during informal market testing. It should be noted in a form that complies with audit requirements before tendering begins.
- 4.6.1.29 The value of the contract for procurement purposes is its total value across the whole of the contract term, including the maximum period(s) of extension. In determining the estimated value of a proposed contract, a series of connected contracts (including service and maintenance contracts) must be aggregated.
- 4.6.1.30 If a contract is for hire or lease (as opposed to outright purchase) then its estimated value is:
 - 4.6.1.30.1 In the case of a fixed term period (barring termination for breach of contract etc.) the total price payable over that term;or
 - 4.6.1.30.2 In a case where it can be terminated at will, on notice, the total price payable over the anticipated period of hire.
- 4.6.1.31 When determining methods of procurement achieving value for money (which refers to both quality and price), the availability time and staff resources and the importance of allowing potential providers fair access to Council contract opportunities must also be considered.

The European Union (EU) Public Contracts Directive. (add a footnote on to be reviewed..)

- 4.6.1.32 The EU Public Contracts Directive and PCR 2015 require competition for contracts above certain threshold values and prescribe detailed advertising and tendering procedures for purchasers. The use of specifications, standards, and selection and criteria for award is also regulated.
- 4.6.1.33 Spend Thresholds; The spend thresholds to which the full EU Directive and PCR 2015 apply at the time of publication are as follows:

	Services/supplies	Works
Sub-central contracting authorities (Local Authorities)	£181,302	£4,551,413

- 4.6.1.34 These thresholds are altered from time to time to reflect exchange rate variations; the Procurement support officer will advise on the current thresholds.
- 4.6.1.35 These amounts are based on the **total value of the contract to be awarded**; they include any maintenance or associated expenses. If the contract is for services that will be provided for a period longer than one year the total value is the calculation of all annual payments (including potential extensions) and not the annual value. If the goods or services are required on an ongoing basis in general the value should be calculated over the anticipated contract period. If the procurement includes a combination of Goods, Works and Services, the provisions of PCR 2015 (Section 1, 4.) should be consulted.
- 4.6.1.36 Principles that underpin the EU Procurement Regulations: The following principles for procurement apply regardless of value of spend;
 - 4.6.1.36.1 Equal treatment of Economic Operators (providers)
 - 4.6.1.36.2 Non-discrimination
 - 4.6.1.36.3 Proportionality
 - 4.6.1.36.4 Transparency

Services exempt from the European Union Directive and the PCR 2015.

- 4.6.1.37 Certain types of service are exempt from the EU Directive and PCR or subject to a different procurement regime; the EU directive 2014 and PCR 2015 remove the former distinction between Part A and Part B services. However, certain categories of service are exempt from the regulations, including:
 - 4.6.1.37.1 Some legal services.
 - 4.6.1.37.2 Some public transport services.
 - 4.6.1.37.3 Civil defence, civil protection and danger prevention services.
 - 4.6.1.37.4 Political campaign services.
 - 4.6.1.37.5 A separate directive governs concessions.
 - 4.6.1.37.6 A new procedure has been established for social services (including benefits services).

Conducting Tenders under EU Procurement Directive.

- 4.6.1.38 If the EU Procurement Directive applies, it will usually be necessary to conduct a tender. Guidance on conducting tenders under the EU Procurement Directive is available at Annexe 1; the Procurement support officer will offer advice and support to Lead Officers in this process and will usually manage the tender.

Framework agreements.

- 4.6.1.39 In some circumstances, it may be possible to use a framework agreement to procure work, goods or services when the EU Procurement Directive applies.

The Procurement support officer must confirm that the framework agreement to be used complies with the Directive and PCR 2015 and it may be necessary to undertake further competition under the framework agreement to identify a provider. A list of organisations that offer approved framework agreements that have already been approved is available at Annexe 2. See section 30 for the rules governing their use.

Procurement when the EU Procurement Directive does not apply.

- 4.6.1.40 If the EU Procurement Directive and PCR 2015 do not apply, the Council's own rules will govern the procurement. They are as follows:
- 4.6.1.41 Where the estimated Value of a Contract is more than £50,000, tenders must be invited in accordance with the Procurement SORP unless the Lead Officer and relevant Chief Officer in consultation with the Procurement support officer have identified and agreed that an appropriate framework agreement should be used.
 - 4.6.1.41.1 When the estimated Value of a Contract is £50,000 or less, the Lead Officer and relevant Chief Officer in consultation with the Procurement support officer may decide to procure using any of the following methods:
 - 4.6.1.41.1.1. a formal tender
 - 4.6.1.41.1.2. an appropriate framework agreement
 - 4.6.1.41.1.3. written quotations. Written quotes should be obtained in cases where the estimated value is in excess of £5,000, but is equal to or less than £50,000. The Lead Officer should attempt to obtain three quotations if this is possible.
- 4.6.1.42 When the estimated Value of a Contract is £5,000 or less, the Lead Officer should obtain at least one written quotation and/or evidence to justify procurement from the selected provider. A contract may be procured without competition, but the Lead Officer must be able to demonstrate that value for money will be obtained and that the procurement complies with the Council's Financial Procedure Rules and standards of Ethical Governance, The HDC Procurement Plan may be used to record the required evidence and the usual requirements for award and registration of contracts will apply.
- 4.6.1.43 Even though the value of the contract to be procured may be below the EU Procurement threshold, the requirements of the PCR 2015 may still apply. Officers are responsible for consulting with the , Procurement support officer to ensure that all procurement is fully compliant.

Other considerations.

- 4.6.1.44 The Procurement SORP should be considered when procuring banking or

insurance services under the terms of Financial Procedure Rule Q. The Chief Finance Officer is responsible for taking decisions in relation to the procurement of banking and insurance services

- 4.6.1.45 In certain circumstances, grants made by the Council may be subject to EU and UK procurement regulations; in any event, it is important that they are made under formal and appropriate contracts. Officers who award or manage grants should refer to Financial Procedure Rule 23 (Council Grants) and seek advice from the Procurement support officer to clarify the correct procedure.
- 4.6.1.46 **Insurance:** it is important that contracts awarded by the Council provide adequate protection of its interests and mitigate risk by requiring providers to obtain adequate levels of insurance indemnity. The levels and scope of the indemnity required will vary according to the nature of the contract to be procured. The Lead Officer should consult with the Council's Finance Service and if necessary, its insurers if there is any doubt about the appropriate level of insurance. The Council's usual insurance requirements are:
- 4.6.1.47 Employers (Compulsory) liability insurance for a limit of indemnity of not less than £10 million for each and every claim.;
- 4.6.1.48 Public liability insurance in respect for a limit of indemnity of not less than £10million for each and every claim.
- 4.6.1.49 Professional indemnity insurance for a limit of indemnity of not less than £5 million for each and every claim. (N.B. Professional indemnity insurance is not required for all types of contract).
- 4.6.1.50 These requirements should be confirmed before procurement commences (i.e. when a tender is published or quotations are sought). If the Council is willing to negotiate alternative levels of indemnity, this should be made clear to all providers before tenders or quotations are submitted. If the Council agrees to changes in levels of indemnity during the procurement process (in response to requests by interested providers), officers must ensure that this is made known to all providers. The Council cannot usually agree to changes to levels of indemnity after evaluation of the tender or quotations is complete as part of contract award negotiations.

Terms and Conditions:

- 4.6.1.51 The terms and conditions of any contract that the Council awards must be approved by the Council's Legal Service in order to ensure adequate protection of its interests and mitigate risk. When a tender is published or quotations for a contract of a value of £10,000 or more are sought, these should be confirmed before procurement commences. Exceptions are as follows:
- 4.6.1.51.1 It is not usually necessary to enter into a formal contract for purchases of goods of lower values (less than £5,000) or where adequate protection is provided by consumer legislation (The Consumer Rights Act 2015). N.B. However a formal contract may be

necessary if the Council enters into an associated service or maintenance agreement.

4.6.1.51.2 In some circumstances, the provider may require the Council to enter into a licence agreement using its own pre-determined terms and conditions (for example, when purchasing software or web-based services). In these circumstances, advice should be sought from the Council's Legal Service.

4.6.1.51.3 In some circumstances, it may be appropriate to indicate that the Council will accept the Provider's usual terms of business as the basis for a contract. However in such cases, the Council's Legal Service must review and approve these terms before a contract is awarded. Providers must be informed before procurement commences (i.e. when a tender is published or quotations are sought) that award of a contract is subject to approval of their terms of business.

Methods of Procurement

Tenders

4.6.1.52 The rules in this section apply subject to all tenders undertaken by the Council; however, where the EU Procurement Directive and PCR 2015 apply, these regulations will take precedence over the Council's rules. Guidance on conducting tenders under EU Procurement Regulations is available at Annexe 2. The chief officer, Procurement support officer will offer advice and support to Lead Officers in this process and will usually manage the tender. Tender procedures will be undertaken using an appropriate e- tendering system.

Types of tender.

4.6.1.53 If procurement is to be undertaken through a tender process, the Lead Officer must decide in consultation with the , Procurement support officer which of the following procedures should be employed:

4.6.1.53.1 Open procedure (or open tender); a single stage tender where no Standard Selection Questionnaire (SSQ) is used.

4.6.1.53.2 Restricted procedure; a two stage tender where a SSQ is used to reduce the number of tenders that are fully evaluated. This procedure is not permitted for tenders where the contract value is below EU Procurement Directive thresholds.

4.6.1.53.3 Competitive Dialogue procedure; a process that allows dialogue during the tender process between the contractor and the providers where the scale and complexity of the tender is significant. This process is unlikely to be appropriate in most cases as it is intended for use when there is very limited detail about the service

required and/or the procurement involves complex and inter-related issues such as construction and service provision in conjunction or unusual financial circumstances (such as Private Finance Initiatives).

4.6.1.53.4 Competitive procedure with negotiation; this procedure is only permissible in specific circumstances and should only be used where other procedures are unsuitable.

4.6.1.53.5 Innovation partnership; this procedure is relevant only where the purpose is to develop an innovative product or service not currently available on the market.

4.6.1.54 In most cases, an open procedure is likely to be the best option; the , Procurement support officer will advise on the procedure to be used which must be agreed by the Corporate Management Team and approved by the Council or Cabinet as appropriate.

Preparing the tender.

4.6.1.55 Prior to the issue of the tender, the method by which it is to be evaluated must be established. There are a number of ways in which tenders may be evaluated:

4.6.1.55.1 Purely on price (where the specification for the goods, works or services to be procured is precise and cannot be amended);

4.6.1.55.2 On a combination of price and quality (most economically advantageous tender or 'MEAT'); or

4.6.1.55.3 On quality only (e.g. Fixed Price Contracts).

4.6.1.56 The evaluation methodology to be used must be agreed by the Procurement support officer in consultation with the operational manager or officer responsible for the procurement and will be recorded in the Procurement Plan.

4.6.1.57 Any evaluation documentation should be in such a form that it can be made available to be viewed by contractors after their tender has been submitted.

The Invitation to Tender

4.6.1.58 Before advertising the tender the Lead Officer responsible for the tender, in conjunction with the Procurement support officer must complete an Invitation to Tender Document (ITT). The ITT will include the following:

4.6.1.58.1 the service specification;

4.6.1.58.2 terms and conditions of the contract to be awarded;

4.6.1.58.3 a statement of the procedure the Council will use to deal with any errors in the tender;

4.6.1.58.4 a statement that the Council has the right to accept a tender: other than the lowest if spending money; or other than the highest if receiving money; or not to accept any of the tenders.

- 4.6.1.58.5 a statement that unless it says so in a contract, the contractor must not assign or sublet the contract without the prior written approval of the appropriate officer. The Lead Officer must consult with the Procurement support officer before agreeing to any sub- contracting arrangements.
- 4.6.1.58.6 details of the tender process, including procedures for tender submission, submission of questions for clarification, weighting for price and quality and the evaluation method;
- 4.6.1.58.7 details of the Council's requirements for tenders (including rules to ensure equity and prevent corruption);
- 4.6.1.58.8 details of any aspects of the contract to be negotiated after award (such as key performance indicators) or capacity;
- 4.6.1.58.9 the deadline for submission.
- 4.6.1.59 Approval of the Director Law and Governance and Monitoring Officer and the –Director Finance and Assets / S151 must be obtained if any of these requirements are not to be included.

Advertising the tender

- 4.6.1.60 All tender opportunities (and quotations if advertised publicly) must be advertised on the 'Source Leicestershire' website and the UK
- 4.6.1.61 Government Contracts Finder portal even if the value of the contract is below the relevant threshold. It will usually also be appropriate to advertise the tender in the OJEU. The , Procurement support officer will place the advertisement.
- 4.6.1.62 If the PCR 2015 is applicable, the tender must be advertised in the OJEU.
- 4.6.1.63 Additional advertisements in specialist journals or local media may be placed if the Lead Officer and the Procurement support officer agree that this would lead to greater competition or improve the accessibility of the tender for local small and medium enterprises.
- 4.6.1.64 Tender submissions will only be accepted from providers that have replied to an advertisement using the specified procedure. This must be clearly stated in the ITT document and advertisement.
- 4.6.1.65 Tender submissions will not be accepted after the specified deadline.

Submission of tenders

- 4.6.1.66 Tenders will be submitted electronically using the e-tendering system adopted by the Council. The system used will meet the Council's requirements as detailed below.
 - 4.6.1.66.1 The ITT must stipulate the process for submission of tenders which must:

- 4.6.1.66.2 Be secure: provision must be made to ensure that only an authorised officer of the Council or approved representative is able to access submissions.
- 4.6.1.66.3 Be fair: no assessment of the submissions should take place except as described in the ITT.
- 4.6.1.66.4 Make consistent and equitable provision for providers to ask questions for clarification; all questions and answers must be made available to all providers that have expressed an interest in the tender, although the anonymity of the provider asking the question must be protected.
- 4.6.1.66.5 Ensure that all submissions are acknowledged as soon as possible.
- 4.6.1.66.6 Allow full records to be kept in a format suitable for audit.
- 4.6.1.67 Tenders received after the deadline must be rejected. The provider submitting the tender must be informed of its rejection without delay.

Extensions.

- 4.6.1.68 An extension of the tendering period will only be allowed if the Lead Officer, in conjunction with the Procurement support officer has agreed. The relevant member of CMT must be advised of the extension.
- 4.6.1.69 Extensions will be allowed to all providers that have expressed an interest in the tender.
- 4.6.1.70 All providers that have expressed an interest in the tender must be told that more time has been allowed.
- 4.6.1.71 If tenders have already been submitted, the relevant providers must be offered the option of withdrawing their tender and re- submitting it.

Restricted procedures.

- 4.6.1.72 Where a tender is being conducted using a restricted procedure (see 19.1.2), rules 20, 21 and 22 will apply. However, the document initially submitted by providers will be the completed Standard Selection Questionnaire rather than the full tender document.
- 4.6.1.73 The SSQ must be administered in compliance with the EU Procurement Directive and PCR 2015. The standard SSQ template published by the Crown Commercial Service must be used.
- 4.6.1.74 The SSQ will assess:
 - 4.6.1.74.1 Financial standing;
 - 4.6.1.74.2 Technical competence;
 - 4.6.1.74.3 References provided by the applicant;
 - 4.6.1.74.4 Any specific requirements such as equalities, health and safety and environmental management standards allowed within the standard SSQ document.

- 4.6.1.75 The SSQs submitted by all providers must be assessed; the assessment must determine their suitability for further consideration.
- 4.6.1.76 If five or more providers are considered suitable, at least five must be invited to submit a full tender.
- 4.6.1.77 Where fewer than five providers are considered suitable all must be invited to submit a full tender.
- 4.6.1.78 The European Single Procurement Document (ESPD) must be accepted as self-certified evidence that the standard grounds for exclusion included in a SSQ do not apply.
- 4.6.1.79 The full tenders submitted by suitable providers under a restricted procedure must be evaluated in accordance with the SORP in all respects.

Tender evaluation.

- 4.6.1.80 All of the tenders submitted shall be evaluated in accordance with the methodology indicated in the ITT regardless of the procedure used.
- 4.6.1.81 The precise details of the evaluation process must be agreed prior to advertisement; the ITT documents should enable providers that tender to understand the process and the weighting allocated to different elements.
- 4.6.1.82 It is important that criteria for scoring are determined before evaluation and are understood by all members of the evaluation panel.
- 4.6.1.83 If there are essential requirements that must be met to satisfy the Council's responsibilities and obligations, these should be tested through 'qualification questions' ('pass/fail' questions) where an unacceptable response will lead to rejection of the tender. This must be made clear in the ITT. Examples might include Health and Safety requirements, insurance, employment policy and safeguarding of children and vulnerable adults.
- 4.6.1.84 The Council may decide to assess qualification after evaluation of price and technical capacity to expedite evaluation.
- 4.6.1.85 The Council may require submission of documents as evidence of qualification after evaluation of price and technical capacity only from the preferred provider, to reduce the burden of tender submission on suppliers.
- 4.6.1.86 A tender must not be accepted if the total cost, including any fees, exceeds the estimated tender value or budget estimate provision by 10 per cent or £10,000 whichever is the greater. In these circumstances, a report must be submitted to the Cabinet for a decision.
- 4.6.1.87 The Lead Officer, in conjunction with the Procurement support officer must assess tenders to ensure that sufficient provision has been made by the provider in resourcing the contract delivery, technical competence and for health and safety. More information should be obtained from the tenderer during the evaluation process if necessary.
- 4.6.1.88 The decisions taken, and the reasons for those decisions, must be recorded and kept in an auditable electronic form and be made available for scrutiny and audit.

Awarding contracts and reporting.

- 4.6.1.89 The following provisions must be read in conjunction with the other provisions of this SORP, especially sections 7 (exemptions) and 46 (contract management); these provisions apply to all contracts irrespective of the method of procurement. Reporting requirements for exemptions are determined by the provisions of section 7 and not solely by the value of the contract.
- 4.6.1.90 All contracts of a value exceeding £200,000 or which exceed the relevant OJEU threshold will automatically be referred to the Cabinet or (if outside the Budget Framework), Council for decision before awarding.
- 4.6.1.91 Contracts whose value exceeds £50,000 but is less than the relevant OJEU threshold must be referred to the Cabinet or Council before award if they relate to entirely new procurements or where the nature or character of the service or supplies to be procured differs significantly from procurements under previous contracts. Contracts of this value range may be awarded without reference to the Cabinet or Council at the discretion of the Chief Executive providing that they are direct replacements for previous contracts that have expired and that they do not represent significant changes to operational arrangements or policy.
- 4.6.1.92 Contracts whose value is less than £50,000 may be awarded without reference to the Cabinet or Council providing that:
- 4.6.1.92.1 The relevant Deputy Chief Officer, Chief Finance Officer and Monitoring Officer authorise award.
 - 4.6.1.92.2 There is adequate budgetary provision.
 - 4.6.1.92.3 The procurement does not represent a significant change to operational arrangements or policy, or a new service; where award of the contract represents a significant change, referral to Cabinet or Council will be at the discretion of the Chief Executive.
- 4.6.1.93 Officers and members should be mindful of the effect that this may have on timescales: where there is a degree of urgency, consideration should be given to requesting the Council's Cabinet to delegate authority to award a contract once evaluation is complete before publishing the tender.
- 4.6.1.94 The approval of the award of contracts by relevant members of CMT must be recorded using the Council's Contract sign-off form.
- 4.6.1.95 Contracts must be signed and sealed in accordance with the Council's Contract Procedure Rules: all contracts over £50,000 in value and all contracts executed as deeds must be sealed.
- 4.6.1.96 Electronic copies of all contracts must be sent to the Procurement support officer who will assign a reference number, record on the Council's electronic Contract Register and store an electronic copy. The signed document must be filed in the Deeds Store.
- 4.6.1.97 Contracts are formally 'awarded' only when all parties have signed them; once

a contract has been awarded, the Procurement support officer will publish award notices as required in the Official Journal of the European Union and/or the UK Contracts Finder website.

Post Tender Negotiations.

- 4.6.1.98 Once the tenders have been evaluated, 'post tender negotiations' may be conducted either with the preferred provider or a number of providers, subject to the EU Procurement Directive and PCR 2015, and subject to the following provisions:
- 4.6.1.98.1 Where the lowest overall tender for a call-off contract (see clause 40, below) contains individual goods or materials which were priced lower by other (unsuccessful) contractors, negotiations may be undertaken with the successful contractor either to reduce the price of those individual goods or to exclude them from the contract. These individual goods may then be purchased separately from cheaper suppliers;
 - 4.6.1.98.2 Where the overall successful tender contains various individual prices or elements, some of which were bettered by other overall unsuccessful tenders, and where the Lead Officer, in conjunction with the Procurement support officer believes that the successful tenderer would improve those items or elements if requested; then, revised terms may be negotiated with the preferred provider only;
 - 4.6.1.98.3 Where all tenders exceed the budget for the Contract, negotiations may be undertaken with any or all of the providers to explore revision of their tenders and the specification.
- 4.6.1.99 The ITT must note that post tender negotiations might occur.
- 4.6.1.100 The decision to enter into post-tender negotiations shall be taken by the Chief Executive or member of CMT following a report by the Lead Officer or the Procurement support officer explaining:
- 4.6.1.100.1 Why post-tender negotiations are necessary or suitable in the particular circumstances.
 - 4.6.1.100.2 The elements of the tenders to be negotiated.
 - 4.6.1.100.3 The providers that are to be invited to negotiate.
 - 4.6.1.100.4 The officer responsible for negotiations on behalf of the Council.
- 4.6.1.101 Any post tender negotiations must be undertaken in a way that is fair to all of the contending contractors. No bias shall be shown towards or against any of the contractors and all will be offered an equal opportunity to negotiate.
- 4.6.1.102 No contractor shall be allowed to prepare or revise its tender in the knowledge of another's bid. The contents of opened tenders must be kept absolutely confidential; and when negotiations are concluded, contractors may be asked to submit revised bids by a set date. These will be opened and evaluated in

accordance with the same procedure used for the original tenders.

- 4.6.1.103 In some cases, it may be necessary to revise the specification and to re-issue the tender having taken steps to ensure submissions that are within the Council's budget.

Framework Agreements

- 4.6.1.104 A framework agreement is an agreement with suppliers, normally established by a procurement agency or consortium; it will usually cover the supply of a generic group of goods, supplies and services and will set out the terms and conditions of contracts which may be awarded during its lifetime. The advantages of such agreements are that they enable commissioning bodies to benefit from economies of scale as demand is aggregated across a number of organisations; and that the suppliers engaged through the framework will already have been assessed as suitable providers of services, thus reducing the procurement workload and bureaucracy. In some cases, contracts may be procured (or 'called- off') directly on a 'catalogue' basis; in others, a process known as a 'mini- competition' or further competition may be necessary to select a provider from those included on the framework.
- 4.6.1.105 If a framework agreement offered by an approved provider is to be used, the Lead Officer must consult with the Procurement support officer. The Procurement support officer must confirm that the framework agreement to be used complies with the EU Procurement Directive, PCR and the Council SORP. It may be necessary to undertake further competition under the framework agreement to identify a provider. A list of organisations that offer approved framework agreements is available Annexe 2.
- 4.6.1.106 If suppliers approached via a framework agreement decline to enter into a contract under the terms of the framework but are willing to offer the same services, goods or works at the prices quoted under the framework agreement under contract, advice should be sought from the Procurement support officer. It may be possible to use the information contained within the framework agreement documentation in lieu of a quotations process, but this must be undertaken in such a way that the Council complies with Procurement regulations and principles of transparency and fairness and that demonstrates value for money. It may be necessary to seek the approval of the framework agreement provider.

Quotations

- 4.6.1.107 When the estimated Value of a Contract is between £5,000 and £50,000, it will be necessary to decide whether or not the formal tendering procedures described above should be followed, or whether to obtain written quotations. If there is uncertainty over which method to use, advice should be sought from the Procurement support officer. Whichever is chosen:

- 4.6.1.107.1 value for money should be sought;
- 4.6.1.107.2 competitiveness must be demonstrated; and
- 4.6.1.107.3 fairness and impartiality must be exercised at all times.
- 4.6.1.108 At least three quotes must normally be obtained for comparison and to demonstrate value for money in the use of resources.
- 4.6.1.109 If the Lead Officer believes that obtaining three quotations is impracticable, or not in the Council's interest, this must be referred to the , Procurement support officer. If it is agreed to seek fewer than three quotations, this must be recorded, along with the reasons for the decision. Reasons may include:
 - 4.6.1.109.1 The goods are proprietary articles, or are sold only at the same fixed price irrespective of who the seller is so that no reasonably satisfactory alternative is available;
 - 4.6.1.109.2 The work to be executed or the goods or materials to be supplied consist of repairs, replacement or maintenance (including the supply of parts) of existing proprietary machinery or plant;
 - 4.6.1.109.3 A warranty is in force in relation to systems or equipment which would be invalidated if a supplier other than the incumbent was procured.
 - 4.6.1.109.4 The service to be procured consists of maintenance of equipment, software or works; and the original supplier is uniquely able to provide the service satisfactorily or economically.
 - 4.6.1.109.5 The Council is procuring a licence to use software, or purchasing software modules, or access to software provided externally ('Cloud' or 'Software as a Service') for ICT services or products that it has already procured; and a change of provider would be impractical because of the implications for the Council's ICT infrastructure and potential disruption of service.
 - 4.6.1.109.6 The prices of the goods or materials are wholly controlled by trade organisations or government order, and no reasonably satisfactory alternative is available;
 - 4.6.1.109.7 The work to be executed is of such a specialist nature that there would be no genuine competition; or the particular reputation or personal and professional expertise or experience of the contractor is of central importance to the contract (for example, an expert witness, specialist consultant or advocate). This may also apply if work previously undertaken by the provider means that they are clearly and uniquely best equipped to carry out the new work.
 - 4.6.1.109.8 For other reasons, there would be no genuine competition;
 - 4.6.1.109.9 Where goods and services are required in an emergency, or where the operational need means that insufficient time exists to obtain three quotations.
 - 4.6.1.109.10 Other reasons.
- 4.6.1.110 If it is determined that it is reasonable for the Council to seek fewer than three

- quotations, the Procurement support officer will record this decision.
- 4.6.1.111 If the contract to be awarded exceeds £10,000 in total value, the decision to seek fewer than three quotations may reported to the Council executive for information at the discretion of CMT.
- 4.6.1.112 Written quotations will usually take the form of submissions from providers detailing their ability to meet the Council's requirements, technical quality and pricing; in some circumstances, other forms of documentation will be acceptable (e.g. published prices or descriptions of goods and services). The Procurement support officer will advise on whether evidence of price and specification other than written submissions is acceptable and compliant with the Procurement SORP and PCR 2015. Decisions regarding the use of such evidence will be recorded and approved in accordance with the provisions of the SORP.
- 4.6.1.113 If, after seeking quotations, fewer than three are obtained, the Lead Officer and Procurement support officer must record this fact and evidence that efforts have been made to obtain at least three.
- 4.6.1.114 Criteria for award of contracts should be agreed and recorded before seeking quotes. All submissions must be fully and thoroughly evaluated against the criteria before awarding the contract. Quotes can only be accepted by employees authorised to do so. The Lead Officer, if not authorised to accept tenders or quotations, must inform the relevant Chief Officer before undertaking any procurement. It is the responsibility of the relevant Chief Officer to consult with the Procurement support officer to ensure that the requirements of the SORP are met.
- 4.6.1.115 The Chief Finance Officer and Monitoring Officer must be consulted if by accepting the quotation the Council will be committed to any non-standard or unusual terms and conditions. In any event, Legal Advice should be sought before award of any contract.
- 4.6.1.116 All contracts are affected by the Contracts (Right of Third Parties) Act 1999.
- 4.6.1.117 There must be a provision in the budget for the contract. Authorisation to spend must be in accordance with the financial rules.
- 4.6.1.118 If the price included in a quotation is not fixed, this must be noted and reflected in the contract: any potential variation in price must be discussed with the Procurement support officer to ensure that it does not compromise compliance with the Procurement SORP.
- 4.6.1.119 Quotations should be sought and submitted electronically; the e-tendering system should normally be used for convenience and to provide a record that can be audited.
- 4.6.1.120 There may be instances where, even though the value of the work is less than £50,000, the Lead Officer in conjunction with the Procurement support officer may decide that it is more appropriate to adopt the full Tender Procedure that would apply if the value exceeded £50,000, as outlined above.
- 4.6.1.121 If quotations are to be evaluated on criteria other than price alone, advice

should be sought from the Procurement support officer on the method to be used.

Concessions.

- 4.6.1.122 If the Council is seeking to award a contract where the consideration for the works/services to be carried out consists either solely in the right to exploit the works/services that are the subject of the contract, or in that right together with payment, the Concession Contracts Regulations 2016 apply; officers considering awarding such contracts should seek advice from the Procurement support officer.

Procurement; general guidance.

Recording Procurement process.

- 4.6.1.123 All decisions and actions relating to procurement will be recorded using the Procurement Plan, Procurement Exemptions form and Contract sign off form as appropriate; these documents will be filed electronically with the relevant contract on the Contract register.

Call-Off Contracts.

- 4.6.1.124 Call-off contracts are those that set prices and conditions for the provision of goods and services, but where the capacity required is not pre-determined. Officers will access the goods and services required as and when necessary. The actual value of the contract is therefore not known at the time of its commencement.
- 4.6.1.125 Procurement of call-off contracts must be undertaken in accordance with the rules of the Procurement SORP above.
- 4.6.1.126 The list of services or goods advertised when procuring a call-off contract shall contain estimated quantities which the Lead Officer envisages ordering over the contract period. The estimated quantities must be used in calculating the cheapest tender.

Contract Management.

- 4.6.1.127 Once the procurement process is complete, contracts must be signed (or signed and sealed), filed, and the details entered on the Contract Register. The Procurement support officer will advise and facilitate this process.

Project Management.

- 4.6.1.128 The Council has agreed a Project Management Guide ("PMG") to manage major projects undertaken by the Council. The current Project Management Guide will be used for all projects.

Consultancy agreements.

- 4.6.1.129 If the Cabinet approves the employment of consultants, the lead officer must consult Contract Procedure Rule 5 Consultancy Agreements. The Procurement SORP applies to procurement of consultants.

Employment law and IR35.

- 4.6.1.130 In some cases, services will be provided by individuals whose contractual relationship with the Council will have implications for pay and taxation rules. This must be considered at an early stage of the procurement process and appropriate action taken to ensure that the Council complies with HMRC regulations. The Procurement support officer will advise on whether consultation with Human Resources and Financial Services Managers is necessary to ensure compliance.

Agency work.

- 4.6.1.131 Where the Council has agreed to act as an agent for undertaking work or supplying services, the SORP must apply unless it conflicts with the terms and conditions of the agency agreement or contract; or any instruction of the agency company or agency authority.
- 4.6.1.132 In the event of such a conflict, advice should be sought from the Procurement support officer and the Head of Legal & Democratic Services.

Sustainability.

- 4.6.1.133 Contract Procedure Rule 8 'Environmental Issues' requires that the appropriate policies and strategies of the Council should be referred to in tender and contract documentation.
- 4.6.1.134 The Lead Officer and the Procurement support officer will assess environmental impacts as a routine part of the procurement process to identify the environmental impacts of the goods, works and services involved. If appropriate, the evaluation and exclusion/qualification criteria may involve asking providers questions such as:
- 4.6.1.134.1 Does the organisation have an environmental policy?
 - 4.6.1.134.2 Does the organisation have an environmental management system in place?
 - 4.6.1.134.3 Has the organisation compiled an environmental effects register?
 - 4.6.1.134.4 Does the organisation have an environmental action plan to reduce adverse impact on the environment?
 - 4.6.1.134.5 Does the organisation have any unspent prosecution in relation to environmental legislation?
- 4.6.1.135 Where appropriate, responses to these questions will be used to consider both

the environmental risk and risk to the Council's reputation. Wider costs and concerns such as reducing the potential for long term pollution should be considered when the specification is drafted. The Council will promote the key principles "reduce, reuse, recycle and rethink".

- 4.6.1.136 Suppliers may also be required as part of the procurement process to explain how they will meet or exceed the specification for works and services on the following criteria:
- 4.6.1.136.1 materials used in manufacture;
 - 4.6.1.136.2 Reduction of energy used during manufacture;
 - 4.6.1.136.3 Disposal of goods and the use of energy and water;
 - 4.6.1.136.4 Generation of waste;
 - 4.6.1.136.5 Pollution and protection of the natural environment.
- 4.6.1.137 In considering environmental factors during procurement, the Lead Officer and the Procurement support officer must take account of the EU Procurement Directive and PCR 2015 and the provisions relating to exclusion in particular.

Sustainability standards.

- 4.6.1.138 The Council may elect from time to time to incorporate specific standards such as The WWF timber pledge or Fairtrade standards in specifications.

Procurement and the local economy.

- 4.6.1.139 The Council recognises that as a major buyer of goods and services, the decisions it takes in awarding contracts will have an effect on the local economy and local communities. However, the Council must also act within a legislative framework, particularly in regard to the non-discrimination and competition requirements. The Council is committed to maximise the benefits to the local economy of its procurement decisions; to achieve this, the Council will:
- 4.6.1.139.1 Analyse the Council's current spending patterns,
 - 4.6.1.139.2 Take available measures to maintain local spend;
 - 4.6.1.139.3 Ensure that procurement practice enables local providers, especially Small and Medium Enterprises (SME's), to compete for Council contracts.
 - 4.6.1.139.4 Engage with local business through relevant organisations.
 - 4.6.1.139.5 Offer support, advice and training to local providers to enable them to compete for Council business.
- 4.6.1.140 The Council recognises that local suppliers and SMEs generally are not able to compete for every contract opportunity. HDC will therefore encourage providers tendering for large contracts to work with the local supply chain to increase the local economic benefits of the contract.
- 4.6.1.141 The Council will encourage a diversity of suppliers to compete for its contracts

to promote a competitive marketplace. The Council recognises that smaller suppliers and those in the voluntary and community sectors can often offer innovative approaches. It will identify any gaps in the supply base and strive to increase provision from currently under-represented areas.

- 4.6.1.142 The Lead Officer and the Procurement support officer will seek to identify approaches to any procurement activity that may make it easier for local suppliers and SMEs to compete for the contract.
- 4.6.1.143 The Harborough District Council Supplier List is available to enable lead officers to identify local suppliers and SMEs that may be able to respond to tendering opportunities. Lead Officers undertaking procurement exercises are encouraged to use this database to identify local suppliers when seeking quotations.
- 4.6.1.144 The PCR require that procurement exercises should divide services, goods and works into 'lots' when this is possible (for example, where they relate to provision of services in several geographic locations, or a number of different projects or services). If this is impracticable or likely to be disadvantageous, the Council is required to record and justify a decision to do otherwise.

The Public Services Social Value Act 2012.

- 4.6.1.145 The Public Services (Social Value) Act 2012 requires local authorities to 'have regard to economic, social and environmental well-being' in connection with public services contracts. The Act states that the authority must consider how any procurement might improve the economic, social and environmental well-being of the relevant area (the district) and how in the process of the procurement it might act with a view to securing that improvement. The Act emphasises that the authority must consider only matters that are relevant to the procurement and in doing so to act in a way that is proportionate. The Act applies only to public services contracts, not to works or supplies contracts.

Human Rights, Race Relations, Crime and Disorder.

- 4.6.1.146 Contract Procedure Rule 7, 'Human Rights/Race Relations/Crime and Disorder and other matters' notes that the Council has a statutory duty to promote race equality. If this duty is relevant to a contract to be awarded, the Lead Officer should consult with the , Procurement support officer about requirements that might be appropriate. Officers must also take into account the Council's obligations under the Equality Act 2010.
- 4.6.1.147 Where appropriate, the Council's current Community Safety Policy should be referred to in tender and contract documents.
- 4.6.1.148 Where appropriate, the Council's current policy and procedures in respect of the Human Rights Act should be referred to in tender and contract documents.

Freedom of Information.

4.6.1.149 All tender and contract documentation must have provision for the contractor to provide information as required by the Council in respect of the current Freedom of Information law.

Ethical Governance.

4.6.1.150 The requirements or guidance as set out by the Monitoring Officer must be included in contract documents.

List of Annexes

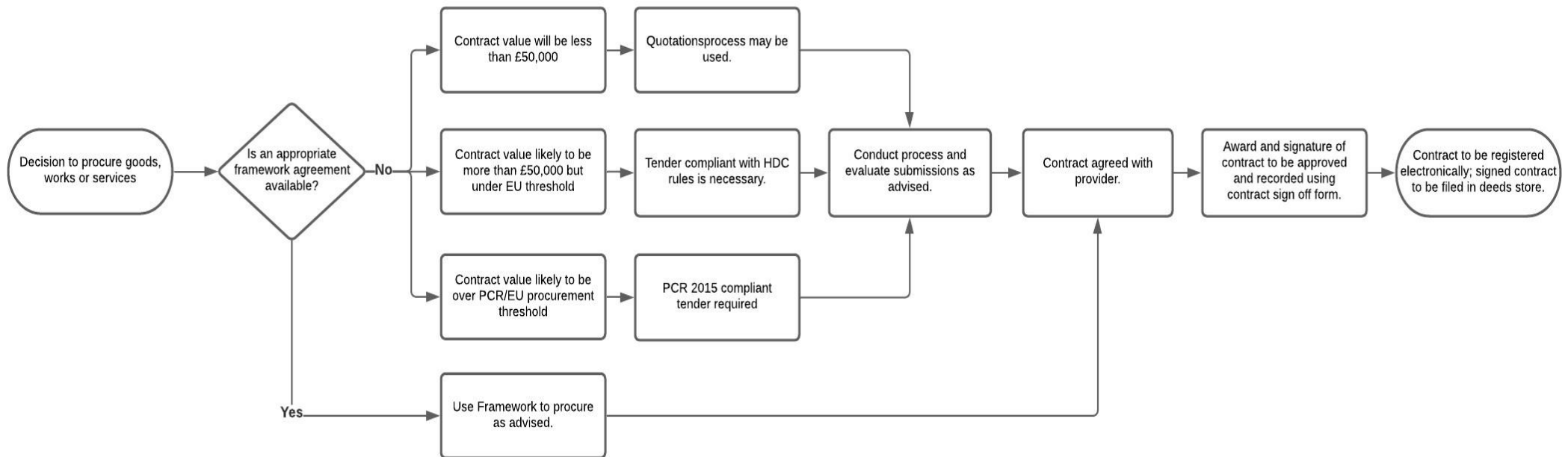
Annexe 1 – Procurement decision-making

Annexe 2 - Approved framework providers

Annexe 3 – Guidance on The EU Procurement regulations

Annexe 4 – Glossary

Procurement Decision Making process



Approved framework providers

The following organisations provide framework agreements that may be used to procure goods, works and services on behalf of the Council.

The Procurement support officer must be consulted to ensure that their use is compliant with the PCR 2015 and The Harborough District Council SORP.

When using these framework agreements, procurement must comply with the rules determined by the framework provider.

Crown Commercial Services (“CCS”, formerly the Government Procurement Service and the Office of Government Commerce Buying Solutions). CCS provides the ‘G-Cloud’ framework agreements.

Scape (for construction work)

Constructionline (for construction

work). ESPO

NHS Shared Business

Services The Essex

Procurement Hub

Guidance on Procurement

Further guidance is available as follows:

The Public Contract Regulations 2015

<http://www.legislation.gov.uk/ukxi/2015/102/contents/made>

Procurement Policy Notes (“PPNs” guidance on procurement policy and procedures from central government):

<https://www.gov.uk/government/organisations/cabinet-office/series/procurement-policy-notes>

Page with links to the archived PPNs:

http://webarchive.nationalarchives.gov.uk/20110601212617/http://www.ogc.gov.uk/procurement_policy_and_application_of_eu_rules/procurement_policy_notes.asp

Annexe 4

Glossary

CMT	Harborough District Council Corporate Management Team
Call-off contract	A contract allowing the Council to access goods and services as and when necessary at a pre-determined price and under pre-determined conditions.
Competitive Dialogue procedure	Permits dialogue between the contracting authority and contractors during the procurement process; aimed at large, complex contracts such as PFIs and PPPs; enables contracting authorities to develop specifications with the input of contractors, and to assist contractors in developing tenders that are responsive to the specifications.
Concession Contract	A contract where the benefit to the provider arising from the works/services to be carried out consists either solely in the right to exploit the works/services that are the subject of the contract, or in that right together with payment
Contract Finder	Central Government web portal for publication of all contracts advertised by Councils and other Public Sector bodies.
E-tendering	Publication and management of procurements using a web portal and appropriate IT system.
European Union (EU) Regulations/directives	Regulations of the EU governing public sector procurement established in support of the European Single Market.
Evaluation criteria	Pre-determined criteria for assessing tender (or other) submissions to determine the preferred provider.
Evaluation panel	Group responsible for assessing tender (or other) submissions to determine the preferred provider. May include members, customers or partner representatives
The Cabinet	The Harborough District Council Cabinet
ITT (Invitation to Tender)	Official and public document inviting tenders and defining specification, process and other expectations.
The Lead Officer	Officer with responsibility for the procurement; usually a member of the service with budget responsibility.
Open procedure	A single stage tender where no Standard Selection Questionnaire (SSQ) is used.
OJEU	Official Journal of the European Union: for publication of contracts where required by the PCR 2015.
PCR 2015	The Public Contract Regulations 2015: UK Government legislation to enact the EU Procurement Directives.
Standard Selection Questionnaire (SSQ)	Used in a restricted tender process at the "Selection Stage" to assess suppliers' capability. Formerly known as a Pre-Qualification Questionnaire (PQQ)
Restricted procedure	Formerly sometimes referred to as a 'One-off list'; a two stage tender where a SSQ is used to reduce the number of tenders that are fully evaluated.
Source Leicestershire/Source East Midlands	Web Portal for contracts advertised by Councils and other Public Sector bodies in the region.
The Statement of Required Practice for Procurement ('The SORP').	The Council's procurement rules and policy.
Weighting	The proportion of marks given for different aspects of the tender when evaluating (usually price and quality/technical requirements).



Part 4, Section 6.2: Contract Procedure Rules

Contents	Page
Contract Procedure Rule 1 – Introduction and Roles and Responsibilities	262
Contract Procedure Rule 2 – Procuring, Finalising, Extending & Varying Contracts	264
Contract Procedure Rule 3 – Post Tender Stage	270
Contract Procedure Rule 4 – Project Management	272
Contract Procedure Rule 5 – Consultancy Agreements	273
Contract Procedure Rule 6 – Agency Work	273
Contract Procedure Rule 7 – Equality and Human Rights / Crime and Disorder and Other Matters	274
Contract Procedure Rule 8 – Environmental Issues	275

Contract Procedure Rule 1 – Introduction

- 4.6.2.1.1 The purpose of these Contract Procedure Rules is to set out the principles, roles and processes involved in procurement at the Council. All procurements must comply with these Rules, the Council's Financial Procedure Rules, English law and European law in force in England. All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome. These Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations; as such they must be followed in all procurement activity. If there is any change to the law which affects these Rules, then that change must be observed until these Rules can be revised. If these Rules conflict in any way with the law, then the law takes precedence. These Rules do not apply in the following circumstances: The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any service, supplies or works contracts that may be required to make the land, existing buildings or immoveable property ready for acquisition, disposal or leasing.
- 4.6.2.1.2 Direct employment of permanent or fixed term employees, for the avoidance of doubt these Rules do apply to consultancy and employment and recruitment agency contracts.
- 4.6.2.1.3 Instructing barristers or solicitors.
- 4.6.2.1.4 The lending or borrowing of money by the Council.
- 4.6.2.1.5 Contracts between Local Authorities as defined by Clause 12 of the Public Contracts Regulations 2015.
- 4.6.2.1.6 Contracts between Local Authorities as defined by Clause 17 of the Concession Contracts Regulations 2015. However these contracts will need to be registered on the Councils Contracts Register.
- 4.6.2.1.7 Section 75 NHS Act 2006 arrangements (although details must be recorded on the Council's Contract Register).

Roles and Responsibilities

- 4.6.2.2 The Corporate Management Team (“CMT”) must make sure that everyone follows the Financial Procedure Rules.
- 4.6.2.3 CMT will work with Members, Service Managers and others to make sure that all Council resources are managed efficiently and effectively.

The Chief Finance Officer

- 4.6.2.4 The Chief Finance Officer (also known as the Responsible Financial Officer) is responsible for the Council’s financial affairs. They approve the form of accounts and records and review each Accounting System to make sure that it is efficient and works correctly.
- 4.6.2.5 The Cabinet may decide what accounting records and systems will be used. The Chief Finance Officer will make sure these records and systems are introduced, and everybody uses them.
- 4.6.2.6 The Monitoring Officer is responsible for maintaining an anti-fraud and corruption strategy.

The Monitoring Officer

- 4.6.2.7 The Council’s Monitoring Officer is responsible for carrying out duties under Section 5 of the Local Government and Housing Act 1989 and must make sure that internal rules are followed.
- 4.6.2.8 They must make sure that all members of staff maintain the highest standards in the conduct of the Council’s affairs.

Chief Officers

- 4.6.2.9 All Chief Officers are responsible for setting up effective systems of internal control and checks for the Council. These systems must:
 - 4.6.2.9.1 safeguard the Council’s assets and interests.
 - 4.6.2.9.2 make sure all record keeping is reliable and timely.
 - 4.6.2.9.3 ensure that all transactions are recorded accurately; and
 - 4.6.2.9.4 make sure everyone observes and keeps to the Council’s policies and instructions.
- 4.6.2.10 All Deputy Chief Officers must uphold and maintain the highest ethical and operational standard in the conduct of the Council’s financial affairs and ensure that all members of staff similarly comply with these standards.

- 4.6.2.11 Where an Officer has a potential conflict of interest within a procurement process, the Officer must declare to the relevant Chief Officer and the Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such as conflict may be subject to disciplinary proceedings and sanctions.

Contract Procedure Rule 2 – Procuring, Finalising, Extending & Varying Contracts

Entering into Contracts

- 4.6.2.12 Every contract or agreement entered into by, or on behalf of, the Council shall comply with UK law; the Council's constitution and rules; any relevant financial regulations; and the Scheme of Delegations. The Procurement Support Officer and/or the Monitoring Officer shall give or procure advice on procurement and entering contracts.
- 4.6.2.13 Contracts must be procured and accepted only in accordance with the Commissioning and Procurement Statement of Required Practice ('the Procurement SORP'). The SORP can be found at Part 4, Section 6.1) of the Council's Constitution, which will be updated to ensure compliance with statute and regulations.
- 4.6.2.14 The written approval of the Deputy Chief Officer for Legal Services on the contents of the contract is required.
- 4.6.2.15 No Councillor of the Council must enter into a contract on behalf of the Council.

Signing Contracts

- 4.6.2.16 All contracts up to the value of £5,000 must comply with the requirements of 4.6.1.36.6 of the SORP
- 4.6.2.17 All contracts up to the value of £50,000 must be in writing and signed by the relevant Deputy Chief Officer or in their absence by their Line Manager.
- 4.6.2.18 A contract must be sealed where:

- 4.6.2.18.1 The total value is over £50,000,
- 4.6.2.18.2 The Council wishes to enforce the contract for up to twelve years following its expiry (e.g., for land or construction works) or,
- 4.6.2.18.3 The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works,
- 4.6.2.18.4 There is any doubt about the authority of the person signing for the other contracting party,
- 4.6.2.18.5 A Bond is established on behalf of the Supplier(s) or their guarantors, or Required by the Parties to the agreement or,
- 4.6.2.18.6 Where the Monitoring Officer deems it appropriate.

Contract conditions

4.6.2.19 The following conditions shall apply to all contracts:

4.6.2.19.1 Unless the Monitoring Officer or Chief Financial Officer agree otherwise, provision for payment of liquidated damages for non-completion of work must be included in a contract which states:

- 4.6.2.19.2 a start date and completion date; or
- 4.6.2.19.3 contract period

4.6.2.20 **Contracts (Rights of Third Parties) Act 1999:** In certain circumstances a Person who is not a party to a contract may enforce its terms. The contract must either:

- 4.6.2.20.1 state that this Act does not apply, or
- 4.6.2.20.2 state the names or describe the third parties that it is thought might be affected.

Construction contracts: Performance Bonds

4.6.2.21 Unless the Monitoring Officer or the Chief Finance Officer agree otherwise the contractor must provide a performance bond or other security. It must be for 10 per cent of the contract's estimated value where:

- 4.6.2.21.1 the estimated cost of the contract is more than £100,000;
or
 - 4.6.2.21.2 where the estimated cost is less than £100,000, but the appropriate Lead Officer and their line manager considers it appropriate.
- 4.6.2.22 Contracts for the supply of services: A performance bond will only be required for a contract for the supply of services if the appropriate Lead Officer of the procurement following consultation with the Financial Services Manager demonstrate that:
 - 4.6.2.22.1 the estimated additional cost of re-establishing the service after the contract has failed will be relatively large; or
 - 4.6.2.22.2 the nature and length of the contract is such that the risk of failure is sufficiently high enough to need a bond; or
 - 4.6.2.22.3 the financial and technical standing of the contractor is such that the risk of failure is sufficiently high enough to need a bond.
 - 4.6.2.22.4 The value of the performance bond must be enough to meet the additional cost of re-establishing the service.
- 4.6.2.23 Every contract must require that all goods, materials and workmanship must be at least of the standard required by either:
 - 4.6.2.23.1 British Standards Specification; or
 - 4.6.2.23.2 British Standard Code of Practice; or
 - 4.6.2.23.3 European Union directive.
- 4.6.2.24 Every contract must state that the Council can cancel the contract and recover from the contractor any loss:

- 4.6.2.24.1 if the contractor has offered some kind of reward to any Person, so that they can win the contract or any other contract with the Council;
- 4.6.2.24.2 if the contractor has favoured or dis-favoured any Person who has any dealings with the contract or any other contract'
- 4.6.2.24.3 if (a) and/ or (b) above is done by any Person employed by the contractor or who acts for them, whether or not the contractor knows; or
- 4.6.2.24.4 if for any contract with the Council, the contractor or any Person employed by, or acting for them, have:
 - 4.6.5.24.4.1 committed corruption (any offence under the Prevention of Corruption Acts 1889 to 1916); or
 - 4.6.5.24.4.2 given any illegal reward (the receipt of which is illegal under Section 117(2) of the Local Government Act 1972)
 - 4.6.5.24.4.3 Committed an offence under the Bribery Act 2010.

Health and Safety.

- 4.6.2.26 The current and extant Construction (Design and Management) Regulations and any other law must be applied to certain contracts.
- 4.6.2.27 In Tender documents, the Client for CDM purposes will be Harborough District Council. A Client Officer, who must be competent to undertake the role, must be named as the Council's Officer responsible for ensuring compliance with the CDM regulations.
- 4.6.2.28 Tenderers must be advised in the tender documents that they have to comply with the CDM Regulations.
- 4.6.2.29 The documents must:
 - 4.6.2.29.1 list the information tenderers will need to provide so their tender can be considered; and
 - 4.6.2.29.2 state that the successful tenderer will be the Principal Contractor under the CDM Regulations.
- 4.6.2.30 Tenderers must be told that if a tender does not make sufficient provision for health and safety it will be rejected.

Sub-contractors.

4.6.2.31 Where a sub-contractor or supplier is nominated to a main contractor, the following must apply:

- 4.6.2.31.1 where the estimated value of the sub-contract is £40,000 or less, tenders may be invited; alternatively, quotations or estimates may be sought, or an appropriate framework agreement may be used.
- 4.6.2.31.2 where the estimated amount of the sub-contract is above £40,000 then, unless the Chief Officers decides that it is unreasonable to get tenders, tenders must be invited;
- 4.6.2.31.3 The HDC Procurement SORP applies to tenders invited under this rule.

4.6.2.32 'Nominated sub-contractors' include nominated suppliers, and any Person named by the Council in a contract as a sub-contractor.

Safeguarding Adults at risk of harm and Children:

4.6.2.33 The Lead Officer in consultation with the Head of Legal Services is responsible for ensuring that any contract makes proper provision for the safeguarding of Adults at risk of harm and Children. The Lead Officer and Head of Legal Services must seek advice from the Lead Designated Safeguarding Officer or other nominated officer with responsibility for safeguarding at the Council if the contracted work either:

- 4.6.2.33.1 involves direct or indirect contact with children and young people or adults at risk of harm, or access to data about them
- 4.6.2.33.2A clause should be inserted into the contract requiring the contractor to make appropriate and proportionate provision of the protection of Adults at risk of harm and Children.

The Contract Register

4.6.2.34 All contracts, agreements and licences relating to service provision will be recorded in the Contract Register which is maintained by the Procurement Support Officer and Legal Services team. It is the responsibility of officers to provide the following when entering into such legal agreements:

- 4.6.2.34.1 A signed copy of the contract.
- 4.6.2.34.2 The annual value of the contract.

4.6.2.34.3 The term of the contract.

4.6.2.34.4 The timescales for review.

4.6.2.34.5 The name of the officer responsible for management of the contract.

Contract management

4.6.2.35 The Deputy Chief Officer responsible for a contract will determine arrangements for its management, ensuring that the services, goods or works procured are delivered to the Council's specifications and taking any remedial action required; the Deputy Chief Officer will delegate responsibility to a contract manager as appropriate.

4.6.2.36 The Deputy Chief officer will make appropriate arrangements for audit of contract compliance.

Payment

4.6.2.37 For works contracts exceeding £20,000, contract certificates must be used. Official payment vouchers can be used for contracts £20,000 or below.

4.6.2.38 All payments must be made subject to the Council's Financial Procedure Rules; advice should be sought from the Deputy Chief Finance Officer.

4.6.2.39 All payments for goods, works and services to which these rules apply must be recorded in the appropriate contract register when the estimated cost of the work exceeds £500. Details must be kept of all quotes and tenders received for audit purposes for at least three years.

Changes to contracts (Variations)

4.6.2.40 Any changes to contracts for works or services (variation orders) must comply with the provisions of the SORP and be in accordance the Financial Procedure Rules as applicable.

4.6.2.41 All amendments to work, goods or services that do not involve formal written variation of the contract must be agreed between the Parties in writing. Variations must be recorded in accordance with the requirements of the contract and signed.

Extensions to contracts

4.6.2.42 Contract extensions will be dealt with in accordance with section

4.6.1.12 – 4.6.1.20 of the SORP and in accordance with the Financial Procedure Rules as applicable.

Disputes

- 4.6.2.43 If a dispute arises in relation to performance of a contract the contract manager should, in the first instance, seek advice from their line manager and attempt to resolve the dispute through negotiation with the provider. Reference should be sought to any provision for dispute resolution in the contract and legal advice from the Deputy Chief Officer for Legal Services is advisable.
- 4.6.2.44 If the dispute cannot be resolved through negotiation with the provider, the contract manager should in conjunction with their line manager and Chief Officer seek advice from the Deputy Chief officer for Legal services and the Deputy Chief Financial Officer. If a decision is taken to seek damages or other penalties under the terms of the contract or to consider termination or other formal legal action, this will require the approval of the Monitoring Officer.

Contract Procedure Rule 3 - Post Tender Stage

Financial control of contracts

- 4.6.2.45 This rule applies to contracts for building, construction and engineering work, and the supply of goods or services. However, the Cabinet may set an amount below which this rule does not apply.

Payment

- 4.6.2.46 The relevant Deputy Chief Officer must keep a register of payments made under the contract showing the position of the account between the Council and the contractor. Other payments and professional fees must also be shown.
- 4.6.2.47 Payments to contractors must only be made:
- 4.6.2.47.1 on a certificate (the format agreed by the Chief Finance Officer) signed by the Client Officer; and
 - 4.6.2.47.2 in accordance with Financial Procedure Rules.
- 4.6.2.48 The contract will identify the Person who must produce a final certificate, together with a detailed statement of accounts and all relevant documents.
- 4.6.2.49 The Chief Finance Officer may examine any documents, records

and accounts and be given any information and explanations they ask for.

- 4.6.2.50 Claims by contractors for additional payments for work undertaken or goods or services supplied outside a contract must be considered by the Chief Finance Officer and the Monitoring Officer before a settlement is reached.
- 4.6.2.51 Section 4.6.2.50 above does not apply to the claims submitted by contractors for additional work done under the contract which are negotiated by the Client Officer into the final account.

Variations, Additions and Omissions

- 4.6.2.52 Every variation, addition or omission must be authorised in accordance with section 4.6.1.9 of the SORP.
- 4.6.2.53 Variations which are not essential and/ or cannot be justified either on objective technical or financial grounds and which when taken with all variations, increase the cost of the contract must not be authorised.
- 4.6.2.54 All variations must be able to stand up to close scrutiny and audit as to their purpose and need.

Liquidated Damages

- 4.6.2.55 Where a contract provides for liquidated damages and it is not completed on time, the Client Officer - in consultation with the Chief Finance Officer and the Monitoring Officer - may consider taking action to recover damages when they become due. This does not mean they must be deducted immediately, but the contractor must be served with the appropriate notice.
- 4.6.2.56 A decision not to claim liquidated damages may be taken where the amount is:
 - 4.6.2.56.1 Up to £1,000 – by the Client Officer, in consultation with and the approval of the relevant Chief Officer and the Portfolio Holder(s);
 - 4.6.2.56.2 Between £1,000 and £10,000 – by the relevant Chief Officer, in consultation with their Portfolio Holder(s), Line Manager, Chief Finance Officer and the Monitoring Officer;
 - 4.6.2.56.3 Over £10,000 – by the Cabinet.

Overspending

- 4.6.2.57 Where the total cost of work is more than the tender, a report must be made by the relevant Deputy Chief Officer, in consultation with their Line Manager and the relevant Portfolio Member(s), to the Cabinet.
- 4.6.2.58 The report must be made at the next earliest available opportunity after the date of the final payment, unless a report has already been made and approval to the increase has been obtained.
- 4.6.2.59 No report is necessary where the Council is acting as an agent, and has no financial liability.

Contract Procedure Rule 4 – Project Management

- 4.6.2.60 The Council has put in place a Project Management Guide (“PMG”) to manage major projects undertaken by the Council. The current Project Management Guide will be used for all projects.
- 4.6.2.61 The aim of the PMG is to help reduce and manage the risk associated with major projects and to put in place clear lines of accountability and define the responsibilities of the officers and members involved in the project. The PMG is the protocol to be followed with respect to all major projects carried out by the Council.
- 4.6.2.62 The PMG identifies the key stages of the project and covers all areas of the project which can include implementation of the project post contract award.
- 4.6.2.63 A Project Board for all major projects will be set up and will consist of the Project Sponsor who will be a member of Management team and the Project Manager who is responsible for organising and controlling the project, along with those who will contribute to the delivery of the project.
- 4.6.2.64 The Portfolio Holder will ensure that there is appropriate political input into the project through their regular portfolio holder meetings. In the event that there is a change of portfolio holder during the life of the project, the existing portfolio holder will carry out a formal handover to the successor portfolio holder or leader. If this is not possible the handover will be carried out by the project Sponsor. The shadow portfolio holder will be kept informed of the project progress through their regular shadow portfolio holder meetings.
- 4.6.2.65 In addition to the portfolio holder and shadow portfolio holder’s overview there will also be further members oversight from a cabinet working group, focussed on the delivery of the whole of the councils

project program. This will allow for a holistic view of the councils projects and for the prioritisation of resources and the management of risk across all projects.

- 4.6.2.66 Major project progress will be reported on periodically throughout the year as part of the planned performance management reporting mechanism.
- 4.6.2.67 Upon completion of the project the Project Board shall ensure that the objectives of the Project Initiation Document have been met, including an analysis of the benefits realised and lessons learnt to build into future projects.

Contract Procedure Rule 5 - Consultancy Agreements

Using consultants

- 4.6.2.68 The appointment of any Person (other than an employee) or an external organisation to provide consultancy services, must comply with the SORP and the Financial Procedure Rules as appropriate.
- 4.6.2.69 If consultants are required to negotiate, settle or supervise a contract then the appointment must also:
 - 4.6.2.69.1 require the consultant to follow these rules as though they were an employee of the Council, unless the conditions of appointment state otherwise;
 - 4.6.2.69.2 require the consultant to produce for the Chief Finance Officer on request, all contract records maintained by them and at the end of the contract give them to the relevant Deputy Chief Officer.

Contract Procedure Rule 6 - Agency Work

Agency work

- 4.6.2.70 Where the Council has agreed to act as an agent for doing work or supplying services, these rules must apply if they do not conflict with either:
 - 4.6.2.70.1 the terms and conditions of the agency agreement or contract;
 - or

4.6.2.70.2 any instruction of the agency company or agency authority.

Contract Procedure Rule 7 – Equality and Human Rights / Crime and Disorder and Other Matters

Equality and Human Rights

- 4.6.2.71 The Equality Act 2010 places upon the Council a statutory duty to promote equality which means that, in carrying out its functions, the Council must pay “due regard” to the need to eliminate unlawful discrimination, advance equality of opportunity and promote good relations between people who share a protected characteristic and those who do not.
- 4.6.2.72 If a contract relates to a service that has been assessed as relevant to the duties under the Equality Act, the Council is entitled to specify that the contractor make arrangements comparable to those set out in the Council’s Equality Plan.
- 4.6.2.73 This would include arrangements to:
- 4.6.2.73.1 monitor all aspects of the service provided under the contract for any adverse impact on promoting equality;
 - 4.6.2.73.2 publish the results of this monitoring; and
 - 4.6.2.73.3 make sure people have access to information about the service, and to the service itself.
- 4.6.2.74 When dealing with a contract it must be ensured that the duties are properly considered at each stage of the process, starting with an assessment of the function/service going out to contract. It is also recommended that requirements to promote equality are specified within the contract itself.

Crime and Disorder

- 4.6.2.75 The Council’s current Community Safety Policy should be referred to in tender and contract documents where appropriate.

Freedom of Information

- 4.6.2.76 All tender and contract documentation must have provision for the contractor to provide information as required by the Council in respect of the current Freedom of Information law.
- 4.6.2.77 Officers have an obligation to record and maintain accurate records relating to

- 4.6.2.78 Contracts, as well as complying with FOI requests.
- 4.6.2.79 Bidders should be asked to identify any information they supply that is confidential or commercially sensitive, and detail why they consider this the case.
- 4.6.2.80 This justification should be considering when responding to FOI requests. Any queries should be discussed with the Council's Information Governance Officer

Ethical Governance

- 4.6.2.81 The requirements or guidance as set out by the Monitoring Officer must be included in contract documents.

Contract Procedure Rule 8 - Environmental Issues

- 4.6.2.82 The appropriate policies and strategies of the Council should be referred to in tender and contract documentation.
- 4.6.2.83 The Council has signed up to the 'Nottingham Declaration' on Climate Change and the Climate Emergency, and it is a responsibility of the Council to require tenderers to employ environmentally friendly policies.
- 4.6.2.84 Client Officers must seek advice from the relevant Deputy Chief Officer for advice and guidance on environmental issues.



Part 4, Section 7:

Officer Employment Procedure Rules¹²⁵

Contents	Page
Recruitment and Appointment Generally	278
Recruitment of Statutory Chief Officers and Chief Officers	279
Appointments	279
Disciplinary Action	281
Posts Shared with Other Local Authorities	283
Temporary and Interim Appointments	283

¹²⁵ These rules incorporate the standing orders required by the Local Authorities (Standing Orders) (England) Regulations 2001.

Recruitment and appointment generally

Declarations

- 4.7.1. The Council will ask any candidate seeking appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons. A candidate who fails to declare such a relationship will automatically be disqualified from the appointment process with immediate effect or if appointed, will be liable to instant dismissal on ground of gross misconduct.
- 4.7.2. No candidate so related to a councillor or an employee will be appointed without the authority of the Head of Paid Service or the relevant Chief Officer, or an Officer nominated by them for that purpose.
- 4.7.3. Every councillor and chief officer or deputy chief officer of the Council shall disclose to the Head of Paid Service any relationship between themselves and any person they know to be a candidate for appointment with the Council. The Head of Paid Service will ensure that any such disclosure is reported to the Chairman of the Employment Committee or officer to whom power has been delegated to make an appointment.
- 4.7.4. The Head of Paid Service shall record the particulars of all disclosures made under paragraph 4.7.3.
- 4.7.5. Where relationship to a councillor of the Council is disclosed, that councillor shall withdraw from the meeting while the appointment is under consideration in accordance with the **Councillor Code of Conduct**, and where an officer agrees to act as a referee for a candidate, they may not take part in the recruitment process in accordance with the **Employee Code of Conduct**.

Seeking support for appointment

- 4.7.6. The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this sub-paragraph will be included in any recruitment information.
- 4.7.7. No councillor will seek support for any person for any appointment with the Council (including by way of providing a written reference for a candidate for submission with an application for appointment).

Equal Opportunities

- 4.7.8. The Council will not unlawfully discriminate in the recruitment and appointment of

officers and all appointments shall be made on merit¹²⁶.

Recruitment of Statutory Chief Officers and Chief Officers

- 4.7.9. Where the Council proposes to appoint a Statutory Chief Officer or a Chief Officer¹²⁷, and it is not proposed that the appointment be made exclusively from among their existing employees, the Council will:
- 4.7.9.1. draw up a statement specifying:
 - 4.7.9.1.1. the duties of the officer concerned; and
 - 4.7.9.1.2. any qualifications or qualities to be sought in the person to be appointed;
 - 4.7.9.2. 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 for it; and
 - 4.7.9.3. make arrangements for a copy of the statement mentioned in paragraph 4.7.9.1 to be sent to any person on request.
- 4.7.10. Where a post has been advertised as provided in paragraph 4.7.9 the Council shall:-
- 4.7.10.1. interview all qualified applicants for the post, or
 - 4.7.10.2. select a shortlist of such qualified applicants and interview those included on the shortlist.
 - 4.7.10.3. Cabinet members will be given the names of those candidates to be interviewed.
- 4.7.11. Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with paragraph 4.7.9.2.

Appointments

Appointment of Statutory Chief Officers and Chief Officers

- 4.7.12. A panel of councillors will be appointed for the purpose of appointing Statutory Chief Officers and Chief Officers, which will be known as the **Chief Officer Appointment Panel ("COAP")**¹²⁸. The Panel must be politically balanced but will not count in the overall allocation of seats to political groups because of its ad-

¹²⁶ Section 7 of the Local Government and Housing Act 1989

¹²⁷ See further the **Glossary of terms at Part 1 of this Constitution**

¹²⁸ The COAP will be appointed by the **Employment Committee, see further Article 7** of Part 2 of this constitution.

hoc nature. There must be at least one Cabinet member on the Panel.

- 4.7.13. Only councillors who have completed training in respect of recruitment and selection can be members of the COAP. The COAP must interview all qualified applicants for the post or select a shortlist of such qualified applicants and interview those included on the short list.
- 4.7.14. Once the COAP identifies a candidate for appointment, and before making any offer of appointment, the COAP must inform the Proper Officer of the recommendation.
- 4.7.15. The Proper Officer will inform each Cabinet member of:
 - 4.7.15.1. the name of the person recommended for appointment; and
 - 4.7.15.2. any other particulars relevant to the appointment (such as references, prior appointments etc); and
 - 4.7.15.3. the period within which any objection to the making of the offer is to be notified to the Proper Officer by the Leader on behalf of the Cabinet¹²⁹.
- 4.7.16. No offer of employment can be made¹³⁰ until one of the following occurs:
 - 4.7.16.1. The Leader has notified the Proper Officer that no member of the Cabinet has objected to the proposed offer of appointment; or
 - 4.7.16.2. the Proper Officer has confirmed no objection was received from the Leader within the specified period; or
 - 4.7.16.3. the appointing body is satisfied that any objection to the proposed appointment which has been received from the Leader within the specified period is not material and / or is not well-founded or does not outweigh the other factors taken into consideration by the COAP¹³¹.
- 4.7.17. Full Council must approve any salary package, as defined in the Council's Pay Policy Statement, of £100,000 per annum or more before it is offered in respect of a new appointment.

Other Appointments

¹²⁹ The standard period will be 3 working days, but may be shortened by the Chairman of the COAP where necessary for the proper discharge of the Authority's functions, subject to a minimum period of 24 hours.

¹³⁰ By the Full Council in respect of the Head of Paid Service or the COAP in respect of all other statutory chief officers and chief officers

¹³¹ Council (for Head of Paid Service) or COAP (for all other chief officers) will determine in each case whether an objection is material and/or well-founded, having regard to the relevance of any such objection to the suitability of the particular candidate for that particular role, not being matters which relate to a protected characteristic under s.4 of the Equality Act 2010. The terms "material" and "well-founded" shall bear their normal dictionary meanings.

- 4.7.18. Appointment of officers below Statutory Chief Officers and Chief Officers is the responsibility of the Head of Paid Service or their nominee, usually the relevant Chief Officer. The appointing officer must undertake training in recruitment and selection prior to making any appointments and apply the **Recruitment and Selection Policy of the Council**. They may consult members on such appointments, but are not required to do so.

Disciplinary Action

Statutory Chief Officers

- 4.7.19. Disciplinary matters involving Statutory Chief Officers will be determined by the **Investigating and Disciplinary Committee ("IDC")**, which membership shall include at least one Cabinet Member.
- 4.7.20. Part Three of the **Joint Negotiating Committee for Local Authority Chief Executives - Constitution, Conditions of Service and Salaries (8 August 2017)**, or its replacement, will be applied where disciplinary action is contemplated against a Statutory Chief Officer. Where these Rules conflict with that document, the document shall prevail.
- 4.7.21. Disciplinary action in respect of a Statutory Chief Officer will comply with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, or other legislative requirements or guidance in force at the relevant time¹³².
- 4.7.22. Statutory Chief Officers may be suspended without prejudice whilst an investigation takes place into alleged misconduct¹³³.
- 4.7.23. Subject to the provisions set out at paragraph 4.7.26, following a disciplinary investigation and hearing, the IDC may take disciplinary action short of dismissal against a Statutory Chief Officer.
- 4.7.24. Once the IDC identifies a disciplinary sanction, it must inform the Proper Officer of the recommendation.
- 4.7.25. The Proper Officer will inform each Cabinet member of:
- 4.7.25.1. the name of the person to be sanctioned; and
 - 4.7.25.2. any other particulars relevant to the sanction; and
 - 4.7.25.3. the period within which any objection to the issuing of the sanction is to be notified to the Proper Officer by the Leader on behalf of the Cabinet .

¹³² These regulations set out, amongst other things, the requirements for independent persons to be involved in the disciplinary process of Statutory Chief Officers.

¹³³ Any suspension should be regularly reviewed

- 4.7.26. If, following a disciplinary investigation and hearing, the IDC proposes dismissal of the Statutory Chief Officer, this proposal must be considered by the **Statutory Disciplinary Committee** before being presented to Council for consideration. The Statutory Disciplinary Committee must include two Independent Persons.
- 4.7.27. The IDC's recommendation of a disciplinary action will not be confirmed¹³⁴ until one of the following is satisfied:
- 4.7.27.1. The Leader of Council has notified the Proper Officer within the specified timescale that neither they nor any Cabinet member objects to the disciplinary sanction; or
 - 4.7.27.2. The Proper Officer has notified the IDC that they have received no objection to the sanction from the Leader of Council within that timescale; or
 - 4.7.27.3. The IDC is satisfied that any objection received from the Leader of Council within the specified timescale is not material or well founded.
- 4.7.28. If the Statutory Disciplinary Committee confirms the IDC recommendation for dismissal, the matter shall be referred to Council for determination. The meeting of Council to consider that recommendation shall be fixed on a date not less than 20 working days after the Statutory Disciplinary Committee confirmation that dismissal may be an appropriate sanction. Council must take into account:
- 4.7.28.1. the recommendations of the IDC;
 - 4.7.28.2. any advice, views or recommendation of the Statutory Disciplinary Committee;
 - 4.7.28.3. the conclusions of any investigation into the proposed dismissal; and
 - 4.7.28.4. any representations from the relevant Statutory Chief Officer before the taking of a vote at the meeting on whether or not to approve such a dismissal.
- 4.7.29. Any remuneration, allowances or fees paid by the Council to an independent person must not exceed the level of remuneration, allowances or fees payable to independent persons in under the Localism Act 2011¹³⁵ as reflected in the co-optee allowance set out in the **Members Allowance Scheme** at Part 7 of this Constitution.
- 4.7.30. No dismissal of the Statutory Chief Officers shall take place other than in accordance with a procedure that is compliant with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended or other legislative requirements or guidance in force at the relevant time. Council must approve the

¹³⁴ By Council in the event of dismissal, or the IDC in the event of a disciplinary sanction short of dismissal

¹³⁵ Section 28(8)(d) of the Localism Act 2011

dismissal of a Statutory Chief Officer before notice of dismissal is given to that Officer.

Other Staff

- 4.7.31. Disciplinary action against, or the dismissal of, a member of staff below the level of a Statutory Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service, or an Officer nominated by them.
- 4.7.32. Councillors will not be involved in disciplinary action against, or the dismissal of, any Officer below deputy chief officer, except:
 - 4.7.32.1. where such involvement is necessary for any investigation or inquiry into alleged misconduct; and
 - 4.7.32.2. where serving as a member of any committee or sub-committee established to consider an appeal through the Council's disciplinary, capability and related procedures as adopted from time to time.

Posts Shared with Other Local Authorities

- 4.7.33. Where Council has approved sharing a post of Statutory Chief Officer, Chief Officer, Deputy Chief Officer or Head of Service with one or more other local authorities, the appointment and dismissal of, or the taking of disciplinary action against, the Officer will be undertaken in accordance with the procedural rules of the employing authority, or otherwise as may be agreed between the authorities. The Council will seek the opportunity to be represented proportionately at each stage of the process as if the action were being undertaken under these Rules.
- 4.7.34. Paragraph 4.7.35 does not prevent the Council agreeing in any particular case to any of the actions being undertaken by a joint committee, a sub-committee of that committee or a committee or sub-committee, or an officer of any of the authorities.

Temporary and Interim Appointments

- 4.7.35. If the Head of Paid Service decides to make a temporary appointment otherwise than through an employment agency, and the term of the proposed appointment is longer than six months, then the process will be in accordance with these Rules. If the proposed term is six months or shorter, then the Head of Paid Service will make the appointment.
- 4.7.36. If the Head of Paid Service decides to make an interim appointment through an employment agency they will consult the Leader, the relevant Cabinet members and the Leader of the largest minority group, before making an appointment.
- 4.7.37. If the vacant post is that of the Head of Paid Service the full Council will decide how it wishes to proceed.



PART 5: Codes and Protocols

Contents	Page
Section 5.1	Councillor Code of Conduct
	Backgrounds
	Definitions
	Purpose of the Code of Conduct
	General Principles of Councillor Code of Conduct
	Application of the Code of Conduct
	The Code of Conduct
Appendix A	Interests
Appendix B	Registerable Interests
Appendix C	The Committee on Standards in Public Life

5.1 Councillor Code of Conduct

Background

- 5.1.1 This section sets out general interpretation and background to the Code of Conduct, including definitions used within the code, the purpose of the code, the principles the code is based on and when the code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.
- 5.1.2 All local authorities are required to have a local Councillor Code of Conduct. The Local Government Organisation (LGA) published a model code of conduct for local authorities in December 2020¹³⁶, which this Code of Conduct, and associated guidance, is based upon.

Definitions

- 5.1.3 Definitions relevant to this code of conduct can be found in the glossary of terms included in Part 1 of the Council's constitution. However, the definitions for the following terms are repeated for the convenience¹³⁷:

"close associate" a person the councillor is in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think the councillor would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a relative, a friend, a colleague, a business associate or

¹³⁶ [Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#)

¹³⁷ Local councils (i.e. Parish and town councils) may choose to adopt this code; persons wishing to make a complaint will need to understand the definitions.

someone whom the councillor knows through general social contacts.

“co-opted member” defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

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

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

“councillor” a person elected to represent a local authority;

“local authority” includes a district council but excludes parish and town councils as set out in section 43 of the Localism Act 2011;

“local council” parish and town councils

“meeting” any meeting of the Council, the executive of the Council and any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

“member” includes a councillor, a co-opted member and an appointed member.

“Monitoring Officer” the officer appointed by Harborough District Council to discharge the functions set out in the Local Government and Housing Act 1989.

Purpose of the Code of Conduct

5.1.4 The purpose of this Code of Conduct is to assist councillors to model the behaviour that is expected of them and to set out the type of conduct that could lead to action being taken against them. It is also to protect councillors, the public, officers and the reputation of the council and local government. It sets out general principles of conduct expected of all councillors and 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 councillors and local government.

General Principles Of Councillor Conduct

5.1.5 Everyone in public office at all levels, i.e. all who serve the public or deliver public services, including ministers, civil servants, councillors and council officers,

should uphold the Seven Principles of Public Life, also known as the Nolan Principles, set out below:

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.

- 5.1.6 Building on these principles, the following general principles have been developed specifically for the role of councillors and these principles underpin the obligations in the Code of Conduct that follows. Councillors should therefore:
- 5.1.6.1 act with integrity and honesty;
 - 5.1.6.2 act lawfully;
 - 5.1.6.3 treat all persons fairly and with respect; and
 - 5.1.6.4 lead by example and act in a way that secures public confidence in the role of a Councillor.
- 5.1.7 A councillor undertaking their role should:
- 5.1.7.1 impartially exercise their responsibilities in the interests of the local community;
 - 5.1.7.2 not improperly seek to confer an advantage, or disadvantage, on any person;
 - 5.1.7.3 avoid conflicts of interest;
 - 5.1.7.4 exercise reasonable care and diligence;
 - 5.1.7.5 ensure that public resources are used prudently in accordance with the council's requirements and in the public interest; and
 - 5.1.7.6 uphold high standards of conduct, show leadership at all times and not misuse your position when acting as a councillor.

Application of the Code of Conduct

- 5.1.8 This Code of Conduct applies to councillors and co-opted members of the council. It applies as soon as the declaration of acceptance of the office of

councillor is signed or the first meeting attended as a co-opted member. It continues to apply to the expiry of the term of office.

- 5.1.9 The Code of Conduct applies when councillors:
 - 5.1.9.1 act in their capacity as a councillor or co-opted member of the council; and
 - 5.1.9.2 conduct the business of the council (which, in this Code, includes the business of the office to which they are elected or appointed).
- 5.1.10 When acting as a representative of the council:
 - 5.1.10.1 on another relevant authority, councillors must, when acting for that other authority, comply with that other authority's code of conduct; or
 - 5.1.10.2 on any other body, councillors must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 5.1.11 The Code applies to all forms of communication and interaction, including:
 - 5.1.11.1 at face-to-face meetings;
 - 5.1.11.2 at online or telephone meetings;
 - 5.1.11.3 in written communication;
 - 5.1.11.4 in verbal communication;
 - 5.1.11.5 in non-verbal communication;
 - 5.1.11.6 in electronic and social media communication, posts, statements and comments;
- 5.1.12 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. Councillors are responsible for complying with the provisions of the Code and ensuring all its obligations are met. Advice can be sought from the Monitoring Officer on any matters that may relate to the Code of Conduct. Local council councillors are encouraged to seek advice from their Clerk in the first instance. The Clerk may refer matters to the Monitoring Officer.

The Code of Conduct

Standards Of Councillor Conduct

- 5.1.13 This section sets out councillor obligations, which are the minimum standards of conduct required of councillors. Should conduct be perceived to fall short of

these standards or the Nolan Principles, a complaint may be made against the councillor concerned, which may result in action being taken.

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

General Conduct

Respect

- 5.1.15 As a councillor:

5.1.15.1 ***I will treat other councillors with respect.***

5.1.15.2 ***I will treat council officers, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.***

- 5.1.16 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. Councillors can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Individuals, groups of people or organisations should not be subject to personal attack.
- 5.1.17 The public should be treated politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.
- 5.1.18 Councillors are entitled, in return, to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening any conversation or interaction in person or online can be stopped. The behaviour can be reported to the Council, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and council officers where concerns should be raised in line with the council's councillor-officer protocol.

Bullying, harassment and discrimination

- 5.1.19 As a councillor:

5.1.19.1 ***I will not bully any person.***

5.1.19.2 ***I will not harass any person.***

5.1.19.3 ***I will promote equalities and do not discriminate unlawfully against any person.***

- 5.1.20 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.

- 5.1.21 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.
- 5.1.22 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 Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

Impartiality of officers of the Council

- 5.1.23 As a councillor:

5.1.23.1 ***I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the council.***

- 5.1.24 Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Officers can be questioned 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 they must not be forced to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and access to information

- 5.1.25 As a councillor:

5.1.25.1 ***I will not disclose information:***

5.1.25.1.1 ***given to me in confidence by anyone;***

5.1.25.1.2 ***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:

- a. reasonable and in the public interest; and**
- b. made in good faith and in compliance with the reasonable requirements of the Council; and**
- c. I have consulted the Council's Monitoring Officer (or the Clerk in respect of Town and Parish Councils) prior to its release.**

5.1.25.2 *I will 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.*

5.1.25.3 *I will not prevent anyone from getting information that they are entitled to by law.*

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

Disrepute

5.1.27 As a councillor:

5.1.27.1 *I will not bring my role or Council into disrepute or conduct myself in a manner which could reasonably be regarded as bringing my role or Council into disrepute.*

5.1.28 Councillors are trusted to make decisions on behalf of their community and their actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Councillors should be aware that their actions might have an adverse impact on themselves, other councillors and / or the Council and may lower the public's confidence in them or the Council's ability to discharge its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

5.1.29 Councillors can hold the Council and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes

undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

Use of position

5.1.30 As a councillor:

5.1.30.1 *I will not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.*

5.1.30.2 *I will not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.*

5.1.31 Being a councillor for the Council provides certain opportunities, responsibilities and privileges, and councillors make choices all the time that will impact others. However, they should not take advantage of these opportunities to further their own or others' private interests or to disadvantage anyone unfairly.

5.1.32 Councillors need to be able to act impartially in the exercise of their responsibilities and ensure they make decisions in the interests of the local community. Councillors should therefore avoid any financial or other obligations to outside individuals or organisations whose influence may prevent them from acting impartially.

Use of Council resources and facilities

5.1.33 As a councillor:

5.1.33.1 *I will not misuse council resources.*

5.1.33.2 *I will, when using the resources of the Council or authorising their use by others:*

(i) *act in accordance with the Council's requirements; and*

(ii) *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 Council or of the office to which I have been elected or appointed.*

5.1.34 The Council may provide resources and facilities to assist councillors in carrying out their duties as a councillor. Examples include:

- office support
- stationery
- equipment such as phones, iPads, dongles, computers etc.

- transport
- access and use of council buildings and rooms.

5.1.35 These are provided to help carry out the role of 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 council's own policies regarding their use.

Making decisions

5.1.36 As a councillor:

5.1.36.1 ***When reaching decisions on any matter I will have regard to any relevant advice provided to me by officers and professional third parties.***

5.1.36.2 ***I will give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed;***

5.1.36.3 ***I will make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit;***

5.1.36.4 ***I will be as open as possible about my decisions and actions and the decisions and actions of the authority and will be prepared to give reasons for those decisions and actions, notwithstanding my other obligations under this Code.***

5.1.37 To assist councillors in acting lawfully, officers may give advice from time to time. It is important that councillors have due regard to any such advice given and consider it fully, even if (for good reason) they may choose not to follow that advice.

5.1.38 In making any decisions, giving reasons helps instil public confidence in the role of the councillor and can be a legal requirement in certain situations. Councillors should ensure that they always give reasons in accordance with any specific requirements and having regard to the benefits of transparency generally.

5.1.39 Councillors must act impartially and not improperly seek to confer an advantage, or disadvantage, on any person. It is therefore important that when making decisions that involve choosing one party over another, councillors do so based

on independent merit. Councillors should be open and transparent about the decisions that are made and the actions of the authority.

Complying with the Code of Conduct

5.1.40 As a Councillor:

5.1.40.1 *I will undertake Code of Conduct training provided by my Council.*

5.1.40.2 *I will cooperate with any Code of Conduct investigation and / or determination.*

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

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

5.1.41 It is extremely important that councillors demonstrate high standards, for their actions to be open to scrutiny and for them not to undermine public trust in the Council or its governance. If councillors do not understand or are concerned about the council's processes in handling a complaint they should raise this with the Monitoring Officer.

Protecting Your Reputation and The Reputation Of The Council

5.1.42 As a councillor:

5.1.42.1 *I will register and disclose my interests in accordance with the provisions set out in Appendix A.*

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

5.1.44 Councillors need to register their interests so that the public, Council employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects councillors by allowing them to demonstrate openness and a willingness to be held accountable. Councillors are personally responsible for deciding whether or not to disclose an interest in a meeting, but it can be helpful for them 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 them 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.

- 5.1.45 Failure to register or disclose a disclosable pecuniary interest as defined in Appendix A, is a criminal offence under the Localism Act 2011.
- 5.1.46 The provisions of paragraphs 5.1.43 to 5.1.46 shall be applied in such a manner as to recognise that this Code of Conduct should not obstruct a councillor's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision-making at one local authority will not by itself normally prevent councillors from taking part in discussion and decision-making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a councillor's judgement of the public interest and will only regard a matter as giving rise to an interest which might lead to bias in exceptional circumstances.
- 5.1.47 Appendix A sets out the detailed provisions on registering and disclosing interests. If in doubt, advice can be sought from the Monitoring Officer, or from the clerk in the case of town and parish councils.

Gifts and hospitality

- 5.1.48 As a councillor:
- 5.1.48.1 ***I will 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 Council or from persons who may apply to the Council for any permission, licence or other significant advantage.***
 - 5.1.48.2 ***I will register with the Monitoring Officer (or the Clerk in respect of Town and Parish Councils) any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.***
 - 5.1.48.3 ***I will register with the Monitoring Officer (or the Clerk in respect of Town and Parish Councils) any significant gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.***
- 5.1.49 In order to protect their position and the reputation of the Council, councillors should exercise caution in accepting any gifts or hospitality which are (or which they reasonably believe to be) offered because they 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 it could be accepted it but must be publicly registered. However, councillors do not need to register gifts and hospitality which are not related to their role as a councillor, such as Christmas gifts from friends and

family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with the duties of a councillor. If councillors are unsure, the Monitoring Officer or Clerk can be contacted for guidance.

Dispensations

5.1.50 As a councillor:

- 5.1.50.1 **I may request a dispensation from the Monitoring Officer (or the Clerk in respect of Town and Parish Councils) for one meeting only.**
- 5.1.50.2 **I must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.**
- 5.1.50.3 **I must make my request 5 days prior to the meeting at which the Dispensation is required.**
- 5.1.50.4 **If I wish to make a further request for dispensation, this must be made to the Audit and Standards Committee.**
- 5.1.50.5 **I will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.**

5.1.51 Appendix A sets out the situations where a Councillor's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Councillor to participate in decision-making on that matter where it would be in the public interest to do so. Where councillors consider that there may be good grounds for them to continue to participate they should request a dispensation from the Monitoring Officer.

Appendix A – Interests

Definitions

“**Disclosable Pecuniary Interest**” means a registerable interest of a councillor or their partner (if they are aware of their partner’s interest) as set out in the table below¹³⁸:

Table 1: Disclosable Pecuniary Interests

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

¹³⁸ Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

	were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge) the landlord is the Council and the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses / civil partners is a partner of or a director of or has a beneficial interest in the securities of.
Securities	Any beneficial interest in securities of a body where that body (to the councillor's knowledge) has a place of business or land in the area of the council; and either – (a) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses / civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

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

"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.

"Other Registerable Interest" is a personal interest in any business of your authority which relates to or is likely to affect:

- a. any body of which you are in general control or management and to which you are nominated or appointed by your authority; or

b. any body:

- i. exercising functions of a public nature; or
- ii. any body directed to charitable purposes or
- iii. any unpaid directorships or
- iv. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

“Registrable Interests” are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

“Non-Registrable Interests” are interests that you are not required to register but need to be disclosed in accordance with paragraphs 5.1.59 to 5.1.61.

A **“Dispensation”** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at paragraph 5.1.50 of the Code of the Conduct and this Appendix A.

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.

A matter **“directly relates”** to one of your interests where the matter is directly about that interest. For example the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter **“affects”** your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

Registering Interests

- 5.1.52 Within 28 days of becoming a councillor or co-opted member or your re-election or re-appointment to office you must register with the Monitoring Officer any Disclosable Pecuniary Interests (Table 1) and any Other Registerable Interests.
- 5.1.53 Where you have a Sensitive Interest you must tell the Monitoring Officer why you believe it is a Sensitive Interest. If the Monitoring Officer agrees to withhold the interest from the public register, when the Code of Conduct requires to you to disclose an interest, you do not have to disclose the nature of the sensitive interest, but just that you have an interest.
- 5.1.54 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.

Declaration at, and Participation in, Meetings

- 5.1.55 If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).
- 5.1.56 To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

Disclosable Pecuniary Interests

- 5.1.57 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1:
- 5.1.57.1 you must disclose the interest; and
 - 5.1.57.2 not participate in any discussion or vote on the matter; and
 - 5.1.57.3 must not remain in the room
- unless you have been granted a Dispensation. If the interest has been approved by the Monitoring Officer as a Sensitive Interest, you do not need to disclose the nature of the interest.

Other Registerable Interests

- 5.1.58 Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests you:
- 5.1.58.1 must disclose the interest;
 - 5.1.58.2 may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
 - 5.1.58.3 must not remain in the room
- unless you have been granted a Dispensation. If the interest has been approved by the Monitoring Officer as a Sensitive Interest, you do not need to disclose the nature of the interest.

Non-Registerable Interests

- 5.1.59 Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you:
- 5.1.59.1 must disclose the interest;
 - 5.1.59.2 may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and

5.1.59.3 must not remain in the room

unless you have been granted a Dispensation. If the interest has been approved by the Monitoring Officer as a Sensitive Interest, you do not need to disclose the nature of the interest.

5.1.60 Where a matter arises at a meeting which affects:

5.1.60.1 your own financial interest or well-being;

5.1.60.2 a financial interest or well-being of a relative or close associate; or

5.1.60.3 a financial interest or wellbeing of a body included as an Other Registerable Interests

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

5.1.61 Where a matter under paragraph 5.1.60 affects the financial interest or well-being or body:

5.1.61.1 to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and

5.1.61.2 a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may:

5.1.61.3 speak on the matter only if members of the public are also allowed to speak at the meeting;

5.1.61.4 not take part in any discussion or vote on the matter; and

5.1.61.5 not remain in the room

unless you have been granted a Dispensation. If the interest has been approved by the Monitoring Officer as a Sensitive Interest, you do not need to disclose the nature of the interest.

5.1.62 Where a matter under paragraph 5.1.60 does not affect the financial interest or well-being or body:

5.1.62.1 to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or

5.1.62.2 a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest;

you may

5.1.62.3 remain in the room;

5.1.62.4 speak if you wish to; and

5.1.62.5 take part in any discussion or vote on the matter

provided you have disclosed your interest under paragraph 5.1.60.

- 5.1.63 Decision trees are provided at Appendix B to assist councillors in identifying interests and what the disclosure requirements are for them. However, any councillor who is uncertain as to any of the following:

5.1.63.1 whether they have an interest;

5.1.63.2 what type of interest they have;

5.1.63.3 what needs to be registered on their declaration of interest form;

5.1.63.4 when an interest should be disclosed in a meeting

should consult with the Monitoring Officer at the earliest possible opportunity and presume an interest is declarable unless informed otherwise.

Single-Councillor-Decision-Making

- 5.1.64 In the event that you are making a decision as a single councillor the following section applies in relation to any interests you may have. For the avoidance of doubt, local councils do not operate single-councillor decision-making and this section does not apply to them.

- 5.1.65 Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single member decision making) and the interest is a:

5.1.65.1 registrable Interest; or

5.1.65.2 non-registrable Interest that falls under paragraph 5.1.59 to 5.1.61 above;

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.

- 5.1.66 Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single member decision-making) and the interest is a Non-Registrable Interest under paragraph 5.1.60, you must make sure that any written statement of that decision records the existence and nature of your interest.

Appendix B

Figure 1: Registerable Interests

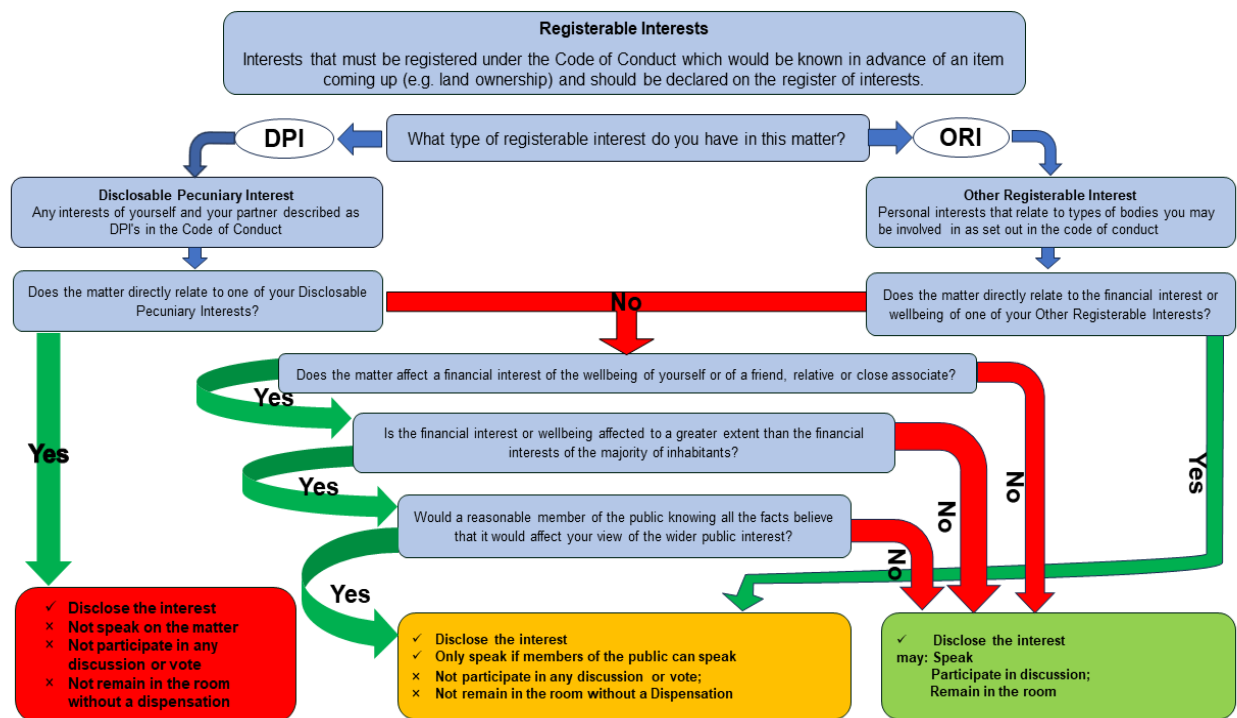
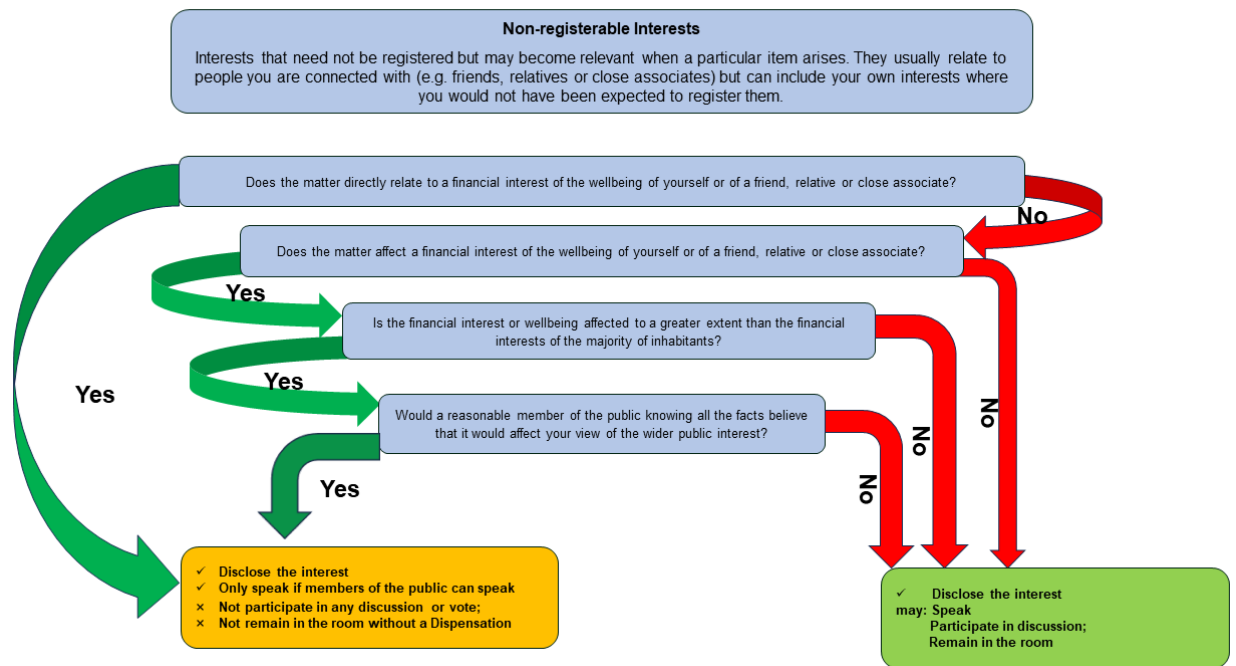


Figure 2: Non-registerable Interests



Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring members to comply with any formal standards investigation and prohibiting trivial or malicious allegations by members.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both members and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without

merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish member towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.



5.2 Employee Code of Conduct

Contents

Page

Standards	309
Disclosure of Information	309
Political Neutrality	309
Relationships: Councillors	309
Contractors	310
The Local Community and Service Users	310
Appointment and Other Employment Matters	310
Outside Commitments	310
Personal Interests	311
Equality Issues	311
Separation of roles during tendering	311
Corruption	311
Use of financial resources	312
Hospitality	312
Sponsorship- Giving and Receiving	312

Standards

- 5.2.1 Local government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

Disclosure of information

- 5.2.2 It is generally accepted that open government is best. The law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Employees must be aware of which information their authority is and is not open about, and act accordingly.
- 5.2.3 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

Political neutrality

- 5.2.4 Employees serve the authority as a whole. It follows they must serve all Councillors, not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- 5.2.5 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 5.2.6 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 5.2.7 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 5.2.4 to 5.2.6.

Relationships

Councillors

- 5.2.8 Employees are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship, and prove embarrassing to other employees and Councillors and should, therefore, be avoided. Employees must abide by the Councillor and Employee Protocol.

The Local Community and Service Users

- 5.2.9 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

Contractors

- 5.2.10 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.
- 5.2.11 Employees who engage or supervise contractors, or have any other official relationship with contractors, and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

Appointment and other employment matters

- 5.2.12 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with them.
- 5.2.13 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

Outside commitments

- 5.2.14 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations, and should not take outside employment which conflict with the authority's interests.

- 5.2.15 Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

Personal interests

- 5.2.16 Employees must declare to an appropriate manager any non-financial interests that they consider could bring about conflict with the authority's interests.
- 5.2.17 Employees must declare to an appropriate manager any financial interest which could conflict with the authority's interests.
- 5.2.18 Employees should declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment of allegiance, and which has secrecy about rules or membership or conduct.

Equality issues

- 5.2.19 All local government employees should ensure that all policies relating to equality issues, as agreed by the authority, are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

Separation of roles during tendering

- 5.2.20 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees, who have both a client and contractor responsibility, must be aware of the need for accountability and openness.
- 5.2.21 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 5.2.22 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 5.2.23 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager, and withdraw from the contract awarding process.
- 5.2.24 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

Corruption

- 5.2.25 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing,

anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made, it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Use of financial resources

- 5.2.26 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

Hospitality

- 5.2.27 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community, or where the authority should be seen to be represented. They should be properly authorised and recorded.
- 5.2.28 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
- 5.2.29 Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc.
- 5.2.30 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
- 5.2.31 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

Sponsorship - giving and receiving

- 5.2.32 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 5.2.33 Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or

other means, gives support in the community, employees should ensure that impartial advice is given, and that there is no conflict of interest involved.



Part 5, Section 3:

Councillor and Employee Relations Protocol

Contents	Page
Introduction	315
Roles	315
Expectations	316
Respect	318
Information	319
Communication	322
Political Activity	325
Councillors with Special Responsibilities	327
The Council as an Employer	328
Public relations and press releases	328
Expectations of those involved with Regulatory Committees	329
Planning (Good Practice Protocol)	333

Introduction

- 5.3.1 The purpose of this Protocol is to provide guidance on some of the issues which most commonly arise in relationships between councillors and employees. It is not prescriptive and may not cover all situations. It applies to both councillors and employees of the council and promotes greater clarity and certainty on the behaviour expected between them by providing a framework for the working relationships. The Protocol may be taken into account if there is a complaint about a councillor or an employee.
- 5.3.2 Councillors must observe the **Councillors' Code of Conduct**. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer.
- 5.3.3 Employees must comply with the **Employee Code of Conduct**. Any complaint received about the behaviour or conduct of an employee will be considered by the relevant manager.

Roles

- 5.3.4 Councillors and employees serve the public and are indispensable to one another but their roles, while complementary, are different:

- **Figure 3: Councillor and Employee Roles**

Councillors	Employees
<ul style="list-style-type: none">• Responsible to the electorate;	<ul style="list-style-type: none">• Accountable to the Chief Executive;
<ul style="list-style-type: none">• Office holders and community leaders;	<ul style="list-style-type: none">• Responsible to the Council as a whole and employed by it;
<ul style="list-style-type: none">• May belong to a political party and pursue political objectives when exercising judgement;	<ul style="list-style-type: none">• Politically neutral;•
<ul style="list-style-type: none">• Serve only so long as their term of office lasts.	<ul style="list-style-type: none">• Responsible to the Council as a whole and employed by it;
<ul style="list-style-type: none">• Express political values and support the policies of the party or group to which they belong (if any).	<ul style="list-style-type: none">• Initiate, develop and implement policy to the best of their ability;
<ul style="list-style-type: none">• Represent their district and electoral ward and are advocates for the citizens who live in the area.	<ul style="list-style-type: none">• Manage and provide the services for which they are responsible, being accountable for the efficiency and effectiveness of those services.
<ul style="list-style-type: none">• Are involved in active partnerships with other organisations;	<ul style="list-style-type: none">• Ensure that the council always acts lawfully.

<ul style="list-style-type: none"> • Help initiate, develop and monitor policy, strategy and service quality; 	<ul style="list-style-type: none"> • Provide impartial technical and professional advice to the council and councillors (individually and collectively) about the services provided by the council;
<ul style="list-style-type: none"> • Are involved in quasi-judicial work through their membership of regulatory committees. 	<ul style="list-style-type: none"> •

5.3.5 Statutory Chief Officers¹³⁹ and other Statutory Officers have specific responsibilities placed on them by law (see further Article 9 of this constitution). These responsibilities go beyond their obligations as employees of the Council. When the officers are discharging their responsibilities as a statutory officer councillors must not:

5.3.5.1 improperly interfere with or obstruct the Officer in exercising those responsibilities; or

5.3.5.2 victimise any Officer who is discharging or has discharged their Statutory Officer responsibilities.

Expectations

5.3.6 Mutual respect, trust and courtesy between councillors and employees are essential to good local government and its reputation. The primary role of employees is to advise, inform and support all councillors and to implement the lawfully agreed policies of the Council by undertaking day to day managerial and operational activity within the Council. Councillors can expect from employees:

5.3.6.1 a commitment to the council, not its political groups;

5.3.6.2 an impartial, constructive and professional working partnership;

5.3.6.3 professional advice, not influenced by political views or preference;

5.3.6.4 up to date information on matters appropriate to the needs of the councillor and reasonable given the councillor's individual responsibilities and position;

5.3.6.5 honesty, respect, dignity and courtesy at all times;

5.3.6.6 awareness of, and sensitivity to, the political environment;

5.3.6.7 training and development to perform their roles effectively;

5.3.6.8 timely responses to enquiries and complaints;

¹³⁹ i.e. the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer

- 5.3.6.9 not to have personal issues raised with them by employees outside the agreed employment policies and procedures;
 - 5.3.6.10 understanding of, and mutual respect for, their respective roles, workloads and pressures;
 - 5.3.6.11 not to be supported in any role other than that of a councillor or to be engaged in actions incompatible with this Councillor Employee Relations Protocol.
- 5.3.7 The primary role of councillors is to represent the electorate of the district. The Councillor Code of Conduct (see further Part 5.1 of this Constitution) requires councillors to treat others with respect and not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council. Employees can therefore expect from councillors:
- 5.3.7.1 a constructive working partnership;
 - 5.3.7.2 not to be subject to bullying, harassment or intimidation; councillors should have regard to the seniority and experience of employees in determining what constitutes a reasonable request, particularly councillors with special responsibilities;
 - 5.3.7.3 political policy direction and leadership;
 - 5.3.7.4 use of self-service information tools (e.g. Pentana, Microsoft Teams channels) to obtain information, with contact with employees being as a last resort and through the member.enquiries@harborough.gov.uk email address rather than personal employee email addresses or telephone numbers;
 - 5.3.7.5 honesty, respect and courtesy at all times;
 - 5.3.7.6 discussions of a strategic, political or sensitive nature to be restricted to chief officers and operational matters to be raised through the member.enquiries@harborough.gov.uk email address unless time critical;
 - 5.3.7.7 no pressure to work outside normal hours or to do anything which they are not allowed to do or is not part of their normal work;
 - 5.3.7.8 not to have personal issues raised with them by councillors outside the agreed procedures to advance their own interests or improperly influence decisions;
 - 5.3.7.9 understanding of respective roles, workloads and pressures, with any concerns being raised directly with management rather than in meetings, in public or to the media;
 - 5.3.7.10 not to be asked to undertake work, or act in a way which supports or benefits a particular political party or gives rise to an employee being criticised for operating in a party political manner

5.3.7.11 not to be asked to exceed the authority given to them in law, by the Council or by their manager.

5.3.8 The different roles of councillors and employees mean that some behaviours must be limited. Given the variety and complexity of relations, this Protocol is neither prescriptive or comprehensive but expects that, for example:

5.3.8.1 personal relationships between employees , and those employed as consultants, and Councillors are avoided. Where they do exist the employee concerned must notify their manager and the councillor should inform their Leader as such relationships can:

5.3.8.1.1 confuse the separate roles;

5.3.8.1.2 get in the way of the proper discharge of the Council's functions;

5.3.8.1.3 cause embarrassment.

5.3.8.2 overly familiar relationships with individuals or party groups are avoided as such relationships can create suspicion that an individual or group is favoured above others.

5.3.9 This Protocol reflects the principles underlying the respective codes of conduct which apply to Councillors and employees. The common goal of the codes is to enhance and maintain the integrity (real and perceived) of local government through high standards of personal conduct.

Respect

5.3.10 It is important that Councillors and employees observe reasonable standards of courtesy, and that neither should try to take unfair advantage of their position.

5.3.11 Councillors and employees should show each other politeness and respect, particularly when challenging reports, actions or opinions. Any criticism should be fair and constructive.

5.3.12 Employees should not publicly criticise council decisions, even if they don't agree with the decision – personal opinions should be avoided in their professional role.

5.3.13 Councillors should not raise matters relating to the conduct or capability of council employees at meetings held in public as employees have no means of responding to criticisms like this in public.

Complaints about councillors or employees

5.3.14 If a Councillor feels they have not been treated with politeness and respect, or has concerns about the conduct or capability of an employee, they should consider raising this with the employee directly in the first instance. If this does not resolve the concern, or the Councillor feels unable to approach the employee directly, the concern should be raised with the relevant chief officer or deputy

chief officer promptly so they can explore the concern and address it as appropriate. If this is addressed through disciplinary procedures, the Councillor will not be told of the outcome in accordance with the council's data protection obligations.

- 5.3.15 An employee who feels they have not been treated with politeness and respect, or is concerned about any action or statement relating to them or a colleague, by a Councillor, should initially raise their concerns with the councillor directly. If they are unable to do this, or the concern is not resolved, the concern should be raised with their chief officer or deputy chief officer promptly. The chief / deputy chief officer will explore the concern with the councillor and or political group leader, liaising with other senior officers as necessary. The officer will be informed of the outcome where appropriate. Officers may also make a complaint of their own volition that the Councillor has breached the Councillor Code of Conduct of (outside of this protocol).
- 5.3.16 Notwithstanding paragraphs 5.3.14 and 5.3.15, alternative resolution of complaints or concerns may be recommended or achieved as agreed between the employee and Councillor, including but not limited to a personal explanation, training, mediation and or an apology. No party can be forced to engage in such alternative resolution of complaints however.
- 5.3.17 Further consideration may not be given in relation to a complaint if one or more of the following apply:
- 5.3.17.1 persistent or multiple complaints have been received which appear to be, for example, vexatious, malicious, politically motivated, relatively minor, insufficiently serious or tit-for-tat;
 - 5.3.17.2 similar or the same complaints have already been raised and addressed and there is nothing more to be gained by further action being taken;
 - 5.3.17.3 the complaint concerns or is really about dissatisfaction with a Council decision or advice;
 - 5.3.17.4 there is not enough information to justify further investigation;
 - 5.3.17.5 the complaint is anonymous;
 - 5.3.17.6 the matter complained of took place more than 3 months before the complaint is received.

Information

Agendas and reports

- 5.3.18 The Leader will be consulted on agendas for the Cabinet. Committee chairmen will be consulted on agendas for their committees. Instructions for reports to come to Cabinet or committees can only come from the Leader, Cabinet, a Cabinet member in respect of the Cabinet and a committee or a committee

chairman in respect of Committees. Cabinet members may ask for reports to come to their Cabinet member meetings.

- 5.3.19 Whilst Cabinet members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an officer may be under a professional duty to submit a report. In any event, officers are entitled to make whatever recommendation in a report that they may decide in the exercise of their professional judgement.
- 5.3.20 Senior employees will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Councillor and a senior employee in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 5.3.21 Decision makers are not bound by the recommendations of officers provided that the relevant meeting procedure rules¹⁴⁰ are complied with.

Written information

- 5.3.22 The framework by which councillors access information and documentation held by the Council is set out within the [Access to Information Rules](#) in Part 4 of the Constitution. Councillors will be provided with adequate information about services or functions on which they may be called upon to make decisions, or to scrutinise the decisions of others, or which affect their constituents. This information will be made routinely available by officers in the form of reports, Councillor briefing notes, departmental plans etc. Councillors are encouraged to make use of existing sources of information wherever possible (i.e. intranet, Pentana, intranet, website etc).
- 5.3.23 Written information regarding the implications of current council policies or containing statistical information about council services may be copied to the relevant Cabinet member when provided to a Councillor.

Councillor enquiries

- 5.3.24 Councillors should submit all requests for information and enquiries through the member.enquiries@harborough.gov.uk email address.
- 5.3.25 Officers should answer Councillors enquiries, in whatever form, if possible within five working days. If that is not possible, they should send a holding reply. Where a chief / deputy chief officer considers that the enquiry received is inappropriate, the Councillor will be advised of this and the reason why the enquiry is

¹⁴⁰ Executive Procedure Rules for Cabinet and Cabinet Sub-Committee decisions, Council Procedure Rules for Council and Committee decisions

considered to be inappropriate. Councillors should contact a more senior employee in the event that a response is not received within 5 working days or the enquiry is deemed inappropriate.

- 5.3.26 The Chief Executive may, as a last resort, be asked to intervene in relation to any unanswered enquiries once all other avenues have been exhausted.
- 5.3.27 Councillors have statutory rights to inspect any council document which contains material relating to business to be transacted at a Council, committee or sub-committee meeting. This right exists regardless of whether the Councillor is a member of that committee. It extends to all background papers but does not apply to documents which are exempt from disclosure such as information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations etc. Further details are contained within the Access to Information Rules at Part 4 of this constitution.
- 5.3.28 Councillors also have a common law right to inspect council documents if it is necessary to enable them to properly perform their duties as a member of the Council (“the need to know” principle). Councillors should be prepared to demonstrate why they require access to information under the need to know principle. There is no right to a “roving commission” to examine council documents and mere curiosity will not amount to a need to know. The determination of the “need to know” will lie with the Chief Officer who holds the document in question once they have sought advice from the Monitoring Officer.
- 5.3.29 Although Councillors are not precluded from accessing information under the provisions of the Freedom of Information Act 2000 (FOI) if they are unable to demonstrate a “need to know”, employees are encouraged to supply documents to councillors without the need for a formal FOI request if the information would be disclosable under the FOI regime. The council’s information officer and Monitoring Officer should be consulted about any such request.
- 5.3.30 A councillor making a request for information in their private capacity must make it explicitly clear in the request that they are not acting as a councillor. In that scenario, the councillor will only be entitled to the information available to any private individual. Councillors should only seek, as a councillor, information that they have a need to know to perform their duties.

Casework and Confidentiality

- 5.3.31 Where a Councillor raises a ward casework enquiry via the member.enquiries@harborough.gov.uk email address, employees will assume the individual concerned has consented to the disclosure of personal information to the councillor provided that:
 - 5.3.31.1 the Councillor represents the ward in which the individual lives or has the agreement of the relevant ward member

5.3.31.2 the Councillor makes it clear that they are representing the individual in any request for their personal information to the council; and

5.3.31.3 the information is necessary to respond to the individual's complaint.

5.3.32 In all other cases employees will need the explicit consent of the individual to share personal data with the Councillor.

5.3.33 Personal information about third parties (i.e. individuals who have not sought the Councillor's assistance) may only be shared with a councillor where the law permits.

5.3.34 Council information provided to a Councillor orally, in writing or via a copy document, must only be used by the councillor for the purpose for which it was provided and in connection with the proper performance of the councillor's duties as a member of the Council. Confidential information provided to councillors should not be discussed with, or released to, any other person, except in the limited cases identified in the Councillor Code of Conduct. The [Access to Information Rules at Part 4 of the Constitution](#) set out the circumstances in which confidential or exempt information may become disclosable to the public.

5.3.35 The Council must make it clear to Councillors when they are being given private and or confidential information. If a Councillor is not sure whether information is confidential, they should ask the relevant employee and treat the information as confidential until confirmed otherwise. If a councillor receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so, they must first consult the Monitoring Officer and not disclose the information without having regard to any advice provided.

Access to premises

5.3.36 When making visits to Council premises, other than attending scheduled meetings, Councillors are expected to:

5.3.36.1 notify and make advance arrangements with the appropriate manager or officer in charge; and

5.3.36.2 comply with health and safety, security and other workplace rules; and

5.3.36.3 not disrupt the services or activities being provided at the time of the visit.

5.3.37 Employees will endeavour to accommodate visits by Councillors, subject to service needs, and advise visiting Councillors of any relevant health and safety, security and other workplace rules as appropriate.

Communication

Correspondence

- 5.3.38 Where correspondence is sent to both Councillors and employees, employees will agree a single response with the relevant Councillor to ensure consistency of approach. The letter will be sent in the name of the officer to ensure Councillors do not send letters that create obligations or give instructions on behalf of the Council. However, the Leader or committee chairmen may write some letters, for example representations to government ministers.
- 5.3.39 If emails or letters between employees and Councillors are copied to someone else, they should say so. Blind copies should not be sent.
- 5.3.40 Councillors should assume that any information received from an employee is personal to them and not forward it to any other individual without the consent of the employee.

Advice

- 5.3.41 Employees may need to advise Councillors that a course of action cannot be carried out. Councillors should not assume officers giving such advice are being obstructive - officers are employed to give unbiased professional advice even if it is not what councillors wish to hear. They do this for the protection of Councillors as well as the Council as a whole. However, an officer giving negative advice should also provide suggestions as to how Councillors might achieve some or all of their objectives in other ways.

Briefings

- 5.3.42 Employees will provide briefing sessions open to all Councillors on a regular basis to update them on topical policy and Council business issues. These will usually take place remotely and be cancelled if not required. Councillors are encouraged to attend these briefing sessions, which will be recorded and made available after the event.
- 5.3.43 Cabinet members will, so they can discharge their responsibilities, be briefed by chief / deputy chief officers on service issues, proposals and policy development either on an ad hoc or regular basis, as required.
- 5.3.44 Other political party groups may also have nominated shadow Cabinet members who may request briefings on service issues. At times the amount of information that officers can share may be limited due to issues of confidentiality.
- 5.3.45 The content of informal briefing sessions shall remain confidential as between employees and the political group concerned.
- 5.3.46 Chief and Deputy Chief officers will give briefings on Council, Cabinet and Committee agendas, as well as strategic issues, to the Leader, Deputy Leader and Committee Chairmen as appropriate.

News

- 5.3.47 When an event or development occurs in the district which has or will have a significant impact on the council or residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.
- 5.3.48 In addition to ad hoc news notifications, all councillors will receive regular summaries of communications activity involving the council.

Ward councillors

- 5.3.49 Chief and Deputy Chief officers should ensure information relevant to ward councillors is made available to them on a timely basis, particularly where this is potentially significant or controversial. Examples include but are not limited to:
- 5.3.49.1 matters which have an impact on a local community, including those raised by MPs;
 - 5.3.49.2 road closures, whether planned or unplanned in an emergency (e.g. flooding);
 - 5.3.49.3 removal of infrastructure, temporarily or permanently (e.g. bus stops);
 - 5.3.49.4 public consultation events affecting their ward;
 - 5.3.49.5 proposed changes to services within their ward;
 - 5.3.49.6 applications and proposals in their wards.
- 5.3.50 Information will be considered to be available to councillors if available digitally on platforms such as Pentana, Microsoft Teams, CMIS, the planning portal etc.
- 5.3.51 Ward Councillors should be invited by employees to public events, such as openings, festivals etc, in their wards regardless of political affiliation – this is likely to be via an email or calendar invite.
- 5.3.52 If employees organise a public meeting about a specific ward issue, all Ward Councillors should be invited and given as much notice as possible.
- 5.3.53 Employees undertaking consultation about specific ward issues should consult the Councillors for that ward at the start of the consultation.

Local service information

- 5.3.54 Information regarding local services is contained in the Councillors Handbook, which is provided to all Councillors during induction and at the start of a new municipal year in digital format.
- 5.3.55 Information relating to specific council services is published on a number of platforms for councillors, including but not limited to the website, intranet, Microsoft Teams, Pentana, CMIS etc. Councillors are expected to access these platforms proactively to retrieve service information before contacting officers for information.

- 5.3.56 Any query a Councillor is unable to resolve via the above methods should be raised via the member.enquiries@harborough.gov.uk email address.

Petitions

- 5.3.57 Details of any petitions received by the Council which relate to matters in a particular ward will be sent to the relevant Ward Councillors. Ward Councillors will be kept informed on the progress / outcomes of such petitions, which will be handled in accordance with the Council Procedure Rules at Part 4 of this constitution.
- 5.3.58 Copies of all petitions and outcomes of petitions will also be provided to the Leader of the Council.

Political activity

Support for Councillors and Political Groups

- 5.3.59 Any administrative support provided by the Council to Councillors or political groups must only be used for council business and cannot be used for party political or campaign purposes.
- 5.3.60 Employees will respect the rights of Councillors to have a personal and family life and recognise the demands placed on councillors who are in full-time employment by honouring and respecting, as far as reasonably practicable, the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year.

Group and or political meetings

- 5.3.61 There is statutory recognition of party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups.
- 5.3.62 The Leader of the Council or Leader of any other political group may request a Chief Officer, or other designated employee, to prepare reports on strategic matters relating to the Council for consideration by their group. Such requests must be reasonable and should not seek confidential information in relation, for instance, to casework or personal details of applicants for services. Wherever possible, such requests will be met. However, if officers consider that the cost of providing the information, or the nature of the request is unreasonable or

inappropriate, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups. Requests will only be met where they comply with data protection or other legal requirements.

- 5.3.63 Officer reports to political groups will be limited to a statement of relevant facts, identification of options and the merits and demerits of such options for the council. Reports will not deal with any potential political implications of the matter.
- 5.3.64 The Leader of the Council or the Leader of any other political group may ask a Chief Officer to give or arrange a private briefing for the party group on a matter of relevance to the Council. Any such request shall be made to the relevant Chief Officer or, in their absence, to their deputy or the next appropriate lower tier officer.
- 5.3.65 An employee accepting an invitation to address one political group or individual will not decline an invitation to advise another political group or individual on the same subject. However, they are not obliged to offer to advise another political group on the same subject.
- 5.3.66 Any briefings offered to a party group will also be offered to the other party groups.
- 5.3.67 While employees may attend political group meetings at which individuals who are not elected Councillors may be present, Councillors must note that those employees' ability to share confidential information with the group may be limited as employees will not be able to share information in breach of legal requirements on confidentiality.
- 5.3.68 Decisions at group meetings are not formal decisions of the Council and party groups do not have any delegated authority to make formally binding decisions. The presence of an employee confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- 5.3.69 Employees can only advise on Council business and must not advise on party business. They should not, therefore, be present when party business is discussed, or attend regional and or constituency party political meetings. Any information or advice to a party group meeting in relation to a matter of Council business does not act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.

Any difficulty or uncertainty in respect of employee advice to party groups should be raised with the Chief Executive who will discuss it with the relevant group leader(s).

Councillors with special responsibilities

- 5.3.70 Councillors with additional responsibilities will develop different relationships with employees because of their more frequent contact with them. However, the provisions of this Protocol still apply to those relationships.
- 5.3.71 Except for confidential matters, information given to a Councillor with a special responsibility will, where possible, be shared with the appropriate representatives of each other political group.

Cabinet Members

- 5.3.72 To enable the Leader and Cabinet model of governance to operate effectively, the Leader and Cabinet Members will be provided with substantially more detailed information than non-executive members provided that:
 - 5.3.72.1 information will be shared in respect of any matters which have already been, or may be, discussed by the Council or one of its decision making or advisory bodies;
 - 5.3.72.2 the extent of the information shared, and the method of communication, will be agreed between the Cabinet Member and the relevant Chief and or Deputy Chief Officers;
 - 5.3.72.3 the information is not used by employees or councillors to pre-empt the decision-making processes laid down in this Constitution;

Minority Group Leaders

- 5.3.73 The Leaders of minority political groups can ask Chief and Deputy Chief officers for background information and more details about items coming to the next meeting of a committee or Cabinet. The appropriate Chairman or Cabinet member will be entitled to receive the same information.
- 5.3.74 In respect of budget setting, all group Leaders can ask for advice on presenting their budget in a correct and accurate form. This advice will be given in confidence.

The Chairman of the Council, a Committee or a Sub-Committee

- 5.3.75 A Chairman can ask Chief and Deputy Chief officers for extra background information and advice on matters which have already been, or may be, discussed by the body they chair.
- 5.3.76 If invited to a meeting relevant to their chairing role without Council employees in attendance, those with special responsibility should seek advice from Chief or Deputy Chief officers in advance of attending the meeting.

The Council as an employer

- 5.3.77 The Council as a whole is the legal entity that employs employees. The appointment and dismissal of employees and any disciplinary or grievance proceedings will be carried out in accordance with the Officer Employment Procedure Rules and any other agreed policies and procedures.
- 5.3.78 Employees are accountable to the Chief Executive, and while they should try and assist a Councillor, they must not go beyond the bounds of their authority. Councillors should not put employees in a position of conflict with management.
- 5.3.79 At some meetings, a resolution may be passed which authorises named employees to take action between meetings in consultation with the Chairman or other named Councillors. In such circumstances it is the employees, rather than that Councillor, who takes the action, and it is the employee who is accountable for it.
- 5.3.80 Councillors will respect the rights of employees to have a personal and family life and support the council to comply with its employment law obligations, particularly by honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year and allowing appropriate time for employees to research and prepare reports if exercising their right to direct that an item of business is included on the agenda for a meeting.

Politically restricted posts

- 5.3.81 There are a number of constraints that apply to employees occupying a 'politically restricted' post¹⁴¹. These posts are identified in accordance with advice from HR.

Public relations and press releases

- 5.3.82 The Council's Communications team serves the council as a whole, and operates within the limits of the Local Government Act 1986, which prohibits the Council from publishing material which appears to be designed to affect public support for a political party. In general, councillors will provide comments and views on issues while employees provide factual information.
- 5.3.83 Council press releases are drafted by employees and will often contain quotations from the relevant Councillor, such as the Leader or a Cabinet member, the Chairman of a relevant committee, or the Chairman of the Council. Such

¹⁴¹ Local Government and Housing Act 1989.

press releases are issued on behalf of the Council as appropriate and are unlikely to contain quotes from multiple officers or councillors.

5.3.84 The Council will advise and support Councillors responding to the press or media in the course of their role as a Councillor however, in the event of a conflict between the interests of the Council and the wishes of a councillor, the communications team will always promote the interests of the council. Any councillor providing a quote on council business should not indicate their party-political affiliation and is expected to:

5.3.84.1 comply with the **Code of Recommended Practice on Local Authority Publicity**;

5.3.84.2 not disclose confidential or exempt information to the media;

5.3.84.3 provide to the Communications team a copy of any press release they intend to release (either in advance or no later than the time of release) and or inform them of any proactive publicity they intend to participate in as a Councillor;

5.3.84.4 not request assistance from employees in facilitating any media contact which is intended or likely to criticise the Council, its partners or its policies;

5.3.84.5 when taking part in a ceremonial event, not seek disproportionate personal publicity, or use the occasion for party political advantage bearing in mind that the Councillor represents the council as a whole.

5.3.85 Employees will:

5.3.85.1 help Councillors to explain proposals and policies to journalists, but not promote individual Councillors, their political views or criticism of the Council, its partners or its policies;

5.3.85.2 promptly pass media requests for interviews and contributions on to Councillors;

5.3.85.3 not share with other Councillors any media contact made or planned by a Councillor without their consent, unless such disclosure is essential to the interview or event;

5.3.85.4 provide copies of all media releases issued on behalf of the Council to Councillors.

Expectations of those involved with Regulatory Committees

5.3.86 Regulatory committees (see Article 7 in Part 2 of this constitution) are an integral part of the local government landscape, allowing the Council to fulfil many of the statutory duties imposed upon it. However, in exercising regulatory functions,

Councillors are effectively acting in a quasi-judicial manner and therefore additional safeguards are required to protect the Council, Councillors and employees from allegations of impropriety.

- 5.3.87 The obligations in this section of the Councillor and Employee Relations Protocol are in addition to the Councillor Code of Conduct and the Employee Code of Conduct. Queries on the Councillor Code of Conduct and this Protocol should be raised with the Monitoring Officer in advance of any regulatory meeting taking place.
- 5.3.88 Councillors and employees involved with regulatory committees are reminded that they must comply with the Regulators Code¹⁴² and promote the regulatory principles¹⁴³. They should have regard to any supplementary codes and guidance¹⁴⁴ and:
- 5.3.88.1 comply with any legal requirements particular to the regulatory committee they are attending
 - 5.3.88.2 serve the public interest and not improperly confer an advantage or disadvantage on any person;
 - 5.3.88.3 not place themselves in situations where their honesty or integrity may be questioned;
 - 5.3.88.4 make decisions on merit;
 - 5.3.88.5 be as open as possible about their actions and those of the council, and give reasons for their decision or action;
 - 5.3.88.6 take account of the views of others but reach their own conclusions on the issues before them and act in accordance with those conclusions;
 - 5.3.88.7 respect the impartiality and integrity of employees;
- 5.3.89 The aim of this Protocol is to ensure that there are no grounds for suggesting that a regulatory decision has been biased, partial or not well founded in any way.
- 5.3.90 Failure to uphold this Protocol exposes the Council to the risk of successful challenge of its decisions, or a finding of maladministration by the Local Government and Social Care Ombudsman.

Interests

¹⁴² Pursuant to section 23 of the Legislative and Regulatory Reform Act 2006

¹⁴³ Set out at section 2(3) of the Legislative and Regulatory Reform Act 2006

¹⁴⁴ Such as that issued by the Office for Product Safety and Standards

- 5.3.91 Councillors must keep their declaration of interests up to date prior to participating in any Council business (particularly regulatory business) and comply with the Councillor Code of Conduct.
- 5.3.92 General interest groups which reflect a Councillor's areas of interest and concentrate on issues beyond particular planning proposals (such as Ramblers Association or a local civic society) may be joined by Councillors but they should disclose that interest on the grounds of transparency where the organisation has made representations on a proposal being considered by the Council.

Employees

- 5.3.93 Employees must not act as agents for individuals (including a company, group or body) engaged in a regulatory matter. Employees involved in a regulatory matter should take no part in its processing. The Monitoring Officer should be informed of all such proposals as soon as they are submitted.
- 5.3.94 Councillors should not put pressure on employees to put forward a particular recommendation however this does not prevent questions being asked or views being submitted to the relevant chief / deputy chief officer, which may be incorporated into any committee report.
- 5.3.95 Proposals outside of any arranged meeting, should only be discussed with a chief or deputy chief officer.

Natural justice, predisposition, bias and predetermination

- 5.3.96 Regulatory decisions cannot be approached with a closed mind, however councillors are able to form opinions on issues in advance of determining them provided that they:
 - 5.3.96.1 are prepared to reconsider their position in the light of all the evidence and arguments;
 - 5.3.96.2 keep an open mind and fairly consider the information provided, and submissions made, by all sides;
 - 5.3.96.3 take account of material considerations and disregard considerations irrelevant to the question and legal context;
 - 5.3.96.4 do not intend to speak and vote as a member of the Committee
- 5.3.97 Matters in which Councillors have an interest should be referred to committee rather than be dealt with by employees under delegated powers;
- 5.3.98 Councillors should not excessively lobby fellow Councillors regarding their concerns or views, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any decision is to be taken.
- 5.3.99 Regulatory matters should not be discussed at any political group meeting, nor should Councillors lobby any other Councillor to do so.

- 5.3.100 If there has been insufficient time to digest new information on a matter before the committee, or there is simply insufficient information, Councillors may request further information or seek deferral or refusal of the matter. Reasons for the Committee's decision to defer any proposal should be recorded.
- 5.3.101 Councillors should not vote or take part in a meeting's discussion on a proposal unless they have been present to hear the entire debate, including the employees' introduction to the matter.
- 5.3.102 Those proposing, seconding or supporting a decision contrary to employee recommendations or Council policy must clearly identify and understand the reasons leading to this conclusion / decision. These reasons must be given prior to the vote and be recorded. Councillors may have to justify the resulting decision by giving evidence in the event of any challenge.

Contact with interested parties (applicants, objectors etc)

- 5.3.103 Councillors should not become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose matters to be determined by the Council unless it is their intention to openly campaign on the matter and therefore not participate in the decision.
- 5.3.104 Any interested party approaching a councillor should be referred to employees for technical or procedural advice.
- 5.3.105 Councillors should observe Council rules in respect of lobbying and hospitality. It is prudent to report any approaches to the relevant chief / deputy chief officer.
- 5.3.106 Councillors should not agree to, or attend, any formal meeting or presentation with interested parties. If a formal meeting may be useful in clarifying the issues, this should be arranged via employees and documented appropriately.
- 5.3.107 Councillors should attend site visits organised by the Council where possible.

Public Speaking at Meetings

- 5.3.108 Members of the public should not communicate with Councillors during a committee (orally or in writing) other than through the scheme for public speaking or through the Chairman.
- 5.3.109 Councillors must comply with the Council's procedures in respect of public speaking.

Training

- 5.3.110 Councillors should not participate in regulatory decision making if they have not attended the mandatory training prescribed by the Council.

- 5.3.111 Councillors are encouraged to attend any other specialised training sessions provided to consolidate or extend their knowledge of the regulatory topic and assist councillors in carrying out their role properly and effectively.
- 5.3.112 Regulatory committees will undertake regular reviews of a regulatory decisions to evaluate and learn from decisions made.

Planning (Good Practice Protocol)

- 5.3.113 This part of the Protocol specifically addresses planning related matters and is based upon the Model Members' Planning Code¹⁴⁵ but does not repeat matters included elsewhere in the constitution.

Presentations to, and lobbying of, Councillors

- 5.3.114 When developers convene presentation and marketing events for proposed applications councillors should:
- 5.3.114.1 not attend a planning presentation without requesting an employee to be present;
 - 5.3.114.2 ask relevant questions for the purposes of clarifying their understanding of the proposals;
 - 5.3.114.3 remember that the presentation is not part of the formal process of debate and determination of any subsequent application;
 - 5.3.114.4 be aware that a presentation is a form of lobbying and, whilst they may express any view on the merits or otherwise of the proposal presented, should never state how they or other Councillors would intend to vote at a committee;
 - 5.3.114.5 explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing;
 - 5.3.114.6 not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure

¹⁴⁵ Issued by Lawyers in Local Government in 2014 and approved by the Supreme Court as useful and sound advice in the case of *R (CPRE Kent) v Dover District Council* (SC(E) 2018 1 WLR

it is minimal and its acceptance is declared as soon as possible, including its addition to the register of interests where relevant;

- 5.3.114.7 pass on any lobbying correspondence received to the relevant chief / deputy chief officer at the earliest opportunity;
- 5.3.114.8 refer to the relevant chief / deputy chief officer any offers made of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise;
- 5.3.114.9 inform the Monitoring Officer if exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 5.3.114.10 note that, unless they have a disclosable or other registerable interest, they will not have fettered their discretion or breached this Planning Code through:
 - 5.3.114.10.1 listening or receiving viewpoints from residents or other interested parties;
 - 5.3.114.10.2 making comments to residents, interested parties, other Councillors or appropriate employees (making clear that they must keep an open mind when it comes to making the decision);
 - 5.3.114.10.3 seeking information through appropriate channels; or
 - 5.3.114.10.4 being a vehicle for the expression of opinion of others in their role as a Ward Councillor.

Lobbying by Councillors

- 5.3.115 Individual planning applications should not be discussed at any political group meeting, nor should councillors lobby any other councillor to do so. Political Group Meetings should not dictate how Councillors should vote on a planning issue.

Site Visits / Inspections

- 5.3.116 Councillors should:
 - 5.3.116.1 not request a site visit unless it is strictly necessary because:
 - 5.3.116.1.1 particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - 5.3.116.1.2 there are significant policy or precedent implications and specific site factors need to be carefully addressed.
 - 5.3.116.2 report back to the Committee any information gained from the site visit that would benefit the Committee;

- 5.3.116.3 treat the site visit only as an opportunity to seek information and to observe the site and not express opinions or views;
- 5.3.116.4 ask questions or seek clarification from employees on matters relevant to the site inspection;
- 5.3.116.5 not hear representations from any other party, with the exception of the Ward Councillor(s) whose address must focus only on site factors and site issues. If approached by the applicant or a third party, they should be advised to make representations in writing to the authority and directed to the officer present.
- 5.3.116.6 only enter a site which is subject to a proposal as part of an official site visit, even in response to an invitation, unless:
 - 5.3.116.6.1 it is essential for a visit to site to take place other than through attending the official site visit; and
 - 5.3.116.6.2 the Chief / Deputy Chief Officer has been spoken about the intention to do so and why (which will be recorded on the file) and
 - 5.3.116.6.3 these good practice rules on site visits will be complied with.

Employees

- 5.3.117 Employees involved in the processing and determination of planning matters must act in accordance with the Employee Code of Conduct and any professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its members.
- 5.3.118 Planning applications submitted by employees should be reported to the Planning Committee as main items and not dealt with by employees under delegated powers. As part of the report, the Development Control Manager should confirm that the application has been processed normally.
- 5.3.119 Planning applications involving the council should be treated in the same way as those by private developers. Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

Decision Making

- 5.3.120 Councillors who request a planning application to go before the Committee rather than be determined through employee delegation should ensure their planning reasons are recorded and repeated in the report to the Committee.

- 5.3.121 Councillors should comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

Public Speaking at Planning Committees

- 5.3.122 The provisions for members of the public to speak at Planning Committees are set out in Schedule 1 of this Protocol.

Schedule 1: Public Speaking At Planning Committees

1 How Can I Find Out When An Application Will Be Considered?

Decisions on certain planning applications are taken at the Council's Planning Committee. These Committee Meetings are open to the public. To find out whether an application will be heard by Planning Committee you can view the application details [here](#). Meetings are usually held on the first Tuesday of the month in the Council's main officers. A full Committee calendar and all documentation can be found [here](#). The meetings follow an agenda which is published on the website 5 working days before the meeting is scheduled to take place.

2 Public Speaking At The Planning Committee

The Council is committed to open government and public involvement in the planning process. You can address the Planning Committee for up to 3 minutes as a representative of the following:

- o An objector to a proposal (Maximum of 3 Speakers or the same amount of time as allowed for supporters, whichever is the greater);
- o A supporter of a proposal (including the applicant/agent) (Maximum of 3 Speakers or the same amount of time as allowed for objectors, whichever is the greater);
- o A representative of the Parish Council / Parish Meeting / Town Council / another body (i.e. Market Harborough Civic Society) within which the site is located;
- o Ward Member(s) (maximum of 5 minutes);

To speak at a Planning Committee meeting a request must be provided in writing by 12 noon not less than 2 working days before the meeting (for example, if the Planning Committee is on a Tuesday and the day before is a bank holiday the request must be submitted by 12 noon on the previous Thursday). An email needs to be sent to planning@harborough.gov.uk ensuring that the email contains the application number, name and contact details and an indication of the particular topic area to be discussed. Requests to speak will not be accepted until the date of publication of the relevant Planning Committee agenda and requests will be accepted on a first come first served basis. Requests to speak will not be accepted after this deadline. The Speakers list will be published online by 12 noon 1 working day before the meeting. Contact details will not appear on this list.

3 If You Cannot Attend The Meeting To Speak

The Planning Committee is under no obligation to defer making a decision on an application because a particular speaker is not available to attend the meeting. A proxy speaker may be nominated if you are unable to attend (their details should be

provided in advance). Do not submit written speeches as there is no obligation for these to be presented to the committee.

4 Site Visits

Please note that Councillors will, in some cases, carry out a site visit prior to the Planning Committee meeting. Site visits usually take place on the Monday prior to the Planning Committee meeting. The Councillors will be accompanied on these site visits by Planning Officers who will talk through the proposals for the site in question with the Councillors. Members of the public are not permitted to address the Committee at these site visits.

5 Receipt Of Late Correspondence

Please note that any correspondence received after the publication of the agenda must be received by the Planning Department before 17.00 the last working day before the meeting. If it is not received by this time, we cannot guarantee that it will be taken into account when the application is considered.

6 Process Of Planning Committee Meetings

Planning Committee meetings use the following process:

- 1) The Planning Committee agenda papers are published online 5 working days before the Planning Committee meeting.
- 2) A Supplementary Information List is often made available on the evening of the planning committee meeting, this will contain information received after publication of the planning committee agenda papers.
- 3) Meetings will be recorded in accordance with the Council's guide for audio recording of meetings.
- 4) The Planning Committee Chairman will open the meeting and make introductions.
- 5) If necessary, the Committee will be given time at the meeting to consider supplementary information.
- 6) Planning Applications are usually taken in agenda order; however, items relating to which public are registered to speak are normally brought forward.
- 7) The Planning Officer introduces a report.
- 8) Any public speaking will be heard.
- 9) Planning Committee members can ask points of clarification of speakers.
- 10) Public speaking is complete, and the public cannot take part in further debate of the application.

- 11) Ward Councillors are allowed to address the Committee for 5 minutes on behalf of local residents.
- 12) Planning Committee members then debate the application before them.
- 13) The Planning Officer, or others in attendance (e.g. solicitor) will provide clarification and advise if asked by a Planning Committee member.
- 14) Planning Committee decisions are on a majority of votes taken by a show of hands. A recorded vote can be requested by Members in accordance with the Constitution.
- 15) The Chairman has a second or casting vote in the event that there is an equal number of votes for and against.

7 What Can I Say?

The Chairman of the Committee will invite you to speak. It should be noted that the 3-minute period allowed for speakers to address the Committee must be adhered to and will be strictly enforced by the Chairman of the Committee. This period may be followed by questions of clarification from Committee members. Submission of further graphic or written information and the use of visual aids by speakers at the meeting will not be permitted.

You can only speak about issues which you, or the other objectors/supporters, have already raised in written comments to the Council. It will help if you are clear and concise and confine your points to relevant planning issues and, where possible, avoid repetition of points already raised.

You may not:

- Enter into any discussion or debate on the proposal;
 - Ask any questions of Councillors, the other party or anyone else at the meeting;
 - Use any equipment, however, documents which are already before the Council (e.g. site plan) can be displayed for you to refer to.

Questions of clarification may be put to you by Councillors after you have spoken.

Please remember that the Committee can only take into account planning matters when it makes its decision, and that it is bound by law to make a decision in accordance with currently adopted and up to date development plan policy for the area, unless other material factors are so important they justify departing from it.

8 Do I Have To Speak To The Committee For My Views To Be Considered?

No. If you have written to the Council regarding a planning application your views will be summarised in the published report and taken into consideration. You can therefore simply attend the Committee Meeting and listen to the debate if you wish.

You may also consider contacting your Ward Councillor who, (even if not a member of the Planning Committee), can explain the issues you are raising to the meeting. However, the Councillor is not your representative and may also express other views.

9 Reconvened Meetings

The Council's Constitution states that the Committee must take a vote as to whether to extend business beyond 21:30. In cases whereby it is decided to continue, the meeting will progress until its conclusion. In cases whereby it is decided not to continue with business, a date will be agreed for a reconvened meeting. This meeting will be a continuation of the original meeting, and as such, no further representations can be made and no additional speakers can be registered. There is no requirement for speakers who are already registered to re-register for the reconvened meeting.

10 What If I Have Further Queries?

The Council has attempted to make this procedure as fair and as easy to operate as possible within the guidelines which the Government sets out for determining planning applications. If you have any questions that have not been answered by the information given here, please contact planning@harborough.gov.uk.



Part 5, Section 4: Monitoring Officer Protocol

Contents	Page
Introduction	342
Statutory Obligations	342
Functions	343
Working Arrangements	345
Conflicts of Interest	348
Insurance and Indemnity Arrangements	349
Councillor and Employment Responsibilities	349
Advice	349
Monitoring the Protocol	349
Sanctions for the Breach of this Protocol	349

5.4 Introduction

- 5.4.1. This Protocol explains the role and functions of the Council's Monitoring Officer and the arrangements for ensuring this role is effectively carried out. The ability of the Monitoring Officer to undertake this role effectively relies on excellent working relations with colleagues and councillors and on the flow of information and access to debate particularly at early stages.

Statutory Obligations

- 5.4.2. The Council is required¹⁴⁶ to appoint a Monitoring Officer in accordance with Article 9 (Officers) in Part 2 of the Constitution.
- 5.4.3. The Monitoring Officer must perform¹⁴⁷ statutory obligations in respect of the Council, which are summarised in the Appendix to this Protocol. This Protocol provides general information as to how those statutory obligations will be discharged.
- 5.4.4. The Monitoring Officer must discharge the statutory obligations personally. If the Monitoring Officer is unable to act owing to absence or illness, the duties will be performed personally by the person nominated by the Monitoring Officer as the Deputy Monitoring Officer.
- 5.4.5. The Monitoring Officer's ability to discharge the statutory obligations will depend largely on councillors and employees:
- 5.4.5.1. complying with the law of the land (including any relevant Codes of Conduct);
 - 5.4.5.2. complying with any guidance issued, from time to time, by the Audit and Standards Committee or the Monitoring Officer;
 - 5.4.5.3. making lawful and proportionate decisions (see further Article 10 (Decision Making); and
 - 5.4.5.4. generally, not taking action that would bring the Council, their offices or professions into disrepute.
- 5.4.6. The Council has a duty to provide the Monitoring Officer with such staff, accommodation and other resources as are, in the Monitoring Officer's opinion, sufficient to allow them to perform those duties.

¹⁴⁶ section 5 of the Local Government and Housing Act 1989

¹⁴⁷ Pursuant to the Local Government and Housing Act 1989, the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007

Functions

- 5.4.7. The specific functions of the Council's Monitoring Officer are detailed in the Appendix. The chief responsibilities can be summarised as:
 - 5.4.7.1. A duty to report to the Council in any case where the Monitoring Officer is of the opinion that any proposal or decision is or is likely to be illegal or to constitute maladministration. These matters are referred to in this Protocol as "reportable incidents".
 - 5.4.7.2. A range of functions relating to Councillors' conduct.
 - 5.4.7.3. Specific functions under the Council's Constitution.
- 5.4.8. The Council has also placed 'proper Officer' and other obligations on the Monitoring Officer, through the Council's Constitution and elsewhere, but these are delegated functions of the authority rather than personal duties under statute.
- 5.4.9. Some of the statutory obligations on the Monitoring Officer relate to local councils within the District. Local councils must provide cooperation and assistance to the Monitoring Officer in discharging the obligations.

Discharge of Functions

- 5.4.10. In order to ensure the effective undertaking of these duties, the Monitoring Officer will:
 - 5.4.10.1. have regular meetings with the Statutory Chief Officers to review current and likely future issues with legal, constitutional or ethical implications;
 - 5.4.10.2. maintain good liaison and working relations with the external auditor;
 - 5.4.10.3. ensure the Council is kept up to date on new legislation and changes in the law which are relevant to the carrying out of its activities. This will generally take the form of reports to councillors and briefing notes to Chief Officers but where appropriate will involve training sessions for relevant councillors and employees. These activities will be carried out in consultation and conjunction with relevant Chief Officers.
- 5.4.11. In addition, Chief Officers will ensure that:
 - 5.4.11.1. the Monitoring Officer and their Deputy are consulted at an early stage on new policy proposals and on matters which have potentially significant legal implications. Where there is any doubt, the Chief Officer should always consult.
 - 5.4.11.2. all draft reports to the Council, Cabinet and Committees should as a matter of routine be cleared with the Monitoring Officer or their deputy in good time prior to dispatch;

- 5.4.11.3. the Monitoring Officer is informed of all emerging issues of concern of a legal, ethical or constitutional nature.
- 5.4.12. Councillors should ensure that the Monitoring Officer is routinely informed and consulted in respect of new policy proposals.
- 5.4.13. The Monitoring Officer will always seek to resolve any potential illegality by identifying alternative and legitimate means of achieving the objective of the purpose.
- 5.4.14. Where external Lawyers act for the Council, the relevant Chief Officer and the Monitoring Officer will agree arrangements for ensuring that vires and constitutional issues are satisfactorily addressed.

Reportable Incidents

- 5.4.15. The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, and given that Council employees and councillors are encouraged to consult the Monitoring Officer in respect of any proposal, the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the employee or councillor subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer.
- 5.4.16. Where the Monitoring Officer receives a complaint of a potential reportable incident, they must in appropriate cases seek to resolve the matter amicably, by securing that any illegality or failure of process is rectified. However, it is recognised that the Monitoring Officer may decide that the matter is of such importance that a statutory report is the only appropriate response.
- 5.4.17. In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer will be entitled to add their written advice to the report of any other Council employee.
- 5.4.18. Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Statutory Chief Officers, they are of the opinion that such is necessary in order to respond properly to a reportable incident.

Monitoring Officer Rights

- 5.4.19. To assist in the effective undertaking of the above duties, the Monitoring Officer has the right to:
- 5.4.19.1. receive advance notice of meetings, whether formal or informal, between Chief Officers and the Leader, Cabinet Members, the Cabinet or

Committee Chairmen, where any procedural, vires or other constitutional issues are likely to arise, together with the right to attend such meetings;

- 5.4.19.2. receive advance notice of meetings of the Council's, Corporate Board, Executive Directors and agenda and reports and the right to attend and speak.
- 5.4.19.3. see all documents and information held by or on behalf of the Council, including documents and information held by any Council employee or Councillor. However, this right does not extend to documents and information held by or on behalf of any political party represented on the Council.
- 5.4.19.4. attend any meetings of employees or Councillors (or both), whether such meetings include any other persons. However, this right does not extend to any meetings held by or on behalf of any political party represented on the Council.
- 5.4.19.5. require any Council employee or Councillor, or any contractor to provide an explanation of any matter under investigation;
- 5.4.19.6. report to the Council, and its Committees, including a right to present a written report and to attend and advise orally;
- 5.4.19.7. have access to the Head of Paid Service and to the Chief Finance Officer as the Statutory Chief Officers;
- 5.4.19.8. after consultation with the Chief Executive Officer and Director of Strategic Finance, to notify the Police, the Council's Auditors and other regulatory agencies of concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
- 5.4.19.9. obtain, at the Council's expense, legal advice, either internally or from an independent external Solicitor or Barrister, on any matter which it is believed may be a reportable incident.

Working arrangements

- 5.4.20. Having excellent working relations with Councillors and employees will help the Monitoring Officer discharge their statutory obligations. A timely flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those obligations. Councillors and employees must, therefore, work with the Monitoring Officer (and their staff) to discharge the Council's statutory and discretionary responsibilities.
- 5.4.21. The following arrangements and understanding between the Monitoring Officer, Councillors and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

Resources

- 5.4.22. report to Council, as necessary, on the staff, accommodation and resources required to discharge the statutory functions of the role;
- 5.4.23. have sufficient resources to enable them to address any matters concerning their Monitoring Officer functions, including control of an adequate budget to enable them to seek Counsel's opinion on any matter concerning their functions;
- 5.4.24. appoint at least one Deputy Monitoring Officer and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer;

Access to information and meetings

- 5.4.25. be alerted by Councillors and employees to any issue that may become of concern to the Council including issues around legal powers to do something or not, ethical standards, probity, policy, procedural or other constitutional issues that are likely to (or do) arise;
- 5.4.26. have the right to attend (and be heard at) any meeting of the authority, including its employees and or Councillors, before any binding decision is taken (including a failure to take a decision where one should have been taken), whether or not such meetings include other persons. This right does not extend to any meetings held by or on behalf of any political party represented on the Council;
- 5.4.27. have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council (including meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken), formulated or briefed upon;
- 5.4.28. be a member of the Corporate Leadership Team and have advance notice of those meetings, agenda and reports and the right to attend and speak;
- 5.4.29. have access to any information held by the Council and to any employee who can assist in the discharge of their functions;
- 5.4.30. disclose information and documents to the Audit and Standards Committee as they consider appropriate, even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the authority;
- 5.4.31. be consulted when new policy proposals or matters with significant legal implications are at a formative stage;

Relationships

- 5.4.32. ensure the other Statutory Chief Officers are kept up-to-date with relevant information regarding any legal, ethical standards, probity, procedural or other constitutional issues likely to arise;

- 5.4.33. meet regularly with the other Statutory Chief Officers to consider and recommend action in connection with corporate governance issues and other matters of concern including any legal, ethical standards, probity, procedural or other constitutional issues that arise or are likely to arise;
- 5.4.34. have a close working relationship of respect and trust with the Chairman of the Council, the Leader of the Council and the Chairmen of the Audit and Standards Committee, Overview and Scrutiny Committees and other committees with a view to ensuring the effective and efficient discharge of Council business;
- 5.4.35. develop effective working liaison and relationship with the Council's External Auditors, the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman Service (HOS), including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary;
- 5.4.36. defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved, subject to any necessary consultation with any or all of the Statutory Chief Officers, the Chairman of the Council, the Leader of the Council, Cabinet and the Audit and Standards Committee;
- 5.4.37. make arrangements to ensure effective communication between their office and clerks to local Councils on Monitoring Officer and standards issues;
- 5.4.38. report on ethical governance issues and on the Constitution following consultation, where appropriate, with the Statutory Chief Officers;
- 5.4.39. seek to resolve potential reportable incidents by avoiding or rectifying the illegality, failure of process or breach of code, or by identifying alternative and legitimate methods to proceed whilst retaining the right to make a statutory report where, after consultation with the statutory Chief Officers, they are of the opinion that such is necessary in order to respond properly to such an incident;

Ombudsman Complaints

- 5.4.40. prepare reports¹⁴⁸ in relation to complaints which have been the subject of investigation by the Local Government and Social Care Ombudsman and which have revealed maladministration, whether or not that maladministration has caused injustice;
- 5.4.41. prepare reports to councillors as necessary to bring to their attention issues of importance arising out of complaints made to the Local Government and Social Care Ombudsman, whether or not investigated, and whether or not

¹⁴⁸

As required by the Local Government Act 1974 and the Local Government Housing Act 1989

maladministration was found;

Standards Matters

- 5.4.42. refer relevant matters to the Audit and Standards Committee in accordance with the procedure for considering complaints alleging a failure to comply with a Councillors Code of Conduct within the district;
- 5.4.43. make arrangements for, prepare reports for, and advise meetings of the Standards Sub-Committee;
- 5.4.44. give informal advice to Councillors in relation to informal resolution of a complaint;
- 5.4.45. prepare any training programme for Councillors or employees on ethical standards and Code of Conduct issues;
- 5.4.46. establish, maintain and publish the statutory register of Councillors interests¹⁴⁹;
- 5.4.47. receive written requests for dispensations from Councillors and co-opted members of Harborough District Council, and to refer such requests to the Head of Paid Service;

Constitution

- 5.4.48. review and monitor the Constitution in accordance with the arrangements set out in Article 1 of the Constitution and consult with the other Statutory Chief Officers before taking any report to approve amendments to the Constitution.
- 5.4.49. report on ethical governance issues and on the Constitution following consultation, where appropriate, with the other Statutory Chief Officers;

Conflicts of interest

- 5.4.50. Where the Monitoring Officer is aware of a potential conflict of interest in performing their duties (i.e. they have previously advised the Council), they shall consult the Head of Paid Service.
- 5.4.51. The Monitoring Officer may then either:
 - 5.4.51.1. refer the matter to the Deputy Monitoring Officer for investigation; or
 - 5.4.51.2. request a neighbouring authority to make their Monitoring Officer available to this Council, or
 - 5.4.51.3. nominate another person to investigate the matter and report the results to the Monitoring Officer and the Head of Paid Service and / or the Council.

¹⁴⁹ in relation to Harborough District Council councillors, voting co-opted Members of Harborough District Council, and councillors of local Councils in the Harborough district area.

Insurance and indemnity arrangements

- 5.4.52. The Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council, and the proper discharge of the Monitoring Officer role.

Councillor and Employee Responsibilities

- 5.4.53. Councillors and employees should report any breaches of statutory duty or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

Advice

- 5.4.54. The Monitoring Officer is also available for councillors and officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Council Procedure Rules, Budget and Policy Framework, Terms of Reference, Scheme of Delegations, etc).

Monitoring the protocol

- 5.4.55. Annually, the Monitoring Officer will report to the Audit and Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

Sanctions for breach of this protocol

- 5.4.56. Complaints in relation to against any breach of this Protocol by a Councillor will be referred to the relevant group Leader and or Whip of the Political Party Group and may result in a complaint that the Councillor Code of Conduct has been breached.
- 5.4.57. Complaints in relation to any breach of this Protocol by an employee will be referred to the relevant Chief Officer for appropriate action to be considered, including disciplinary investigation and or action.

Appendix: Summary of Monitoring Officer Functions

i. Functions under Section 5 of the Local Government and Housing Act 1989

To report to the Council in any case where the Monitoring Officer is of the opinion that any proposal or decision of the authority in respect of any matter which, in their opinion, has given rise to or is likely to or would give rise to any illegality or maladministration. This includes advising on vires issues, maladministration (including compensation in respect of pursuant to s92 Local Government Act 2000), financial impropriety, probity and policy framework and budget issues to all councillors.

ii. Functions relating to Standards

- a. To act as the principal adviser to the Audit and Standards Committee and in that role to contribute by training and otherwise to the provision and maintenance of high standards of conduct;
- b. To refer matters relating to conduct, ethics and propriety to the Audit and Standards Committee;
- c. To maintain the Register of Members' Interests and in this connection to receive from Members written notification of disclosable pecuniary interests and other interests and to receive written notification of any change to those interests;
- d. To receive written notification from Members of the existence and nature or any gift or hospitality exceeding £50;
- e. Dealing with complaints against Members, including the conduct of investigations and reporting to the Audit and Standards Committee;
- f. To process requests from Members for dispensations to speak and vote at meetings;
- g. To maintain and promote the Council's Anti-Fraud and Corruption Strategy;
- h. To keep the Code of Corporate Governance under review;

iii. Functions relating to the Constitution

- a. To monitor the operation of the Constitution and to make recommendations on how it can be amended in order to better to achieve the overall purposes. This may include:
 - observing meetings of different parts of the Councillor / employee structure;
 - undertaking an audit trail of a sample of decisions;
 - recording and analysing issues raised by Members, Officers, the public and other relevant stakeholders; and

- comparing practices in this authority with those in other comparable authorities, or national examples of best practice.
- b. To consult the Constitution Review Committee on changes to factual references in the Constitution or changes required by a change in the law. Also, to publish changes to the Constitution.
- c. To publicise the Constitution by ensuring that;
 - access is given to each Councillor on their election to the Council;
 - ensuring that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local media and the public on payment of a reasonable fee;
 - ensuring that the executive summary is made widely available within the area and is updated as necessary; and
 - ensuring the publication of changes made.



5.5 Civic Protocol

Contents

Page

The Chairman of the Council	353
Legal Precedence of the Chairman	355
Insignia	356
Finances	357
Receipt of Gifts	358
The Civic Year	358
End of Term Arrangements	361

The Chairman of the Council

- 5.5.1 The person elected as the Chairman¹⁵⁰ of the Council discharges the statutory responsibilities of the role as well as those set out within the Constitution, such as chairing meetings of the Council. They are the First Citizen of the District of Harborough. The bulk of their role involves representing the Council and the whole of the District to individuals, employers, voluntary organisations and other bodies, mainly within the District, and further afield as appropriate.
- 5.5.2 The Chairman is accountable to the Council. They represent the Council and its citizens in an ambassadorial role, supporting and encouraging the interests of all sections of the community. The Chairman of the Council actively promotes the District.
- 5.5.3 The Chairman of the Council will have a Vice Chairman¹⁵¹, who supports the Chairman in discharging the duties and responsibilities of the role.
- 5.5.4 All civic invitations should be sent to the Chairman's Office at the Council, howsoever received.

The Vice Chairman

- 5.5.5 The person elected as the Vice Chairman of the Council will deputise for the Chairman when the Chairman is unable to fulfil an engagement and support the Chairman at major civic events organised by the Council.
- 5.5.6 The Vice Chairman may not fulfil a civic engagement in their own right. All requests to attend a civic engagement are for the Chairman only, even if addressed to the Vice-Chairman and or forwarded direct to their home address. If the Chairman cannot attend an event, the invitation should generally be offered to the Vice-Chairman. This may not always be automatic or desirable but should be discussed with the Chairman.

Duties and Responsibilities

- 5.5.7 The Chairman of the Council will:
 - 5.5.7.1 Chair meetings of Council in accordance with legislation and the Harborough District Council Constitution;
 - 5.5.7.2 Host annual civic events such as the Annual Council Meeting, the Civic Service, the Civic Dinner and such other civic events as may be arranged;
 - 5.5.7.3 Support and encourage the District's twinning links and, by invitation, attend visits to those towns;

¹⁵⁰ In accordance with the provisions of the Local Government Act 1972

¹⁵¹ Section 5 of the Local Government Act 1972

- 5.5.7.4 Support and encourage the interests of the Council and assist with the launch and promotion of Council schemes and initiatives;
- 5.5.7.5 Support and encourage all sections of the community and, by invitation, attend events, meetings and visits organised by them;
- 5.5.7.6 Host receptions for local groups and organisations;
- 5.5.7.7 Recognise achievements by local groups, organisations and residents of the District as appropriate;
- 5.5.7.8 Greet royal visitors and distinguished guests to the District as appropriate;
- 5.5.7.9 Carry out the duties of the post fairly and without discrimination and in accordance with the aims and objectives of the Council.

Election of the Chairman

- 5.5.8 Any candidate for the post of Chairman of Harborough District Council must be a Member of the Council¹⁵².
- 5.5.9 The annual election of the Chairman shall be conducted as set out in the Council Procedure Rules at Part 4 of the Constitution.
- 5.5.10 The outgoing Chairman will, if present, preside at the meeting to elect their successor and continue in post until their successor has been chosen and has made a valid declaration of acceptance of office.
- 5.5.11 The Vice Chairman will also be appointed from amongst the Council's members and will hold office until immediately after the election of a Chairman at the next Annual Meeting of the Council.
- 5.5.12 The Council Procedure Rules provide that a Chairman of a meeting has a casting vote and this includes upon the equality of votes for the election of the new Chairman (in addition to any other vote they may have cast). However, a candidate for Chairman should not preside at the meeting or exercise the casting vote.
- 5.5.13 Immediately after the result of the election is announced, the successful candidate should publicly make their formal declaration of acceptance of office¹⁵³.
- 5.5.14 The outgoing Chairman will invest the incoming Chairman with the badge of office. The incoming Chairman will present the outgoing Chairman with their past Chairman's badge.

¹⁵² Section 3(1) of the Local Government Act 1972

¹⁵³ Section 83 of the Local Government Act 1972

Non-Political Role

- 5.5.15 Other than undertaking their ward councillor role, the Council has decided that the Chairman's role should be primarily civic and ceremonial in nature¹⁵⁴.
- 5.5.16 The Chairman of the Council is a neutral office, and the office-holder is therefore expected to behave impartially and protect the rights of Councillors to participate in debate.
- 5.5.17 It is understood that the Chairman is an elected member and as such has certain political beliefs. However, the manifestation of these beliefs should be suspended during the term of office as Chairman to prevent the office of the Chairman being brought into disrepute.

Inaugural Committees

- 5.5.18 Either the Chairman or Vice Chairman of Council is required to attend the first meeting of each committee at the start of a new municipal year to facilitate the process of electing a Chairman for the committee, including exercising the casting vote where necessary.
- 5.5.19 The Chairman of the Council may observe any meetings in accordance with the Access to Information Rules at Part 4 of this constitution.

Legal Precedence of the Chairman

- 5.5.20 The Chairman has precedence in the district but not so as to prejudicially affect His Majesty's Royal prerogative¹⁵⁵.
- 5.5.21 The Chairman must therefore concede precedence to the Lord-Lieutenant of Leicestershire if the Lord-Lieutenant is attending a function in their official capacity representing the King.
- 5.5.22 Guidance on the protocols for royal visits can be obtained from the office of the Lord-Lieutenant but the order of introduction to a royal visitor will normally be:
 - 5.5.22.1 Lord Lieutenant's partner;
 - 5.5.22.2 High Sheriff and partner;
 - 5.5.22.3 Chairman of Harborough District Council and partner;
 - 5.5.22.4 Chief Executive, Harborough District Council and partner.

¹⁵⁴ Minute number 1039/90-91

¹⁵⁵ Section 3(4) of the Local Government Act 1972

- 5.5.23 For any event other than a royal visit, the High Sheriff of the County does not take precedence over the Chairman of the Council when attending District occasions¹⁵⁶.
- 5.5.24 The Chairman will take precedence in the District over the Town Mayor of Lutterworth unless it is predominantly a Town occasion to which the Chairman has been invited as a guest.
- 5.5.25 The Chairman's consort/escort does not have any legal status but customarily takes precedence immediately after the Chairman.
- 5.5.26 The Chairman enjoys precedence only in the District of Harborough. If accepting an invitation in another authority's area, permission from the Chairman's secretary of that area should be obtained if insignia is to be worn. This does not apply to formal invitations received from other authorities to attend civic functions.
- 5.5.27 In the absence of the Chairman, the Vice-Chairman is entitled to the Chairman's right of precedence within the District. Invitations to a function therefore, should not be sent to (or solicited by) the Vice-Chairman (or for that matter by the Chairman). The Vice-Chairman has no special precedence when not deputising for the Chairman.

Insignia

- 5.5.28 The insignia is the outward sign of the civic office held. The Chairman, Vice Chairman and their Consorts have different insignia which reflect their roles. The Vice-Chairman does not wear the Chairman's civic insignia when deputising for them but rather will wear the Vice-Chairman's badge of office.
- 5.5.29 Insignia is worn at all special and public functions connected with the business of the Council. This includes, but is not limited to:
- 5.5.29.1 when royalty is present;
 - 5.5.29.2 all civic occasions, for example the annual Civic Service;
 - 5.5.29.3 non - civic functions within the district to which the Chairman is invited as First Citizen;
 - 5.5.29.4 Memorial or Thanksgiving Services.
- 5.5.30 Insignia may be worn at out-of-District functions if requested by the host authority or otherwise agreed with the secretary to the Chairman/Mayor of the Borough/District where the function is to be held.
- 5.5.31 The Chairman may wear the Funeral Pin on a black ribbon, but not the formal chain of office, to funerals.

¹⁵⁶ Under a Royal Warrant of 1904 (as amplified by a Home Office Memorandum of 1928),

- 5.5.32 The Chairman is responsible for the insignia and Consort's Badge during the year of office in accordance with the terms of the Council's insurance policy. The Chairman will usually retain the insignia throughout the year of office, However, arrangements may be made, such as when the Chairman is on holiday, for the insignia to be left with the Chief Executive for safe keeping in the strong room.

6. Finances

Chairman's Allowance

- 5.5.33 The Chairman is entitled to a special responsibility allowance to meet the incidental and day-to-day expenses of the office and any items not covered by the Civic Expenses budget. This allowance is paid in accordance with the Councillors' Allowance Scheme (see further Part 6 of the Constitution).
- 5.5.34 The Chairman cannot initiate any expenditure on the Council's behalf other than expenditure which is to be met through the Chairman's allowance.

Vice Chairman's Allowance

- 5.5.35 The Vice Chairman is entitled to a special responsibility allowance to meet the incidental and day-to-day expenses of the office and any items not covered by the Civic Expenses budget. This allowance is paid in accordance with the Councillors' Allowance Scheme (see further Part 6 of the Constitution).

Travelling Allowance

- 5.5.36 The Chairman's Office has a budget for travel which covers transport costs of the Chairman or Vice Chairman attending a civic engagement such as civic services, dinners or lunches. The use of the services of a chauffeur for any other function shall be judged on an individual basis taking into account the distance to be travelled and type of event.
- 5.5.37 The Chairman and Vice-Chairman can claim reimbursement of travel costs when using their own vehicles in accordance with the Councillors Allowance Scheme

Civic Expense Budget

- 5.5.38 The Civic Expense Budget is provided to cover the cost of civic functions and expenses. The budget holder will comply with the Financial, Procurement and Contract Rules (Part 4 of the Constitution) when managing this budget.

Receipt of Gifts

- 5.5.39 In the course of the duties of being Chairman, it is likely that gifts will be offered either as a personal present or for the Council in general. Receiving gifts should be treated carefully - most gifts are made innocently and without intention to influence therefore care should be taken not to offend by refusing.
- 5.5.40 Consumable gifts can be treated as being for the Chairman or Vice Chairman personally, but non- consumable gifts should be treated as gifts to the District. A display case has been placed in the reception of the Council's office where gifts received by the Chairman are displayed for the public to see.
- 5.5.41 The Chairman and Vice-Chairman are not exempt from compliance with the Councillor Code of Conduct and must declare all gifts and hospitality (see further the Councillor Code of Conduct at Part 5 of the Constitution).

The Civic Year

Chaplain

- 5.5.42 The Chairman may appoint a Chaplain for their year of office. The Chaplain may:
- 5.5.42.1 say prayers (or make arrangements for prayers to be said) prior to the commencement of each meeting of the full Council;
 - 5.5.42.2 conduct the civic service;
 - 5.5.42.3 offer such support as the Chairman may request for other civic events.

Chairman's Charity

- 5.5.43 The Chairman may wish to nominate one or more charities at the beginning of the civic year who will be the beneficiary of the Chairman's charity fundraising activities.
- 5.5.44 The Chairman is expected to organise their own fundraising activities and events to benefit their chosen charity. Donations can come from a variety of sources such as church collections, donations from local people and businesses and the proceeds of any events organised by the Chairman.
- 5.5.45 All monetary donations shall be paid into a bank account known as 'Chairman's Charity, Harborough District Council', with a cheque for the total of funds raised during the year of office usually presented to the nominated charity(s) at the end of the civic year.

Civic Functions

- 5.5.46 The main civic functions held during the year are:

- 5.5.46.1 Civic Service – to celebrate the Chairman’s appointment, usually early in the term of office;
- 5.5.46.2 Civic Dinner - for civic heads of the other authorities in Leicestershire and to reciprocate hospitality received;
- 5.5.46.3 Remembrance Day Service - the Council is usually invited by the British Legion to be represented at the November Remembrance Day Services in Market Harborough and Lutterworth. Since 1974, the Chairman has attended one of these services, and the Vice-Chairman the other. The Council meets the cost of the wreaths to be laid on the Council's behalf.
- 5.5.47 The Chairman may hold further civic events, subject to funds being available in the Civic Expense Budget.
- 5.5.48 There is a separate budget for civic receptions (e.g. for visiting delegations), the use of which must be agreed in advance by the Chief Executive.

Civic Engagements

- 5.5.49 The Chairman will agree with the Vice-Chairman who shall attend which engagement provided. Where an invitation is declined by the Chairman it is inappropriate to suggest that the Vice-Chairman should attend in lieu, unless there is a clear indication from the person inviting that the invitation should be so extended.
- 5.5.50 Care should be taken in accepting invitations involving commercial undertakings. The contribution that the organisation makes to the district should be assessed prior to deciding whether to accept. Any function or invitation which could give reasonable members of the public cause to suspect improper conduct should be refused, with each invitation being judged on its merits and recorded in accordance with the Councillor Code of Conduct.
- 5.5.51 Invitations from a business could be appropriate where, for example:
 - 5.5.51.1 the Council has given some sort of grant aid;
 - 5.5.51.2 the business has been involved in a Council initiative,;
 - 5.5.51.3 the business is part of a wider representative group or forum; (e.g. Chamber of Trade), perhaps leading a trade delegation, either abroad or in this country, promoting the District generally,
 - 5.5.51.4 to mark the conclusion of a contract the Council has let to a particular business, for example, a housing refurbishment scheme; or
 - 5.5.51.5 where a business has been involved in some sort of charitable work.
- 5.5.52 There should be no direct association with a business where there is no obvious connection or reasonable grounds for involvement of the Chairman or the Council.

- 5.5.53 The Chairman should avoid accepting a Chairmanship or Presidency of a voluntary organisation during the year of office or endorsing any financial appeal, and discuss the request or invitation with the Chief Executive before responding.

Ceremonial Events

- 5.5.54 The Chairman of the Council, or in their absence the Vice-Chairman, will lead council ceremonial events of particular significance or which are not specifically associated with a particular committee.
- 5.5.55 Subject to the paragraph above, the Leader of the Cabinet or Chairmen of Committees or, where they are not available, Deputy Leader or Vice-Chairmen are the appropriate representatives for ceremonial events within the scope of their meeting's functions. If no such person is available, then any other councillor may be nominated by the Chairman or Vice-Chairman.
- 5.5.56 Local Councillors should always be informed of, and, where possible, invited to ceremonial events taking place within their own parishes / towns, as should County and Parish Councillors, as appropriate.

Informal Meetings of Members

- 5.5.57 The Chairman may arrange informal member meetings throughout the year, informing the Chief Executive and group Leaders of any matters of note that arise at such meetings.

Public, Councillor and Staff Relations

- 5.5.58 Public relations and media queries should be referred to the Communication Team to coordinate a response.
- 5.5.59 When the Chairman acts as spokesperson for the Council they will give the Council's viewpoint (which may not necessarily coincide with their own) and will comply with the Code of Recommended Practice on Local Authority Publicity¹⁵⁷. It is not unreasonable to decline to make instant comment. This gives the opportunity to think through the key points to be put across and also enables facts to be checked. However, it is advisable for the Chairman to avoid being drawn into issues between citizens, businesses and the Council.
- 5.5.60 If a Councillor raises criticism of individual officers with the Chairman, they should be referred to the Councillor and Employee Relations Protocol in this Part 5 of the constitution.

157

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf

- 5.5.61 During each Council year there may be occasions when Councillors are absent from meetings through illness or otherwise. Apologies for absence are often received by the Chief Executive and the Chairman of Council is kept in touch where the officers are aware that a Councillor might be ill. It is useful if the Vice-Chairman, on the Chairman's behalf, maintains contact when any councillor is indisposed so that the Chairman can be primed, where necessary, either to write, visit or make reference as appropriate under the Chairman's announcements to Council.

End of Term Arrangements

- 5.5.62 Before the Annual Meeting at the end of their year of office, the Chairman should try to secure arrangements for the nomination of a successor who will, according to the convention established in 1974, be the retiring Vice-Chairman (subject, of course, to the Vice-Chairman continuing to hold office as a Member of the Council). However the Council may elect any Councillor it so wishes to the role of Chairman at the Annual Meeting.
- 5.5.63 Towards the end of the Vice-Chairman's term, as Chairman Elect, it is advisable to give thought to provisional arrangements for the Civic Service as to the date, venue and who they intend to appoint as Chaplain.
- 5.5.64 It is the Vice-Chairman's responsibility to ensure that a Councillor is prepared to propose a vote of thanks to the retiring Chairman. The vote of thanks is made on behalf of the Council for the services rendered by the First Citizen. The Vice-Chairman could undertake this task, but it is generally preferred that the vote of thanks comes from the body of the meeting. No seconder is needed as the vote is not 'put to the meeting'.



Part 5, Section 6: Anti-Fraud and Corruption Policy and Strategy

Contents	Page
Policy	363
Strategy	363

Policy

- 5.6.1 The Council aims to provide excellent public services and needs to ensure probity and accountability in all matters. The Council is determined to protect itself and the public from fraud and corruption and is committed to the rigorous maintenance of a strategy for the prevention and detection of fraud and corruption.
- 5.6.2 The following anti-fraud and corruption statement reflects the Council's position in relation to its duty to ensure propriety:

“The Council is committed to the prevention, deterrence, detection and investigation of fraud and corruption in all forms.”

Strategy

- 5.6.3 The Council is committed to the maintenance and ongoing enhancement of its anti- fraud and corruption arrangements to address new risks as they are identified. To ensure that the Strategy is as up-to-date as possible it is subject to annual review by the Council's Audit and Standards Committee. The current version of the Counter- Fraud Corruption Strategy is available on the Council's website.



Part 5, Section 7: Filming and Recording Protocol

Contents

Page

Use of Recordings by Third Parties

365

Filming and Recording Protocol

- 5.7.1 The Council wants to be open and transparent in the way in which it conducts its decision-making. Filming or other recording (video and audio) is allowed at all meetings of the authority that are open to the public to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- 5.7.2 The Council will broadcast most meetings open to the public via its website, and make a recording of the meeting available at the end of the meeting.
- 5.7.3 Those wishing to record proceedings should, as a courtesy, inform the Chairman (or clerk) of the Committee of their intentions to record prior to the commencement of the meeting. The Chairman of the meeting will remind attendees that the meeting may be recorded / broadcast.
- 5.7.4 Recordings may only be taken overtly from the area designated for the public and:
 - 5.7.4.1 Recording devices must be silent in use and cause no distraction to participants of the meeting or other members of the public.
 - 5.7.4.2 No flash or additional lighting is permitted
 - 5.7.4.3 Recordings must be taken from one fixed position in the public seating area and must not obstruct others from observing proceedings or film those in the public seating area
- 5.7.5 The Chairman of a meeting has the discretion to instruct that equipment be relocated or recordings be stopped where:
 - 5.7.5.1 The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed.
 - 5.7.5.2 There is public disturbance or a suspension / adjournment of a meeting
 - 5.7.5.3 The recording has become unsafe, disruptive or distracting to the good order and conduct of the meeting.
 - 5.7.5.4 Continued recording is against the wishes of an individual (Where members of the public raise an objection to being recorded, those individuals will, as far as possible, not be filmed. However continued audio recording will be permitted where the contributions are material to the resolutions to be made.)

Use of Recordings by Third Parties

- 5.7.6 Any published recording of a meeting should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.
- 5.7.7 Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts. Recordings may start at any point and end at any point but the material between those points must be complete.
- 5.7.8 Any recordings of meetings do not replace or negate the officially recorded minute of that particular meeting.



PART 6 Members Allowances Scheme¹⁵⁸

CONTENTS		Page
6.1	Introduction	
6.2	Allowances Payable	
6.3	Payments	
6.4	Reasonable Adjustments	
6.5	Miscellaneous	
	Appendix A	

¹⁵⁸ Approved by Council on 22 February 2021

6.1 Introduction

- 6.1.1. Councils are required by the Allowances Regulations¹⁵⁹ to make a scheme of allowances payable to Councillors for the next financial year (i.e. 1 April to 31 March) on or before 31 March each year. The scheme may be amended at any time but may only be revoked with effect from the beginning of a year.
- 6.1.2. Under the Allowances Regulations councils are required to establish and maintain an independent remuneration panel to provide them with advice on the allowances scheme and the amounts to be paid. Councils must have regard to this advice.
- 6.1.3. In this scheme, “Councillor” means an individual elected to Harborough District Council. “Co-optee” means a person who is not elected to the council but who is a member of a committee or sub-committee of the Council.

6.2 Allowances Payable

- 6.2.1. Councillors elected to Harborough District Council are entitled to the following allowances:

Basic Allowance:

- 6.2.2. Each year a Basic Allowance is payable to each councillor of Harborough District Council. Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a financial year, the amount of Basic Allowance due is calculated as follows:

$$\frac{\text{Number of days in Office}}{\text{Number of days in the year}} \times \text{Annual Basic Allowance}$$

- 6.2.3. Basic Allowance is intended to recognise the time commitment of all Councillors, including activities such as membership of regulatory panels, partnership boards, outside bodies and organisations, forums and attendance at seminars. It is also intended to cover incidental costs such as the use of their homes. The allowance is also intended to cover the cost of meals and other incidental expenses incurred within the region.
- 6.2.4. The amount of allowance per Councillor as at 1 April 2021 as set out in Appendix A. All Councillors are legally entitled to payment of the Basic Allowance as long as they remain Councillors.

Special Responsibility Allowance

- 6.2.5. Councillors who undertake specified special responsibilities in accordance with the Allowances Regulations are entitled to be paid a Special Responsibility Allowance. Where a Councillor takes up or relinquishes any special responsibility otherwise

¹⁵⁹ Local Authorities (Members' Allowances) (England) Regulations 2003 (“the Allowances Regulations”)

than at the beginning or end of the financial year the amount of special responsibility allowance payable is calculated as follows.

$$\frac{\text{Number of days performing the special responsibility}}{\text{Number of days in the year}} \times \text{Annual Special Responsibility Allowance}$$

- 6.2.6. No Councillor can receive more than one Special Responsibility Allowance from the Council at a time. Where a Councillor is eligible to receive more than one allowance from the Council, the higher allowance will be paid.
- 6.2.7. Councillors may accept a special responsibility allowance from the Council and other bodies to which they are elected but not in relation to the same duties.
- 6.2.8. The amounts of Special Responsibility Allowances are set out at Appendix A.

Dependent Allowance – Childcare or Carer:

- 6.2.9. A Councillor who incurs costs for the care of dependent relatives or children while undertaking approved duties under regulation 7 of the Allowances Regulations can claim a Dependents' Allowance for the period of the approved duties plus reasonable travel time agreed by the Chief Executive provided that:
 - 6.2.9.1. Childcare dependent allowance shall only be payable in respect of a child up to and including 13 years of age;
 - 6.2.9.2. Carer dependent allowance shall only be payable upon provision of medical or social care evidence that the care is required.
- 6.2.10. Dependent allowance may be claimed at an hourly rate equivalent to the minimum wage paid to a person 21 years of age for the first dependent, a further 50% be paid in respect of a second dependent and a further 25% be paid in respect of subsequent dependents up to a total maximum payment of twice the level of the minimum wage;
- 6.2.11. The dependents' allowance may not be paid to a member of the Councillor's own household and cannot exceed the actual costs incurred.

Co-optees Allowance

- 6.2.12. The Co-optees Allowance is to cover attendance at conferences and meetings and may apply to any co-opted and appointed members of a Council's Committees or sub-Committees. It is an annual allowance which will be paid in proportion to the length of time the co-optee serves on the Committee.
- 6.2.13. Where a co-optee is appointed Chairman of the committee to which they are co-opted, the Co-optee Allowance will be paid at a rate no less than the equivalent Special Responsibility Allowance available to Chairmen of equivalent committees of the Council.

- 6.2.14. The payment of the Co-optee Allowance to individuals co-opted to a Council body shall only be applied if specifically agreed by Council.

Travelling and Subsistence Allowance

- 6.2.15. The Travel Allowance payable to councillors and co-optees shall be the same as the travel allowances paid to staff employed under the National Joint Council for Local Government Services (“NJC”) national conditions of service as follows:
- 6.2.15.1. Mileage rates to be the same as those paid to casual car users;
 - 6.2.15.2. Bicycle Allowance at the same rate as that paid to staff;
- 6.2.16. Train travel shall be reimbursed to the value of the cheapest fare available.
- 6.2.17. The Subsistence Allowance payable to councillors and co-optees shall be as follows:
- 6.2.17.1. Breakfast: £5.00,
 - 6.2.17.2. Lunch: £10,
 - 6.2.17.3. Evening Meal: £15
 - 6.2.17.4. Overnight Stay: as agreed with relevant Officer.
- 6.2.18. Travel and subsistence allowances may be paid for attendance at a meeting of:
- 6.2.18.1. the bodies identified in Parts 2 and 3 of this constitution;
 - 6.2.18.2. a body to which the Council has made an appointment or nomination;
 - 6.2.18.3. a meeting authorised by the Council, Cabinet or their Committees, or a joint committee of the Council;
 - 6.2.18.4. a local authority association of which the Council is a member;
 - 6.2.18.5. any other duty approved by the Authority in connection with discharging the duties of the Authority or its Committees or sub-Committees.
- 6.2.19. Travel and subsistence claim submitted without supporting receipts will not be paid.

IT provision

- 6.2.20. Technology is relied upon by the Council to serve the community, staff and Councillors. Councillors are expected to receive information and communicate via email, attend meetings via electronic platforms such as Microsoft Teams, and accessing information electronically on Council systems. Councillors should therefore have appropriate IT equipment. However, given the difficulties some Councillors have previously experienced accessing council systems with their own IT, the Council now offers Councillors a choice between:

6.2.20.1. an annual allowance of £250 per municipal year towards their IT equipment needs¹⁶⁰, provided:

6.2.20.1.1. the equipment meets a minimum specification set by the IT department;

6.2.20.1.2. receipts are provided;

6.2.20.1.3. consent is given for software to be installed on the equipment which allows the Council to wipe its data from the equipment remotely in the event that the equipment is lost; or

6.2.20.2. standard issue IT built by the IT team specifically to serve the needs of Councillors, pre-loaded with council systems anticipated to be needed by Councillors to undertake their role.¹⁶¹.

6.2.21. Whichever IT provision is chosen, Councillors are required to comply with the Council's IT security policies at all times.

6.3 Payments

6.3.1. Payments in respect of basic and special responsibility allowances, will be made in instalments of one-twelfth of the amount specified in this Scheme on the 25 day of each month two weeks in arrears, 2 weeks in advance.

6.3.2. Claims for dependent carers, travel and subsistence allowances should be made on the approved forms, together with supporting receipts, to Democratic Services within 2 months of the date of the event from which the allowance entitlement arose.

6.3.3. Tax is payable on basic allowances, special responsibility allowance, dependent allowance and co-optees' allowance. Her Majesty's Revenue & Customs ("HMRC") is notified of all new councillors.

Renunciation

¹⁶⁰ Councillors may draw down two years of allowance (i.e. £500) to purchase equipment such as laptop, tablets or smart phones however the Council's IT team will not provide those purchasing their own equipment with:

- IT support for any problems arising with devices not issued by the Council;
- replacements for equipment that is not working;
- consumables such as charging cables, screens, keyboard etc,

¹⁶¹ Council issued equipment (including headphones, mouse, keyboard, screen etc) will be of a specification higher than that purchasable with the IT allowance alone, fully supported by the IT team in normal office hours, with replacement kit being issued where required.

- 6.3.4. Councillors can choose to forego any part of their entitlement to an allowance under this scheme by giving notice in writing to the Section 151 Officer.

Annual uprating

- 6.3.5. All Allowances will be adjusted annually to reflect any increases awarded by the national Joint Negotiating Committee for Local Government Services – that is, the national scheme for all staff apart from Chief Officers.

Repayment

- 6.3.6. Where payment of any allowance has already been made in respect of any period during which the Councillor concerned is:
- 6.3.6.1. suspended or partially suspended from their responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part;
 - 6.3.6.2. ceases to be a member of the authority; or is in any other way not entitled to receive the allowance in respect of that period the authority will require repayment of such part of the allowance as relates to any such period.

Withholding

- 6.3.7. The Council can withhold certain allowances as a result of full or partial suspension of a councillor as follows:
- 6.3.7.1. Basic Allowance - fully or partially withheld;
 - 6.3.7.2. Travel and subsistence allowances or reimbursement of expenses withheld in relation to any duties or responsibilities attracting these allowances.
 - 6.3.7.3. Special Responsibility Allowance – fully or partially withheld;
 - 6.3.7.4. Co-Optee Allowance – fully or partially withheld.]
 - 6.3.7.5. Dependent Allowance may not be withheld from Councillors.

6.4 Reasonable Adjustments

- 6.4.1. The Council is committed to supporting disabled people who are elected to the Council and will assist with any disability-related costs of being a Councillor, for example difficulty using public transport, needing sign language interpreters etc. Democratic Services will work with any Councillor trying to overcome barriers caused by disability to ensure full engagement and participation in the work of the Council.

6.5 Miscellaneous

6.5.1 The Council must publish details of allowances claimed by all Councillors on an annual basis.

6.5.2 Councillors must make their own pension provision

6.5.3 In addition to the statutory review of allowances undertaken every 4 years, the Council will convene a meeting of the Independent Remuneration Panel upon 10 Councillors making a written request to that effect to the Chairman of the Constitutional Review Committee.

Appendix A

Office	SRA Factor	Basic (2023)	Special Responsibility Allowance (2023)	Total	No.	Total Cost in 2023
		£	£	£		£
Cabinet						
Leader of the Council	2.750	5,572.10 (5,998.45)	15,323.28 (16,495.74)	20,895.38 (22,494.19)	1	20,895.38 (22,494.19)
Deputy Leader of the Council	1.375	5,572.10 (5,998.45)	7,661.64 (8,247.87)	13,233.74 (14,246.32)	-	0 (0)
Cabinet Member	1.2	5,572.10 (5,998.45)	6,686.52 (7,198.13)	12,258.62 (13,196.58)	3 5	36,775.86 (65,982.90)
Committee Chairman						
Planning	1.0	5,572.10 (5,998.45)	5,572.10 (5,998.45)	11,144.20 (11,996.90)	1 1	11,144.20 (11,996.90)
Chairman of Licensing & Regulatory Committee	0.25	5,572.10 (5,998.45)	1,393.03 (1,499.62)	6,965.13 (7,498.07)	1 1	6,965.13 (7,498.07)
Chairman of Audit and Standards Committee	1.2	5,572.10 (5,998.45)	4,179.07 (7,198.13)	9,751.17 (13,196.58)	1 1	9,751.17 (13,196.58)
Scrutiny Panels						
Scrutiny Commission	1.2	5,572.10 (5,998.45)	6,686.52 (7,198.13)	12,258.62 (13,196.58)	1 1	12,258.62 (13,196.58)
Scrutiny Panel Chairman	0.75	5,572.10 (5,998.45)	4,179.08 (4,498.84)	9,751.18 (10,497.29)	2 2	19,502.36 (20,994.58)
Main Opposition Group Leader	1.00	5,572.10 (5,998.45)	5,572.10 (5,998.45)	11,144.20 (11,996.90)	1 1	11,144.20 (11,996.90)

						122,586.20
All other members	0.00	5,572.10		5,572.10	22	(125,967.45
		(5,998.45)	(0)	(5,998.45)	21)
TOTAL						251,023.12
						(293,324.15
)
Parish Member on						
Audit & Standards		551.72		551.72		1,655.16
Committee / Co-optee		(593.94)		(593.94)	3	(1,781.82)
						(295,105.97
TOTAL					37)



Part 7: Management Structure

Contents	Page
Council Officers Management Structure	374

- 7.1 The Council's Officer Management Structure can be viewed using the following link to the Council's website:

<https://www.harborough.gov.uk/management>