



# Constitutional Review Committee

**To All Members of the Constitutional Review Committee on Tuesday, 01 March 2022**

**Date of meeting:** Wednesday, 09 March 2022

**Time:** 18:30

**Venue:** The Council Chamber  
The Symington Building, Adam and Eve Street, LE16 7AG

The meeting will be open to the public, however only a limited number of public seats will be available on application.

If you would like to request a seat please contact  
[democratic.services@harborough.gov.uk](mailto:democratic.services@harborough.gov.uk) by:  
Monday 7th March 2022.

## Agenda

- 1 Apologies for Absence and Notification of Substitutes.
- 2 Declarations of Members' Interests
- 3 Minutes of the Constitutional Review Committee Meeting held on 9th November 2021 3 - 4
- 4 Review of Keeping Ward Members Informed 5 - 58
- 5 Revision to Contract Procedure Rule 4 - TO FOLLOW
- 6 Verbal Discussion on Planning Call-In Procedures 59 - 88
- 7 Any Urgent Business  
To be decided by the Chairman.

LIZ ELLIOTT

INTERIM CHIEF EXECUTIVE AND HEAD OF PAID SERVICE  
HARBOROUGH DISTRICT COUNCIL

Contact:

[democratic.services@harborough.gov.uk](mailto:democratic.services@harborough.gov.uk)

Telephone: 01858 828282

Circulate to: Barry Champion - Member, Paul Dann - Member, Barbara Johnson - Member, Phil King -  
Chairman, Cindy Modha - Member, Geraldine Robinson - Member, Julie Simpson - Member

HARBOROUGH DISTRICT COUNCIL

MEETING OF THE CONSTITUTIONAL REVIEW COMMITTEE

held in the Council Chamber, The Symington Building, Adam & Eve Street, Market Harborough

on 9<sup>th</sup> November 2021

commencing at 6.30 p.m.

Present:

Councillor King (Chairman)

Councillors: Champion, Dann, Johnson, Modha, Mrs Robinson and Mrs Simpson.

Officers: S. Green, N. Kwasa, C. Mason and S. Patel

INTRODUCTIONS

The Chairman welcomed everyone to the meeting and introduced the officers present.

1. APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES

There were none.

2. DECLARATIONS OF MEMBERS' INTERESTS

There were none.

3. MINUTES

**RESOLVED that the Minutes of the Meeting of the Constitutional Review Committee held on 29<sup>th</sup> June 2021 be approved and signed by the Chairman as a true record.**

4. REPORT - PROPOSED AMENDMENTS TO THE CONSTITUTION

The report was presented by the Deputy Monitoring Officer. He highlighted to Members that the changes in Appendix A reflect the changes to Council functions which were approved at the Full Council meeting on 27<sup>th</sup> September 2021. He noted that as this had already been approved by Council, Appendix A was an administrative update and could not be altered by the Committee.

The changes put forward in the report were due to recent Council decisions and a review by the Chief Finance Officer of the current Financial Procedure Rules and the Budget Procedure Rules. The proposed amendments and the reasons were set out in detail in Appendix B to the report.

Members noted the following spelling and grammar mistakes within the proposed requirements in Appendix B to be amended:

D4, p.12	'Service Mangers' to read 'Service Managers'
E5, 2 ii. p.15	Remove 'that' to read 'For amounts exceeding the amount in (2 i)...

Members had the opportunity to question the officers. Following the discussion it was,

**RESOLVED;**

**1. That the amendments to the Constitution set out in Appendix A are referred to Council for adoption;**

**and**

**2. That the amendments to the Constitution set out in Appendix B are considered and recommended to Council for approval and adoption as appropriate.**

**5. ANY URGENT BUSINESS**

There was none.

The meeting ended at 7.04pm.

**REPORT TO THE MEETING OF CONSTITUTIONAL REVIEW  
COMMITTEE ON 9 MARCH 2022**

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**Status:**

**Title:** Review of Keeping Ward Members Informed

**Originator:** Babs Morris (Interim Monitoring Officer)

**Where from:** Motion from Council

**Where to next:** Council

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**1** Purpose of Report

- 1.1 To remind Members of the current Access to Information provisions in the Constitution and to note the other existing communication channels available to members in their Ward duties.

**2** Recommendations:

- 2.1 (i) To note the Report and to remind members of the existing communication channels and Constitutional Provisions.  
(ii) To determine if any additional mechanisms for Ward Member communication channels need to be provided.  
(iii) That the amendment to the Constitution set out in the report, in relation to Part 5, Section 3: Section 10 of the Protocol on Member and Officer Relations, is considered and recommended to Council for approval.

**3** Summary of Reasons for the Recommendations

- 3.1 An embedded framework exists at the Council to cascade information to elected members when engaged with the current tools available.

**4** Impact on Communities

- 4.1 Elected members need to be well informed to carry out their community duties and cascade important information.

**5** Key Facts

- 5.1 At the Council Meeting on 21<sup>st</sup> June 2021 the Minutes record the following:

NOTICE OF MOTION SUBMITTED IN ACCORDANCE WITH PROCEDURE  
RULE 11.1 OF PART 4(1) OF THE COUNCIL CONSTITUTION

It was moved by Councillor Knowles, seconded by Councillor Dunton:

“The Constitution is an evolving document and there are clear needs from time to time to amend, upgrade and/or take steps to avoid ambiguity.

Keeping ward members informed is an important part of the functioning of Harborough District Council.

Having spoken at length to senior officers within HDC there seems to be support for taking a look at the specifics and mechanics of keeping ward members informed. I therefore move that officer be asked to draw up a report on this matter and to bring it as soon as possible for consideration to the Constitutional Review Committee”.

On being put to the vote the motion was carried.”

## 5.2 The Constitution

In light of the need to respond to the Motion the Interim Monitoring Officer has reviewed the Council’s Constitution in particular the Access to Information Rules contained in Part 4 attached at Appendix 1 to this Report and also the Member and Officer Relations Protocol in Part 5 attached at Appendix 2 to this report.

The Access to Information sets out in detail the rights to information, attendance at meetings, notice provisions for meetings, access to agendas, reports and minutes which members will be familiar with.

The Member and Officer Relations Protocol also deals with Access to Information and Council Documents, Correspondence, Public Relations and Press Release, Involvement of Ward Councillors, Officers Advice to Party Groups and Supporting Front Line Members in detail.

It has become apparent that as the “Sensitive Issues Procedure” referred to no longer exists, Section 10 of this Protocol needs to be amended and suggested new wording is set out below :-

### 10. Involvement of Ward Councillors

- 10.1 It is essential that in order for Members to carry out their duties they need to be kept fully informed about matters on which they may be required to make decisions or which affect their Wards.
- 10.2 It is vital all relevant staff are aware of the requirement to keep Members informed and that the timing of such information allows Members to contribute to those decisions. Local Ward Members shall also be kept informed about significant matters affecting their Ward.

- 10.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward(s) affected should as a matter of course be invited to attend the meeting.
- 10.4 Similarly, whenever the Council undertakes any form of consultative exercise, the Local Ward Member(s) should be notified immediately prior to the outset of the exercise.
- 5.3 The mechanisms for obtaining information to assist in enabling good communication is embedded in both the Access to Information Rules and the Member and Officer Relations Protocol, and Members should be aware of how they can request information and advice from Officers in order to carry out their roles where there is a need to know.
- 5.4 Other Tools available for Members

There are a wide variety of established communication mechanisms that are available to enable Members to obtain information, which include amongst other things the following:-

#### Channels

- Councils Web site which is regularly updated with information going on in the District.
- Planning Self Service Portal where members can sign up for weekly notifications relating to Planning matters.
- Regular Member Briefings from the Chief Executive during the pandemic period were introduced to provide up to date information, and more dates have been scheduled for briefings on a variety of topics going forwards.
- Councillor email updates.
- Monthly Members' newsletters.
- Councillors receive notification of all press releases before they are issued to the media.
- Members' intranet site.
- Social media channels: Twitter, Facebook, LinkedIn and Instagram.
- Monthly Residents newsletters and fortnightly Business newsletters are issued and available to view on the Members' intranet site.
- Members specific enquiry email address is provided at [memberenquiries@harborough.gov.uk](mailto:memberenquiries@harborough.gov.uk)
- Portfolio and Shadow Portfolio monthly meetings
- Group Meetings.

#### A possible new channel

- Numbered series of briefings that are circulated to Member and posted to the intranet as a central place for all briefings.

## Other Mechanisms

- Service areas are expected to brief Ward members directly on key issues affecting their Ward and regular Service Manager meetings also facilitates information being cascaded down to Ward Members.

## Strategies

The Council is in the process of preparing an Engagement Strategy, which will be focused on engaging residents and formal consultation processes and is scheduled for completion in the autumn of 2022. This strategy will be taken through the necessary governance processes for approval, before it is implemented.

The Council's Communication Strategy is available on the Council's website and will be updated during the summer of 2022.

## Members' survey

A Member's survey was carried out by HR in the Autumn of 2020 and a Member's Covid Communications survey was carried out by Internal Audit and both results are available on request.

## 6 Legal Issues

- 6.1 Good communication is an essential part of achieving good governance and should always be reviewed to ensure it is fit for purpose.

## 7 Resource Issues

- 7.1 If no change to the present position none. Any changes may have cost implications.

## 8 Equality Implications

- 8.1 Any changes to the current communication mechanisms available would need to take into account the Council's duties under the Equality Act 2010 and carry out an Equalities Needs Assessment.

## 9 Impact on the Organisation

- 9.1 Enabled strong communications with the community via Ward Members and the Council.



10    Community Safety Implications

10.1   None

11.   Carbon Management Implications

11.1   None

12.   Risk Management Implications

12.1   None

13    Consultation

13.1   Changes to the Council's Communications Strategy would require consultation with key stakeholders.

14    Options Considered

14.1   The Council has an obligation to keep its Constitution under review. The Committee does not have to recommend any of the proposals set out in the report to Council for consideration and adoption.

15    Background Papers

15.1   None

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Appendices:

1.Constitution Part 4 (2) Access to Information Procedure Rules

2. Constitution Part 5 (3) Protocol on Member and Officer Relations





## Part 4, Section 2: Access to Information Procedure Rules

### **CONTENTS**

#### 1. Scope

#### ***Rule***

#### **ALL PUBLIC MEETINGS (2-10)**

2. Additional Rights to Information
3. Right to Attend Meetings
4. Notice of Meetings
5. Access to Agenda of a Meeting and Reports Prior to a Decision
6. Supply of Copies
7. Access to Minutes etc. After the Meeting
8. Background Papers
9. Summary of Public Rights
10. Exclusion of Access by the Public to Meetings

#### **MEETINGS OF THE CABINET (11-24)**

11. Key Decisions
12. Procedures Prior to Private Meetings
13. Publicity in Connection with Key Decisions
14. General Exception (Late Items)
15. Cases of Special Urgency
16. Recording of Executive decisions Made at Meetings
17. Recording of Executive decisions Made by Officers
18. Inspection of Documents Following Executive Decisions
19. Additional Rights of Access to Documents for Members of the Council
20. Additional Rights of Access to Documents for Members of the Scrutiny Commission
21. Reports to Council Where the Key Decision Process is not Followed
22. Cabinet Reports to Council
23. Procedure Before Taking Key Decisions
24. Attendance at Private Meetings

## **1. SCOPE**

- a) The first part of these Rules (Rules 2 – 11) applies to all meetings of the Council, Scrutiny Commission, Community Forums, the Audit and Standards Committee and the Planning Committee and any other regulatory committees, together with their Panels or sub-committees (if any), plus public meetings of the Cabinet.
- b) The second part of these Rules (Rules 12 – 24) applies to meetings of the Cabinet, Cabinet Committees and Cabinet Advisory Panels.
- c) The requirements contained in these Rules do not include those meetings whose sole purpose it is for Officers to brief Members.
- d) The “proper officer”, for the purposes of these Rules, is the Monitoring Officer.

### **ALL PUBLIC MEETINGS (2-10)**

## **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information that are contained elsewhere in this Constitution or are conferred by law.

## **3. RIGHT TO ATTEND MEETINGS**

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

## **4. NOTICE OF MEETINGS**

The Council will give at least five clear working days’ notice of any meeting by posting details of the meeting at Council Offices, Market Harborough, Leicestershire, and on the Council’s website.

## **5. ACCESS TO AGENDA OF A MEETING AND REPORTS PRIOR TO A DECISION**

### **5.1 Prior access to agenda and reports**

The Council will make copies of the agenda of public meetings, and of those reports or parts of reports that are open to the public, available for inspection at the designated office and on the Council’s website at least five clear working days before the public meeting takes place, except that:

- a) where a public meeting is convened at shorter notice, a copy of the agenda and associated reports shall be available for inspection at the time the meeting is convened; or
- b) where an item which would be available for inspection by the public is added to the agenda, a copy of the revised agenda and any report related to that item will be open to inspection from the time the item was added to the agenda;

provided that nothing in this Rule 5.1 requires an agenda or report to be available for inspection by the public before it is available to the members of the decision-making body concerned.

## **5.2 Exceptions to Access**

If the Monitoring Officer thinks fit, there may be excluded from the copy of any report provided under Rule 5.1 the whole or any part of the report which relates only to matters during which, the Monitoring Officer's opinion, the meeting is likely to be a private meeting.

Where the whole or part of a report for a public meeting is not available for inspection by the public:

- a) every copy of the whole or part of the report, as the case may be, shall be marked "not for publication"; and
- b) there shall be stated on every copy of the whole or part of the report:
  - i) that it contains confidential information, or
  - ii) by references to the descriptions in Rule 10, the description of exempt information by virtue of which the body is likely to exclude the public during the item to which the report relates.

## **5.3 Access to agenda and reports at Meetings**

The Council will make available a reasonable number of copies of the agenda and reports for the use of members of the public present during a public meeting (except in respect of any reports or parts of reports relating to items during which the public are excluded from the meeting).

## **5.4 Recording of Meetings**

This policy applies to all formal meetings of Harborough District Council which includes meetings of its Cabinet held under the Local Government Act 1972 (as amended).

The policy is intended to enhance the rights of access by the press and public to Council meetings. It only applies to those meetings where the press and public would normally have rights of access.

1. The filming, recording and use of social media of and at a public meeting of the Council, its committees or sub-committees is permitted. This does not include

oral commentary during the meeting as this would be disruptive to the good order of the meeting.

2. Any person intending to record the meeting is requested to notify the Council (provide contact details) prior to the meeting to allow the Council to ensure that adequate facilities can be provided.
3. The Chairman of the relevant meeting will notify those present that the meeting may be recorded.
4. Any activity or action in relation to the recording of meetings which disrupts the conduct of the meeting is not permitted. Any person who, in the opinion of the Chairman of the meeting, so disrupts the meeting will be asked to leave.
5. Recording either audio or visual or both will be permitted from the area designated as 'public seating'.
6. No audio-visual equipment will be permitted to be placed in the immediate vicinity of Councillors or Officers participating in the meeting.
7. No flash photography will be permitted during the course of the meeting.
8. The Chair of the relevant meeting retains the right to require that any equipment in use is relocated, switched-off or removed should it prove to be disruptive to the smooth and efficient conduct of the meeting.
9. All equipment used to record proceedings of the meeting shall be silent when in use and cause no distraction to participants of the meeting or other members of the public.
10. All equipment used to record proceedings of the meeting shall be silent when in use and cause no distraction to participants of the meeting or other members of the public.
11. Users of audio-visual recording equipment will comply with all reasonable requests relating to health and safety e.g. trip hazards etc.
12. Where members of the public are participating in a meeting such as presenting a question at Public Question Time or presenting a petition, they shall be requested to give permission for their contribution to be recorded.
13. There shall be no filming or recording of the area designated as 'public seating' at any time.
14. Any recordings of meetings do not under law replace or negate the officially recorded minute of that particular meeting.

## **6. SUPPLY OF COPIES**

The Council will make available

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

to any person on request, and on payment of postage, copying or other necessary charge for transmission.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

### **7.1 Arising from Meetings**

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

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

### **7.2 Arising from an Executive Decision made by an Officer**

The Council will make available copies of the following for six years after the making of an executive decision by an Officer:

- a) the records of executive decisions made by an Officer; and
- b) reports (or part of a report, as the case may be) considered by the Officer and relevant to that decision which would not, in the opinion of the Officer, give rise to disclosure of exempt or confidential information (as defined in Rule 10).

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Monitoring Officer will ensure that set out in every report is a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

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

but the list does not include published works or those which disclose exempt or confidential information (as defined in Rule 10 and, in respect of Cabinet reports, the advice of a political advisor).

## **8.2 Public inspection of background papers**

The Council will make available the list of background papers and one copy of each of the documents listed for public inspection at the Council offices and on the Council's website from the time that copies of the relevant report are made available and for four years after the date of the meeting.

## **9. SUMMARY OF PUBLIC RIGHTS**

A written summary of the rights of the public to attend meetings and to inspect and copy documents must be kept available to the public at the Council's main offices. This section of the Constitution is that summary.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from a meeting during an item of business 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 otherwise be disclosed in breach of an obligation of confidence which has arisen from:

- a) information supplied to the Council by a Government Department, on terms which forbid disclosure of the information to the public; or
- b) from a prohibition on the disclosure of information to the public put in place by, or under an enactment, or by the order of a court.

### **10.2 Exempt information – discretion to exclude public**

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



Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Convention on Human Rights and Fundamental Freedoms set out in Part 1 of Schedule 1 to 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 that Article.

### **10.3 Meaning of exempt information**

Exempt information means information falling within the following categories as set out in Schedule 12A to the Local Government Act 1972:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person;
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The following qualifications apply:

8. Information falling within paragraph 3 above is not exempt information, by virtue of that paragraph, if it is required to be registered under:
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) The Friendly Societies Act 1992;
  - (d) The Industrial and Provident Societies Acts 1965 to 1978;
  - (e) The Building Societies Act 1986; or
  - (f) The Charities Act 1993
9. Information is not exempt if it relates to proposed development, for which the local planning authority may grant itself planning permission, pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempted by virtue of paragraph 8 or 9 above

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

#### **10.4 Exclusion to Maintain Order**

A member or members of the public may be excluded from a public meeting by the application of a lawful power in order to maintain orderly conduct or prevent misbehaviour.

#### **10.5 Application to Members**

Subject to Part 5 of this Constitution, Members will have the right to attend all parts of a meeting of any Committee, Board or Forum, of which they are not members, as observers.

### **MEETINGS OF THE CABINET (11-24)**

#### **11. KEY DECISIONS**

If the Cabinet or a Cabinet Committee meet to take a key decision then it must also comply with Rules 1 – 10 above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in Article 13.04 of this Constitution.

#### **12. PROCEDURES PRIOR TO PRIVATE MEETINGS**

12.1 At least 28 clear days before a private meeting, the Cabinet shall:

- (a) make available at the Council offices a notice of its intention to hold the meeting in private;
- (b) publish that notice on the Council's website.

12.2 A notice under Rule 12.1 shall include a statement of the reasons for the meeting to be held in private.

12.3 At least 5 clear days before a private meeting, the Cabinet shall:

- (a) make available at the Council offices a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.

12.4 A notice under Rule 12.3 shall include:

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received by the Cabinet about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

12.5 Where the date by which a meeting must be held makes compliance with this procedure impracticable the meeting may only be held in private where the Cabinet has obtained agreement from:

- (a) the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel;  
or
- (b) the Chairman of the Council (if the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel is unavailable); or
- (c) the Vice-Chairman of the Council (if the Chairman of the Council and the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel are both unavailable)

that the meeting is urgent and cannot reasonably be deferred.

12.6 As soon as reasonably practicable after the Cabinet has obtained agreement under Rule 12.5 to hold a meeting in private, it shall:

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

### **13. PUBLICITY IN CONNECTION WITH KEY DECISIONS**

13.1 Where the Cabinet intends to make a key decision, that decision shall not be made until a document has been published in accordance with Rule 13.2 which states:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;

- (c) the name and list of members of the decision-making body;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

13.2 At least 28 clear days before a key decision is made, the document referred to in Rule 13.1 shall be made available for inspection by the public at the Council's Offices and on the Council's website.

13.3 Where in relation to any matter:

- (a) the public may be excluded from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not be disclosed to the public because of Rule 10,

the document referred to in Rule 13.1 shall contain particulars of the matter but may not contain any confidential or exempt information.

13.4 The information required by Rules 12 and 13 shall be set out in a document titled "Forward Plan" which is published on a weekly rolling basis.

## **14. GENERAL EXCEPTION (LATE ITEMS)**

14.1 Subject to Rule 15, where the publication of the intention to make a key decision under Rule 13 is impracticable, that decision may only be made:

- (a) where the proper officer has informed the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel, or if unavailable, all Members of the Scrutiny Commission or relevant Scrutiny Panel, in notice by writing, of the matter about which the decision is to be made;

- (b) where the proper officer has made available at the Council Offices for inspection by the public and published on the Council's website, a copy of the notice given pursuant to Rule 14.1(a); and
  - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in Rule 14.1(b).
- 14.2 Where Rule 14.1 applies to any matter, Rule 13 need not be complied with in relation to that matter.
- 14.3 As soon as reasonably practicable after the proper officer has complied with Rule 14.1, he or she shall:
- (a) make available at the Council Offices a notice setting out the reasons why compliance with Rule 13 is impracticable; and
  - (b) publish that notice on the Council's website.

## **15. CASES OF SPECIAL URGENCY**

- 15.1 Where the date by which a key decision must be made, makes compliance with Rule 14 impracticable, the decision may only be made where the Cabinet has obtained agreement from:
- (a) the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel; or
  - (b) the Chairman of the Council (if the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel is unavailable); or
  - (c) the Vice-Chairman of the Council (if the Chairman of the Council and the Chairman of the Scrutiny Commission or the relevant Scrutiny Panel are both unavailable)

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

- 15.2 As soon as reasonably practicable after the Cabinet has obtained agreement under Rule 15.1 that the making of the decision is urgent and cannot reasonably be deferred, the Cabinet shall:
- (a) make available at the Council Offices a notice setting out the reasons why the meeting is urgent and cannot be reasonably deferred; and
  - (b) publish that notice on the Council's website.

## **16. RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS**

- 16.1 As soon as reasonably practical after any meeting of the Cabinet at which an executive decision was made, the proper officer (or if the proper officer was not present at the meeting, the person presiding) shall ensure that a written statement is produced for every executive decision made which includes the information specified in Rule 16.2.
- 16.2 The statement referred to in Rule 16.1 shall include:
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the Cabinet at the meeting at which the decision was made;
  - (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet; and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.
- 16.3 For the purposes of Rule 16.1, "person presiding" means the person actually presiding or the person nominated to preside at that meeting.

## **17. RECORDING OF EXECUTIVE DECISIONS MADE BY OFFICERS**

- 17.1 As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer shall produce a written statement which must include:
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the officer when making the decision;
  - (d) a record of any conflict of interest declared by any Cabinet member who is consulted by the officer which relates to the decision; and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

## **18. INSPECTION OF DOCUMENTS FOLLOWING EXECUTIVE DECISIONS**

18.1 Subject to Rules 5, 7 and 10, after a meeting of the Cabinet at which an executive decision has been made, or after an individual officer has made an executive decision, the proper officer shall ensure that a copy of:

- (a) any records prepared in accordance with Rules 16 and 17; and
- (b) any report considered at the meeting or, as the case may be, considered by the individual officer and relevant to a decision recorded in accordance with Rules 16 and 17 or, where only part of the report is relevant to such a decision, that part

is available for inspection by members of the public, as soon as is reasonably practicable, at the Council Offices and on the Council's website.

18.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule 18.1, those documents shall be supplied for the benefit of the newspaper by the Council, on payment by the newspaper to the Council, of postage, copying or other necessary charge for transmission.

## **19. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL**

19.1 Subject to Rules 19.5 and 19.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to any business to be transacted at a public meeting

shall be available for inspection by any member of the Council.

19.2 Any document which is required by Rule 19.1 to be available for inspection by any member of the Council shall be available for inspection at least 5 clear working days before the meeting except that:

- (a) where the meeting is convened at shorter notice, such a document shall be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 19.1 in relation to that item, shall be available for inspection when the item is added to the agenda.

19.3 Subject to Rules 19.5 and 19.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and

- (b) contains material relating to:
  - (i) any business transacted at a private meeting; or
  - (ii) any decision made by an officer in accordance with executive arrangements

shall be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an officer, immediately after the decision has been made.

- 19.4 Any document which is required by Rule 19.3 to be available for inspection by any member of the Council, shall be available for inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made.
- 19.5 Rules 19.1 and 19.3 do not require a document to be available for inspection if it appears to the proper officer that the document discloses exempt information as set out in Rule 10. However, members are able to inspect (but not to have a copy of) advice received from Counsel or other external legal adviser which is subject to this Rule 19.5 under such conditions as may be required by the Monitoring Officer.
- 19.6 Notwithstanding Rule 19.5, Rules 19.1 and 19.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:
  - (a) paragraph 3 of Rule 10.3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or
  - (b) paragraph 6 of Rule 10.3.
- 19.7 The rights conferred by Rules 19.1 and 19.3 are in addition to any other rights that a member of the Council may have (see also paragraph 4 of Part 5, Section 3 – Member/Officer Protocol).

## **20. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF SCRUTINY COMMISSION**

- 20.1 Subject to Rule 20.3, a member of the Scrutiny Commission is entitled to a copy of any document which:
  - (a) is in the possession or under the control of the Cabinet; and
  - (b) contains material relating to:
    - (i) any business that has been transacted at a meeting of the Cabinet; or



- (ii) any decision that has been made by an officer in accordance with executive arrangements

20.2 Subject to Rule 20.3, where any member of the Scrutiny Commission requests a document which falls within Rule 20.1, the Cabinet must provide that document as soon as reasonably practicable, and in any case, no later than 10 clear days after the Cabinet receives the request.

20.3 No member of the Scrutiny Commission is entitled to a copy of any such document or part of a document which contains exempt or confidential information unless that information relates to:

- (a) an action or decision that the member is reviewing or scrutinising; or
- (b) any review contained in the Scrutiny Commission work programme.

20.4 Where the Cabinet determines that a member of the Scrutiny Commission is not entitled to a copy of a document or part of any such document for a reason set out in Rules 20.1 or 20.3, it must provide the Scrutiny Commission with a written statement setting out its reasons for that decision.

## **21. REPORTS TO COUNCIL WHERE THE KEY DECISION PROCESS IS NOT FOLLOWED**

21.1 Where an executive decision was made and:

- (a) was not treated as being a key decision; and
- (b) the Scrutiny Commission or the relevant Scrutiny Panel are of the opinion that the decision should have been treated as a key decision, the Scrutiny Commission or the relevant Scrutiny Panel may require the Cabinet to submit a report to Council within such reasonable period as the Scrutiny Commission or relevant Scrutiny Panel may specify.

21.2 A report under Rule 21.1 must include details of:

- (a) the decision and the reasons for the decision;
- (b) the decision maker who made the decision; and
- (c) the reasons as to why the decision was not treated as a key decision.

## **22. CABINET REPORTS TO COUNCIL**

- 22.1 The Leader of the Cabinet shall submit to Council on a quarterly basis a report containing details of each Executive decision taken during the preceding 3 months where the making of that decision was agreed as urgent in accordance with Rule 16.
- 22.2 A report submitted for the purposes of Rule 22.1 must include:
- (a) particulars of each decision made; and
  - (b) a summary of the matters in respect of which each decision was made.

## **23. PROCEDURE BEFORE TAKING KEY DECISIONS**

### **23.1 Reports**

- a) No key decision shall be taken except upon receipt of a written report, as set out in Rule 23.1(b), which has been provided to the persons set out in 23.2 below or 23.5 (urgent decisions) below.
- b) An Officer of the Council shall, upon being so requested by the Chief Executive, Chief Officer or relevant body proposing to take the key decision, prepare a written report setting out:
  - i) **DECISION INFORMATION**
    - 1) the body proposing to take the decision;
    - 2) any restrictions upon the publication of the report or public attendance at the making of the final decision, in accordance with Rule 10;
    - 3) the place, date and time at which the body proposes to make its decision;
  - ii) **PURPOSE OF REPORT**
    - 1) the reasoning behind the report being generated;
  - iii) **RECOMMENDATIONS**
    - 1) the Officer's recommendation(s) in respect of the proposed decision (if any);
    - 2) indication as to whether the report needs to progress to Council for a final decision;
  - iv) **SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 1) details of any changes or other reasons behind the recommendation(s) being made;
- v) KEY FACTS
- 1) the facts upon which any decision must be based;
  - 2) any legislative requirements, including any Human Rights Act issues;
  - 3) any relevant national or regional guidance;
- vi) LEGAL ISSUES
- 1) any legal or legislative issues, or aspects thereof, which impact on the proposed recommendation(s);
  - 2) any legal or legislative issues, or aspects thereof, which impact on the existing situation/ circumstances/ arrangements;
- vii) RESOURCE ISSUES
- 1) any implications that the proposed recommendation(s) would have on the resources and/ or resourcing of the Council (in terms of finance and staffing);
  - 2) any implications that the proposed recommendation(s) would have on the resources and/ or resourcing of other groups/ bodies involved (in terms of finance and staffing);
  - 3) any implications that not carrying the proposed recommendation(s) through would have on the resources and/ or resourcing of the Council (in terms of finance and staffing);
- viii) EQUALITY IMPACT ASSESSMENT OUTCOMES
- 1) consideration of the impact/ implications of proposed recommendation(s) of the six main equality groups – those being: age, disability, religion or belief, gender, sexual orientation, and race;
  - 2) other relevant equality factors; such as rurality, care responsibilities etc should be considered as appropriate;
  - 3) the tool for identifying and addressing the considerations in 1) and 2) is the Equality Impact Assessment, the outcomes of which must be identified in the report;
- ix) CONSULTATION

- 1) any consultation undertaken;
- 2) the views of any consultees (as incorporated within the report);
- 3) a summary of any other representations received;
- x) **OPTIONS CONSIDERED**
  - 1) what alternative options to the recommendation(s) were considered as available and viable, by the Officer, and rejected;
  - 2) the reason(s) for proposing the recommendation(s), as detailed, over those alternative options;
- xi) **BACKGROUND PAPERS**
  - 1) a list of any background papers to the report and/ or the proposed recommendation(s), as applicable.

## **23.2 Internal Consultation**

- a) Prior to submission to the decision-making body, the report must be provided to the Council's Corporate Management Team.
- b) Prior to the decision being made, the report will be made available:
  - i) in accordance with Rule 5, 6 and 10 of these Rules;
  - ii) to all Members of the Cabinet;
  - iii) to the Chairman of the Scrutiny Commission and Chairmen of the Scrutiny Panels (upon request), except that where the Scrutiny Commission or Scrutiny Panels do not have a Chairman the notice will be served on all the Members of the Commission or Panel as appropriate;
  - iv) to other Members to be notified under the Sensitive Issues Procedure;
  - v) to the Head of the Paid Service, Monitoring Officer and Chief Financial Officer, and any other chief Officer as appropriate;
  - vi) in the Members' Room; and
  - vii) on the Council's intranet system (and to all other Members by way of post or hand delivery until such time as Members have independent access to the authority's intranet system – as advised by that Member).
- c) The requirements for consultation and public participation set out above and elsewhere within these Rules are to be regarded as a minimum, and Officers are responsible for determining when further consultation and public participation would be appropriate, and arranging as such.

### **23.3 Member involvement**

Where any Member notifies the Head of Paid Service (or their nominee) and the Leader of the Cabinet at any time, at least 24 hours prior to the proposed time of decision as set out in the report, that he or she has pertinent comments to make on the report:

- a) he or she may request one of the following:
  - i) that their written comments be presented to the decision-making body;  
or
  - ii) the opportunity to make representations to the decision-making body  
before it takes a decision on the matter, or
- b) the Chief Executive or their nominee present shall advise the decision-making body of any comments received, in accordance with this procedure.

### **23.4 Determination**

- a) Where no such comment has been received from a Member, the decision-making body may proceed to make its decision at the date, time and place set out in the report.
- b) Where any Member has requested the opportunity to make representations, that Member shall have the right to attend at the time, date and place set for the decision-making body to make its decision and to make representations to the decision-making body for a maximum of five minutes before the decision-making body takes its decision on the matter and may, at the discretion of the decision-taker, then speak further and/ or take part in any ensuing debate.

## **24. ATTENDANCE AT PRIVATE MEETINGS**

The following persons will be entitled to attend at any private meeting of the Cabinet, unless otherwise specifically prohibited by the Cabinet:

- a) Members of the Cabinet;
- b) Members of the Cabinet Advisory Panel summoned to the meeting;
- c) other Members;
- d) the Head of the Paid Service, Monitoring Officer and Chief Financial Officer (the 'statutory Officers'); and

- e) other Officers, as felt appropriate or invited by the Cabinet or Panel or by the statutory officers.



## **Part 5, Section 3: Protocol on Member and Officer Relations**

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## **1. INTRODUCTION**

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another, in such a way as to ensure the smooth running of the Council.
- 1.2 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give impartial advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and their meetings.
- 1.3 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members.
- 1.4 Mutual respect between Members and Officers is essential to good local government. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.
- 1.5 Given the variety and complexity of relations, this Protocol does not seek to be overly prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. Beyond the stricter issues raised, however, it is hoped that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.6 This Protocol is, to a large extent, no more than a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the advice is followed, it should also ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.7 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct.



## **2. ROLES OF MEMBERS AND OFFICERS**

The roles of Members broadly are:

- 2.1 Members express political values and support the policies of the party or group to which they belong (if any).
- 2.2 Members represent their electoral ward and are advocates for the citizens who live in the area.
- 2.3 Members are involved in active partnerships with other organisations as community leaders.
- 2.4 Members contribute to the decisions taken in full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- 2.5 Members help initiate, develop and review policy and strategy.
- 2.6 Members monitor and review policy implementation and service quality.
- 2.7 Members are involved in quasi-judicial work through their membership of regulatory committees.

The roles of Officers broadly are:

- 2.8 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- 2.9 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
- 2.10 Initiating policy proposals.
- 2.11 Implementing agreed policy.
- 2.12 Ensuring that the Council always acts in a lawful manner.

## **3. GENERAL CONDUCT**

- 3.1 In line with the Council's Code of Conduct's reference to "respectful and courteous relationships", it is important that any dealings between Members and Officers should observe reasonable standards of courtesy, and that neither party should seek to take unfair advantage of their position.
- 3.2 Members should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public. This is a long-standing tradition in public service. Employees have no means of responding to criticisms like this in public.

- 3.3 If Members feel they have not been treated with proper respect or courtesy, or have any concern about the conduct or capability of a Council employee, they should raise the matter with the Chief Officer concerned. The Chief Officer will then look into the facts and report back to the Member. If the Member continues to feel concerned they should then report the facts to the Chief Executive who will look into the matter afresh.
- 3.4 Where an Officer feels that he or she has not been properly treated with respect and courtesy, or is concerned about any action or statement relating to them or a colleague by a Member they should raise the matter with their Chief Officer, or the Chief Executive as appropriate. In these circumstances, the Chief Officer, or the Chief Executive will take appropriate action by approaching the individual Member and/ or their group leader.
- 3.5 It is unacceptable for Members or Officers to endeavour to take unfair advantage of their position within the authority. In their dealings with Officers (especially junior Officers), Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings may be intensified where Members hold senior official and/or political office. Similarly, an Officer must not seek to use undue influence on an individual Member to make a decision in his or her favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers. Where the behaviour complained of is regarded by the Head of Paid Service, Chief Executive or Chief Officer concerned or the Monitoring Officer (as appropriate) to be a form of bullying, intimidation or harassment intended to influence unfairly a person's actions, thoughts or deeds, the matter will be the subject of either action under the grievance or disciplinary procedures in respect of Officers, or of a complaint to the Standards Sub Committee in respect of Members.

3.6 Members will	Officers will
<p>a) Not become involved in individual staffing matters except at the request of the Corporate Management Team or as provided in the Constitution.</p> <p>b) Not enter into discussion with any other Members or Officers about any employment decisions or an applicant for employment or day-to-day staffing issues (except when an agreed agenda item is being considered by a Committee or other formal Member group).</p> <p>c) Always make employment decisions on merit.</p>	<p>a) Not lobby any Member about any employment decisions or an applicant for employment or day-to-day staffing issues.</p> <p>b) Not seek Members' involvement in staffing matters except at the request of the Corporate Management Team or as provided in the Constitution, for example staffing policy formation.</p> <p>c) Always make employment decisions on merit.</p> <p>d) Not seek to involve Members in operational issues except at the request of the Corporate Management Team.</p>

d) Not seek to become involved in operational issues except at the request of the Corporate Management Team.	
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## 4. ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

### Introduction

- 4.1 The following paragraphs identify arrangements for Members' access information and documents beyond that set out in the Access to Information Rules in Part 4(2) of the Constitution. It is important to note that such access only applies where Members are undertaking Council business. Where a Member has a private or personal interest in a matter, the Member will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances the Member must make it clear to the employee that they are acting on their own behalf, and not acting as a Member.

### Access to Information

- 4.2 Members are free to approach the Service Manager of any Council section to provide them with such information, explanation and advice (about that Section's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council, or in any particular role to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a Section's activities to a request for specific information on behalf of a constituent.

4.3 Members will	Officers will
<p>a) Be provided with the direct line work telephone numbers of all Service Managers and more senior Officers.</p> <p>b) Only approach staff via the Head of Service or Service Manager of the Section concerned.</p> <p>c) Exercise their right to contact Officers during the working hours of the Council between Monday and Friday.</p> <p>d) In cases of doubt, contact the Chief Executive or the Monitoring Officer.</p>	<p>a) Ensure that Members are able to leave messages for them out of normal working hours.</p> <p>b) Other than in exceptional circumstances, agree to any requests for a meeting received from the group leaders on behalf of individual Members (having consulted the Chief Executive).</p>

### Access to Council Documents

- 4.4 The legal rights of Members to inspect Council documents are covered partly by statute and partly by the common law.

Statute:

- 4.5 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council or Cabinet meeting. This right applies irrespective of whether the Member is a Member of the meeting concerned, and extends not only to reports which are to be submitted to that meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items, including background papers, which may appear on the private agenda for meetings. Therefore, Members do not have a statutory right to inspect all exempt information e.g. that relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. However, Rule 20.5 of Part 4, Section 2, Access to Information Procedure Rules, enables Members to inspect (and to request a copy of all or part of) advice received from Counsel or other external legal adviser, or received from any other external professional adviser, which is under the control of the Cabinet and relates to an executive decision taken at a private meeting or by an Officer. Inspection and the provision of copies are to take place under such conditions as may be required by the Monitoring Officer, e.g. in a particular room, under supervision, after signing an undertaking to observe confidentiality. The same right applies to any such advice held by the Council, not under the control of the Cabinet, in relation to any business which is to be transacted at a Council meeting, or a meeting of a Committee of which the Member is a member, where the advice is not provided to Members as part of a report. Such advice which relates to the business of a Committee of which the Member is not a member shall be open to inspection on the same basis as provided in Rule 20.5 of Part 4, Section 2.

Common Law:

- 4.6 The common law right of Members is much broader, and is based on a presumption in favour of any Member being able to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.
- 4.7 The exercise of this common law right depends, therefore, upon the Member’s ability to demonstrate that they have the necessary “need to know”. In this respect a Member has no right to “a roving commission” to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be determined by the particular Head of Service whose Section holds the document in question (with advice from the Chief Executive or Monitoring Officer). In the event of dispute, the question falls to be determined by the relevant meeting, i.e. the meeting in connection with whose functions the document is held.

- 4.8 In some circumstances (e.g. a Member wishing to inspect documents relating to the business of a meeting of which they are a Member), a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties), a Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature, are either not accessible by Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft document compiled in the context of emerging Council policies and draft committee reports, the premature disclosure of which might be against the Council's and the public interest.
- 4.9 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know" and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.

4.10 Members will	Officers will
<ul style="list-style-type: none"> <li>a) Only seek information that they have a need to know to perform their duties.</li> <li>b) Not knowingly seek information which is not publicly available and which they do not have a need to know to perform their duties, in which they are professionally interested, in which they have a prejudicial interest.</li> </ul>	<ul style="list-style-type: none"> <li>a) Respond promptly to requests for information.</li> <li>b) Refer a request for information which is not publicly available and in which it would seem that Member may have an interest to their Head of Service or a Deputy Chief Executive for them to take appropriate action in consultation with the Monitoring Officer.</li> <li>c) Refer a decision to refuse a Member access to requested information to the Monitoring Officer at the member's request (or to the Chief Executive if the refusal was by the Monitoring Officer) for decision.</li> </ul>

- 4.11 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact, Officers are employed to give unbiased professional advice even if it is not what Members wish to hear. They do this as much for the protection of Members as for any other reason. However, if an Officer has to give negative advice, it should be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways.
- 4.12 Members may be entitled under the Freedom of Information Act 2000 (FOI) to receive information which falls outside their common law rights based on the "need to know". Officers are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's

enquiry that any individual would be entitled to receive such documentation. The Service Manager – Corporate Services will be able to advise, in consultation, if necessary, with the Monitoring Officer, on whether any request would fall within FOI.

## **5. CONFIDENTIALITY**

- 5.1 Any Council information provided to a Member, orally, in writing or via a copy document, must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Confidential information provided to Members should not be discussed with, or released to, any other persons, except in the limited cases accorded by the provisions of the Members' Code of Conduct. Part 4(2) of the Constitution sets out the circumstances in which confidential or exempt information may become disclosable to the public.
- 5.2 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 5.3 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so, then he or she must first consult the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

5.4 Members will	Officers will
<p>a) Comply with requests by Officers that information they provide should remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council's Constitution or by the lawful decision of the Cabinet, a Committee or sub-Committee.</p> <p>b) Ensure that as much information as possible shall be available to the public through the proper channels.</p>	<p>a) Comply with requests by Members that information they provide must remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council's Constitution or by the lawful decision of the Cabinet, a Committee or sub-Committee.</p> <p>b) Not communicate Member correspondence relating to political or sensitive matters to other Members without the original Member's consent.</p> <p>c) Ensure that as much information as possible shall be available to the public through the proper channels.</p>

## **6. ACCESS TO PREMISES**

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6.1 Members will	Officers will
<p>When making visits as individual Members:</p> <ul style="list-style-type: none"> <li>a) Whenever practicable, notify and make advance arrangements with the appropriate manager or Officer in charge.</li> <li>b) Comply with health and safety, security and other workplace rules.</li> <li>c) Not disrupt the services or activities being provided at the time of the visit.</li> </ul>	<ul style="list-style-type: none"> <li>a) Endeavour to accommodate visits by Members, subject to the exigencies of the service.</li> <li>b) Advise Members making such visits of any relevant health and safety, security and other workplace rules as appropriate.</li> </ul>

## **7. CORRESPONDENCE**

- 7.1 Correspondence between an individual Member and an Officer on a matter relating to a single constituent should not normally be copied (by the Officer) to any other Member. Where, exceptionally, it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of “silent or blind copies” should not be employed.
- 7.2 In some cases, issues are raised by, or with, individual Members relating to a matter of general interest in a District Council Ward or individual Parish or Town. Recognising that it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward/Parish or Town, copies of correspondence will normally be sent to all Members for the particular area, unless the Member specifically requests that correspondence is not copied to other Members, or there is a political, or other reason, why this is not appropriate. Where correspondence is copied to other Members, this will be made clear to the original Member.
- 7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

## **8. PUBLIC RELATIONS AND PRESS RELEASES**

- 8.1 The Council’s Public Relations facility serves the Council as a whole, and must operate 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, Members provide comments and views while Officers provide factual information.

- 8.2 Council press releases are drafted by Officers, and will often contain quotations from the Leader and/or a Cabinet Member, the Chairman and Vice-Chairman of the committee or sub-committee whose service is involved, and from the Chairman and Vice Chairman of the Council about ceremonial events. Such press releases are issued on behalf of the District Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation.
- 8.3 In carrying out their role as Members, however, the Council will attempt to advise and assist Members in responding to the press or media.

8.4 Members will	Officers will
<ul style="list-style-type: none"> <li>a) Comply with the Code of Recommended Practice on Local Authority Publicity.</li> <li>b) Not disclose confidential or exempt information to the media.</li> <li>c) Not request assistance from Officers in facilitating any media contact which is intended or likely to criticise the Council, its partners or its policies.</li> <li>d) When taking part in a ceremonial event, not seek disproportionate personal publicity, or use the occasions for party political advantage bearing in mind that the Member is representing the Council as a whole.</li> </ul>	<ul style="list-style-type: none"> <li>a) Assist Members in explaining proposals and policies to journalists, but not in promoting individual Members, their political views or criticising the Council, its partners or its policies.</li> <li>b) Promptly pass media requests for interviews and contributions on to Members and make arrangements to bring these about.</li> <li>c) Not divulge to other Members any media contact made or planned by a Member without their consent, unless such disclosure is essential to the interview or event.</li> <li>d) Make available for inspection by Members all media releases which are issued on behalf of the Council.</li> </ul>

## 9. OFFICER AND CHAIRMAN / CABINET MEMBER RELATIONSHIPS

- 9.1 It is clearly important that there should be a close working relationship between the Leader, other Cabinet Members or the Chairmen of a Council committee and the Chief Executive and other senior Officers of any Section which deals with their meetings. Such relationships, however, should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal with other Members and other party groups.
- 9.2 Whilst the person presiding over a meeting, as well as the Cabinet Members holding a portfolio for relevant matters and group spokespersons as appropriate, will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations the Chief Executive or Head of Service will be under a duty to submit a report



on a particular matter. Similarly, the Chief Executive or other senior Officer will always be fully responsible for the contents of any report submitted.

- 9.3 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 Chairman or Cabinet Member and the Report Author in this area should be referred to the Chief Executive for resolution, in conjunction with the Leader of the Cabinet, group leaders or Chairman of the Council as appropriate.
- 9.4 At the established Chairman's briefing before any meeting, all Members, and particularly other Members of that meeting, may attend, subject to prior notice to that Chairman.
- 9.5 At meetings held for Officers to brief or consult Cabinet Members on matters considered to be within an Cabinet Member's Portfolio of areas of the Cabinet's work, or to brief or consult Committee or Panel Chairmen or other Members on interim matters, no other Members may be present, unless specifically invited by the Officers or Members concerned.
- 9.6 Members and Officers should be very conscious of their continuing obligations under their respective Codes of Conduct at these informal briefings or meetings, and should assist others in meeting these obligations wherever possible.
- 9.7 In relation to action between meetings, it is important to remember that the law (in respect of non-Executive functions) and the Constitution (in respect of Executive functions) only allows for decisions relating to the discharge of functions to be taken by a meeting of the Cabinet, the Council or a committee of the Cabinet or Council or an Officer. No decision can be taken by a Chairman, or indeed by any other single Member.
- 9.8 At some meetings, a resolution may be passed which authorises named Officers to take action between meetings in consultation with the Chairman or other named Members. It must be recognised that it is the Officer, rather than that Member, who takes the action, and it is the Officer who is accountable for it.
- 9.9 It must be remembered that Officers within a Section are accountable to the Chief Executive, and that whilst Officers should always seek to assist a Chairman (or indeed any Member) they must not in so doing go beyond the bounds of whatever authority they have been given by the Chief Executive. Members should not put staff in a position where there would be conflict between themselves and their Manager and/or the Chief Executive.

9.10 Members will	Officers will
a) Have a high regard for:	a) Have a high regard for:

<ul style="list-style-type: none"> <li>(i) The rights of Officers to have a personal and family life;</li> <li>(ii) The need to comply with the Working Time Regulations;</li> <li>(iii) Honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year.</li> </ul> <p>b) Have regard to the need for Officers to research and prepare reports in exercising their right to direct that any item of business (within the terms of reference of that meeting) as they may specify is included on the agenda for that meeting.</p>	<ul style="list-style-type: none"> <li>(i) The rights of Members to have a personal and family life;</li> <li>(ii) The demands placed on Members who are in full-time employment;</li> <li>(iii) The need to comply with the Working Time Regulations;</li> <li>(iv) Honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year.</li> </ul> <p>b) Be entitled to make whatever recommendation in a report that they may decide in the exercise of their professional judgement.</p>
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## **10. INVOLVEMENT OF WARD COUNCILLORS**

- 10.1 Whenever the Council undertakes any form of consultative exercise on a local issue, the relevant Ward Members should be informed or involved, as appropriate, through the operation of the Sensitive Issues Procedure. Similarly, whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting.

## **11. OFFICER ADVICE TO PARTY GROUPS**

- 11.1 It must be recognised by all Officers and Members that, in discharging their duties and responsibilities, Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Member of the Council.
- 11.2 There is now statutory recognition for 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. Officers may properly be called upon to brief such deliberations by party groups, but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 11.3 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesperson prior to a meeting to a presentation at a full party group meeting. Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- Request for Officers to attend any party group meeting must be made through the Chief Executive. The Chief Executive will advise the Head of Paid Service of any requests made.
- Officer support must not extend beyond briefing matters, i.e. providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.
- Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Such meetings do not therefore rank as meetings of a decision-making body. Conclusions reached are not Council decisions in any way, and it is essential that they are not interpreted or acted upon as such.
- Any request for advice, together with the advice given to a political group or Member will be treated with strict confidentiality by the Officers concerned, and will not be accessible to any other political group. It is acknowledged, however, that factual information upon which any advice is based will, if requested, be available to all political groups.
- It must not be assumed by any political group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant meeting when the matter in question is considered.
- Unless otherwise agreed in advance with the Chief Executive, Officers will not attend party group meetings which include persons who are not Members of the Council. However, where attendance in these circumstances has been agreed by the Chief Executive (as an exception), special care needs to be exercised by Officers involved in providing information and advice to such party group meetings. Persons who are not Councillors will not be bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality), and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members-only meeting.

- 11.4 Usually the only Officers involved in attending party group meetings will be the Chief Executive and Heads of Service and generally they will leave the meeting after making their presentation and answering questions.
- 11.5 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups must be raised with the Chief Executive, who will then discuss them with the relevant group leader(s).

11.6 Members will	Officers will
<p>a) Direct requests for Officer attendance at group or other political meetings to the Chief Executive or in his/her absence a Deputy Chief Executive at whose absolute discretion attendance rests.</p> <p>b) Not discuss party political business in the presence of Officers.</p> <p>c) Not ask Officers to attend group meetings where there are persons present at the meeting who are neither Members nor Officers.</p>	<p>a) Inform the leaders of the other political groups of any such attendance and the subject matter involved.</p> <p>b) Not divulge confidential or exempt information at political group meetings where there are persons present at the meeting who are neither Members nor Officers.</p> <p>c) Provide all groups with copies of information provided to any one group which is likely to be cited in support of a particular option or decision at a meeting of the Council, the Cabinet or a committee.</p>

## 12. POLITICAL ACTIVITY

- 12.1 There are a number of constraints that apply to an Officer who occupies a post that is designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.
- 12.2 In summary, such Officers are prevented from:
- being a Member of Parliament, European Parliament, Scottish Parliament, National Assembly for Wales or local authority, or the Police and Crime Commissioner for any area covered by the Officer’s local authority;
  - acting as an election agent or sub-agent for a candidate for election as a member of any of those bodies;
  - being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if the duties would be likely to require the Officer to:-
    - (a) participate in the general management of the party or branch; or
    - (b) act on behalf of the party or branch in dealings with persons other than members of the party;

- canvassing on behalf of a political party or a candidate for election to any of those bodies;
- speaking to the public with the apparent intent of affecting public support for a political party; and
- publishing any written or artistic work of which the Officer is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection, if the work appears to be intended to affect public support for a political party.

### 13. CLOSE MEMBER AND OFFICER RELATIONSHIPS

- 13.1 The Council recognises that there may be close social or personal relationships between Members and Officers, which commenced before or after a Member was elected to the Council, or before or after a person became employed by the Council. In a large organisation this may be inevitable. In these circumstances, however, the Member should disclose this relationship to their Group Leader and the Head of Paid Service (who will inform the Monitoring Officer), and the Officer to the Chief Executive. The Head of Paid Service will arrange for such relationship to be entered as declarations in the Registers of Member and Officer Interests respectively. In order to maintain the integrity of the individuals concerned, and the Council, such relationships should never be hidden. To do so can lead to suspicion and mistrust. The Group Leaders and Chief Executive will endeavour to ensure that neither the Member nor the Officer is placed in a position where such a relationship will be seen to conflict with the remaining provisions of this Protocol.

### 14. SUPPORTING FRONT-LINE MEMBERS

#### Casework

14.1 Members will	Officers will
<p>a) Raise casework issues with:</p> <ul style="list-style-type: none"> <li>• An appropriate Head of Service, or</li> <li>• Such other member of staff as may be arranged with a Head of Service, or</li> <li>• A designated member of staff within Customer Services</li> </ul> <p>b) Ask for, or provide, information on a particular case, seek clarification on the application of the Council's policies or procedures but:</p>	<p>a) Respond promptly to enquiries by providing a reply within 5 working days of the receipt of the request, or, if a full response is not possible, provide an interim reply explaining why a full response is not possible with an estimate of when the full reply will be made.</p> <p>b) Treat enquiries from Members in which they have a personal interest no more, or less, favourably than they would an enquiry from any other local person, and provide them with the same</p>

<ul style="list-style-type: none"> <li>• Will balance the interests of their constituents with the interests of other local people in a fair and objective way</li> <li>• Not raise issues in which they have a personal interest except by correspondence only (making sure that they clearly state both the existence and nature of their personal interest)</li> <li>• Not do anything which could be interpreted as a direction to, or pressure on, a member of staff in relation to an issue but to raise any concerns with the Chief Executive.</li> </ul> <p>c) Use any support services provided, including stationery, e-mails, printing and photocopying, for Council business only, and not in connection with party political or campaigning activity or for private purposes.</p>	<p>information that a member of the public would receive.</p> <p>c) Report to a senior manager any contact from a Member that does not comply with the protocol.</p>
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## 15. SUPPORTING OVERVIEW AND SCRUTINY

### Scrutiny

15.1 Members will	Officers will
<p>a) Conduct their scrutiny role through the appropriate committee on decisions taken or proposed and their merits.</p> <p>b) Not raise the conduct or capability of an Officer at meetings or in any public forum.</p> <p>c) Conduct overview and scrutiny meetings in accordance with the overview and scrutiny procedure rules in Part 4, Section 5 of the Constitution.</p> <p>d) Exercise their individual rights to place items on the agenda with due</p>	<p>a) Ensure that overview and scrutiny committees have access to appropriate internal resources within the overall resources of the Council.</p> <p>b) Be no less accountable to overview and scrutiny committees as to the Cabinet and provide the overview and scrutiny committees with uninhibited objective professional support to assist them in their work for the benefit of local people.</p> <p>c) Be open in responding to the enquiries of overview and scrutiny committees and never seek to obstruct their work.</p>

<p>regard to the overall work programme of the committees and the capacity of Officers to provide the support needed.</p> <p>e) Treat admissions of failure or mistakes made by Officers as an opportunity to improve the service provided for local people.</p> <p>f) Welcome the opportunity to congratulate Officers on a job well done, bearing in mind the potential positive impact on staff morale and Member / Officer relations.</p> <p>g) Not ask Officers to explain the actions of Members.</p> <p>h) Be open about failures or mistakes for which they have responsibility and be supportive of others, be they Members or Officers, who may have made an error.</p>	<p>d) Explain and justify the advice they have given to decision-takers, but not criticise decision-takers in committees or public forums where lawful decisions have been taken which do not follow that advice.</p> <p>e) Be open about failures or mistakes for which they have responsibility and be supportive of others, be they Members or Officers, who may have made an error.</p> <p>f) Not ask Members to explain the advice given by Officers.</p>
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## Policy Development

15.2 Members will	Officers will
<p>a) Conduct their policy development role through the appropriate body with due regard to the overall work programme of the body and the capacity of Officers and partner organisations to provide the support needed.</p>	<p>a) Provide advice, expertise and their professional judgement to support policy development proposals whether these have been initiated by the Cabinet or by overview and scrutiny committees or by partnership structures, and according to any protocols within the Council's current policy framework.</p>

## 16. SUPPORTING THE CABINET AND DECISION-MAKING BODIES

### Taking decisions

16.1 Members will	Officers will
<p>a) Always consider the advice and recommendations submitted to them by Officers.</p> <p>b) Where possible, seek clarification on the content or recommendations contained in a report from Officers</p>	<p>a) Regardless of their personal or political views, Officers will provide decision-takers with professional advice within their areas of expertise on how best the Council can achieve its objectives. Officers will diligently seek to implement decisions taken. Officers at all times will</p>

<p>prior to discussions in formal meetings.</p> <p>c) Recognise that Officers are not always able to defend themselves in meetings and other public forums and therefore make any negative observations privately to the Chief Executive or Head of Service wherever possible. If in exceptional circumstances that proves impossible, they will ensure that any criticism of reports or actions is never personal.</p> <p>d) Never seek to pressurise an Officer to make a recommendation that is against their professional judgement.</p> <p>e) Always give reasons for their decisions, particularly on those occasions when they do not accept the recommendation of Officers.</p>	<p>strive to act fairly, in good faith and in an impartial way to achieve the objectives set by the Council.</p> <p>b) Be entitled to request that the minutes of a meeting record their advice on any matter where Members have decided not to follow that advice.</p>
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#### Members appointed to outside bodies

16.2 Members will	Officers will
<p>a) Report back to the appropriate Council body on the activities of the outside body where such information would assist the Council's service to local people and not breach any requirement of confidentiality or duty owed by the Member to the outside body.</p>	<p>a) Provide reasonable assistance to support Members in their membership of outside bodies to which they have been appointed by the Council, subject to the availability of designated resources.</p> <p>b) On request, provide information about the body prior to appointment and a named contact for briefing purposes.</p>



## 17. PLANNING (DEVELOPMENT MANAGEMENT) – PROTOCOL FOR OFFICER/MEMBER RELATIONSHIPS

Planning Stage	Ward Member	Portfolio Holder	Planning Committee Member	Officers
General	Can request notification under Sensitive issues	Provision of information through Chief Executive, Director Planning and Regeneration or Development Control Manager	Sensitive issue route available	Respond to requests for Sensitive issues notification
		Should not use portfolio holder status as such to influence other members of Planning Committee or officers making Development Control decisions / recommendations. Normal Sensitive issue procedures exist		
Pre Planning Committee	Member can be included in pre-application discussions. Generally for larger or more contentious planning applications either at the discretion of Planning Officer, with applicant's agreement, or by request of Ward member with applicant's agreement.	Portfolio holder and any member of the Cabinet may be a member of the Planning Committee but may not Chair that Committee	Right to request a site visit for Planning Committee applications.  Representatives from Planning Committee may attend Planning briefing (i.e. Chairman and one representative from each group only).	

	Ward Members are also entitled to see a draft copy of the officer's Committee report on request as it appears in the papers for the Planning Committee briefing meeting. This is on a confidential basis.			
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	<p>Scheme of Delegation- All Members can require that a delegated application is brought to Planning committee for determination (within 28 days of weekly list publication). Sound planning reasons for a 'call in' must be provided and will be recorded.</p> <p>Ward member has right to call for and to attend a site visit for Planning Committee applications. Sound planning reasons for a site visit must be provided and will be recorded.</p>			
	Ward member has right to access and discuss			

	planning report content, recommendations and reasons and to see Heads of Terms of legal agreement etc.- but not to influence the content of these items.			
Planning Committee	<p>Right to make written and oral representations to Planning Committee outlining the reasons they consider the application should be approved or refused, conditions amended etc.</p> <p>Entitled to represent the views of external group when exercising this right.</p>		Planning Committee members have the right to fetter their discretion and relinquish their right to vote in order to act solely as Ward Member (see left), but must declare that intention at the meeting, no later than at the commencement of the item.	
Appeal	<p>Ward member right to see appeal documentation in draft form but cannot seek to influence the content.</p> <p>Ward member prohibited from divulging the content of any documentation to third</p>			Officers prepare all Appeal documentation (Rule 6 statement, Statement of Common Ground, proofs of evidence etc.) under delegation in line with the Council / Planning

	parties, including pressure groups, before it goes public.			Committee decision / delegated decision.
	<p>Ward member can attend and make submissions to a Public Inquiry / Hearing and make written submissions in respect of written representations appeals.</p> <p>Ward member can align his/her views to any lobby group to which they are linked.</p> <p>If appearing as a Council representative (see right in particular) their position has to align itself <u>totally</u> to the Council's formal position i.e. the reasons for refusal as established by the decision maker (usually the Council's Planning Committee).</p>		<p>Planning Committee members can appear at a Public Inquiry / Hearing.</p> <p>If appearing as a Council representative (see right in particular) their position has to align itself <u>totally</u> to the Council's formal position i.e. the reasons for refusal as established by the decision maker (usually the Council's Planning Committee).</p>	<p>Officers will take a proactive role in providing support and training according to the needs and level of Member input.</p> <p>This is particularly significant in the case of a Public Inquiry into an appeal against a decision made contrary to Officers' recommendation, when it is likely that Officers will not be able to act as witnesses to defend the decision because they would be in breach of their professional code of conduct. Officers may appoint an external consultant to carry out this role.</p>

Planning Policy Review		The portfolio holder can discuss the Council/Planning Policy implications of		
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		Development Control activity and use the Portfolio position to advise and collaborate on the review of Planning Policy through the Constitutional arrangements already in place for review of planning policy.		
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## **18. BRIEFING OF PORTFOLIO HOLDERS, WARD MEMBERS AND SHADOW PORTFOLIO HOLDERS**

### **18.1 General**

Portfolio holders will be briefed on issues where:

- 1) there are considerable budgetary implications
- 2) the reputation of the Council is an issue
- 3) there is likely to be press interest however small
- 4) the issue is likely to be the subject of a future report to Cabinet or Scrutiny
- 5) the issue is receiving a significant number of complaints
- 6) it impacts on the Council's performance indicators
- 7) it affects the Council's priorities
- 8) it is an issue raised in the portfolio plan
- 9) it is a proposed change to service provision
- 10) the Council is taking action in the courts
- 11) the outcome of an audit report is known;/the terms of reference/scope of the audit
- 12) the issue is particularly sensitive (e.g. :
  - i) there is conflict between tiers of Government,
  - ii) there are a number of objections,
  - iii) the size/nature of the proposal requires an Environmental Impact Assessment (EIA)

Shadow Portfolio Holders will be briefed on the above issues, but usually in anticipation of a forthcoming report to the Council, Cabinet, Scrutiny or Committee.

Ward Members will be briefed where the Council consults local residents within their Ward on issues which do not affect the residents of the District as a whole.

However this entitlement to briefing could be restricted if the Member has an interest in the issue under consideration within the scope of the Members' Code of Conduct.

### **18.2 Portfolio Holders /Ward Members/Shadow Portfolio Holders interests**

The Members' Code of Conduct is set out in Part 5(1) of the Constitution. The following is a summary of the elements relating to Members' interests, but anyone wishing to consider a particular circumstance should refer to the Code of Conduct or consult the Monitoring Officer.

There are three categories of interest: Disclosable Pecuniary Interests; Personal Interests; and Personal Interests which might lead to bias.

Disclosable Pecuniary Interests are defined by Statutory Instrument. In summary, they relate to employment or vocation, sponsorship, contracts with the Council, beneficial interests in land in the district, licences to occupy land,

corporate tenancies and securities held in businesses which have premises in the district. Members must disclose such interests of theirs and, to the extent that the Member is aware of them, those of their spouse, civil partner or person with whom they live as spouse or civil partner.

When attending a meeting where they have a Disclosable Pecuniary Interest in any matter being considered, a Member must disclose the existence and usually the nature of the interest to the meeting. Unless a dispensation has been given, the Member may not participate in any discussion of the matter or in any vote taken on the matter, and they will leave the room for the duration of the matter. However, the Member may remain for the sole purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are allowed to attend the meeting for the same purposes. The Member will then leave the room immediately after doing those things. Propriety and other obligations within the Code make it inappropriate for the Member to be involved in briefing on the business.

Personal Interests arise from the Member's membership of, or position of general control or management in, a body to which the Council has appointed or nominated them, or any other body with public, charitable or public opinion-influencing functions. They arise also where the Member has received gifts or hospitality with a value of £50 or more within the last year, or where a decision might affect the wellbeing or financial position of the Member, a member of their family (parents, children, siblings, aunts, uncles or grandparents) or a close associate, an employer of such persons, a firm or company of which such persons are a partner or director, or a body in which such persons have a significant shareholding.

When attending a meeting where a matter being considered relates to, or is likely to affect, a Personal Interest of which a Member is aware, or ought reasonably to be aware, the Member must disclose the existence and usually the nature of the interest to the meeting. The Member may speak and vote on the matter unless to do so would compromise obligations of impartiality or other obligations within the Code of Conduct.

Personal Interests which might lead to bias are those which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that they would be likely to prejudice the Member's judgment of the public interest. This will not arise normally simply from the Member's service on more than one local authority.

When attending a meeting where a matter being considered relates to, or is likely to affect, a Personal Interest which might lead to bias, a Member must disclose the existence and usually the nature of the interest to the meeting. Unless a dispensation has been given, the Member may not participate in any discussion of the matter or in any vote taken on the matter, and they will leave the room for the duration of the matter. However, the Member may remain for the sole purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are allowed to attend

the meeting for the same purposes. The Member will then leave the room immediately after doing those things.

There are five types of matter where a Member who has disclosed a Personal Interest which might lead to bias may remain in the meeting, speak and vote. The types of matter are set out in paragraph 4.15 of the Code of Conduct. They include setting Council Tax and allowances given to Members.

Examples of interests which might affect a Cabinet Member's decision making:-

The establishment of a Council building/asset in close proximity to a close friend of the Member.

A tender bid by the Member's daughter's partner for a Council contract

Enforcement /Court action against a former business partner of the Member.

A close friend of the Member is employed in the business of a contract under discussion and over which the Member has influence.

Whether a Member has an interest in any particular matter is ultimately a matter for each individual Member.

Further Options where the Portfolio Holder is conflicted and therefore precluded from fulfilling their portfolio holder role.

- 1) The Leader to be briefed instead (where the Leader of the Cabinet is conflicted, the Deputy Leader to be briefed) or

Another Portfolio Holder to take responsibility for the issue for the entirety of its consideration.

- 2) Where another Portfolio Holder/Leader is briefed the conflicted Portfolio Holder should be made aware that others are being briefed and where and when they can get publicly available information if appropriate.

- 3) The conflicted Portfolio Holder is entitled to information that a member of the public would receive but not information which would confer personal advantage.

All Members are entitled to briefing and the protocol for these briefings is set out in the Political Conventions document which is referred to in paragraph 18.3.

### **18.3 Entitlement to Briefing**

The Council has in place a number of political conventions that operate within the ethical governance framework. The entitlement to briefing is one such



convention and is set out in detail below. The convention covers briefing of Members, other than when the Council is briefed as a whole.

	Convention	Members	Officers
18.3.1	Members are entitled to be briefed in accordance with their need to know, taking account of any particular role they have. There are the same restrictions as for information. Members with a particular role may expect to be briefed about relevant matters without having to make a request.	Members should declare any relevant interest when requesting or receiving a briefing. If dissatisfied with a refusal to brief, a member of CMT should be approached. If still dissatisfied, the Monitoring Officer may be asked to determine entitlement.	Officers should be clear about the capacity in which the Member is being briefed and the implications of any interest. In cases of doubt, the Monitoring Officer may be consulted. The Officer should always make it clear if a briefing is not based on unified advice, (i.e. is still subject to consultation with other Officers). Otherwise, the Member is entitled to assume unified advice is being given.
18.3.2	A Party Group meeting may be briefed, provided:  The Chief Executive knows of and approves the briefing;		
18.3.3	The content of briefings is confidential to the Members concerned. Confidentiality extends to the questions asked by the Members.		
18.3.4	Cabinet Members, individually and collectively are entitled to regular confidential briefing on matters relevant to their portfolios.	The relevant Cabinet Member or the Cabinet collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When the stage of formal proposals is reached, supporting Officer	A briefing to help a Member respond to a question at Council may be in the form of suggested reply. It should be confined to factual and professional matters and to explanations of existing policy, leaving the

Convention		Members	Officers
		advice becomes publishable in conjunction with the proposals.	Member to add any political comment.
18.3.5	Members must respect the confidentiality of information supplied in briefing and must use it only for the purposes for which they would have been entitled to receive it (for example, information supplied as Cabinet Member or Scrutiny Chair may not be used to pursue a special Ward interest, if it would not have been supplied to the Ward Member).		

## **CONSTITUTIONAL REVIEW COMMITTEE 9<sup>TH</sup> MARCH 2022**

### Discussion on Planning Call-in Procedures

The Committee are asked to discuss and confirm the suggested updates to be made to the Planning Call-In procedure at Part 3 Section B.1 of the Council's Constitution, to be reported back to a future meeting of the Constitutional Review Committee.

The Constitution 2021 - Part 3 Section B is attached at Appendix 1.





## Part 3, Section B: Responsibility for Council Functions

**Notes:** All references in the scheme(s) of delegation to Officers which refer to a Chief Officer should be read as referring to the Head of Paid Service, Deputy Chief Executive and Directors.

### **B.1.1 PLANNING COMMITTEE**

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:

- Executive or overview and scrutiny functions;
- already delegated elsewhere by the Council;
- already delegated by the Council to Officers of the Council;
- exercisable only by the Council itself; or
- 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.

### **B.1.2 Membership**

- a) **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.
- b) **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.
- c) **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.

### B.1.3 Functions

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 B.1.4 below**.

<b>A(1).Functions relating to town and country planning and development control (applications)</b>
1. Power to determine application for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into agreement regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.
15. Power to issue a temporary stop notice.
16. Power to issue an enforcement notice.
17. Power to apply for an injunction restraining a breach of planning control.

<b>A(1).Functions relating to town and country planning and development control (applications)</b>
<b>18.</b> Power to determine applications for hazardous substances consent, and related powers.
<b>19.</b> 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.
<b>20.</b> Power to require proper maintenance of land.
<b>21.</b> Power to determine application for listed building consent, and related powers.
<b>22.</b> Duties relating to applications for listed building consent.
<b>23.</b> Power to serve a building preservation notice, and related powers.
<b>24.</b> Power to issue enforcement notice in relation to demolition of listed building in conservation area.
<b>25.</b> Powers to acquire a listed building in need of repair and to serve a repairs notice.
<b>26.</b> Power to apply for an injunction in relation to a listed building.
<b>27.</b> Power to execute urgent works.

<b>A(1). Functions relating to town and country planning and development control (applications): Delegation on to Officers:</b>
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### **Development Planning Manager**

1. 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.
2. Approval, subject to adequate estimate provision of grants for Environmental Plant Scheme and the Amenity Plant Scheme which comply with Council Policy.
3. Applications delegated for determination:

3.1 The following applications are delegated for determination, subject to 3.2 (a)-(h), where delegation is removed:

- (a) 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);
- (b) all applications for listed building consent or conservation area consent (Town and Country Planning Listed Buildings and Conservation Area act 1990, as amended);
- (c) all applications for advertisement consent (Town and Country Planning Control of Advertisement Regulations 1992, as amended);
- (d) 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;
- (e) all applications for 'hedgerow removal' (Hedgerow Regulations 1997, as amended);
- (f) 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);
- (g) all applications for remedial notices in respect of high hedges (Anti Social Behaviour Act 2003, as amended);
- (h) 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);
- (i) all applications for Hazardous Substances Consent (Planning Hazardous Substances Act, 1990, as amended);
- (j) Applications for Reserved matters approval for schemes of ten dwellings or fewer;
- (k) Applications for Discharge of Conditions;
- (l) Screening and Scoping Opinions required under Environmental Regulations; and
- (m) Permission in principle.

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.

3.2 Circumstances by which delegation to Officers is removed:

- (a) 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 Development Planning Manager in writing (which includes email) and set out the planning reasons for the request.
- (b) applications where the intended decision would depart from currently adopted and up to date development plan policy.
- (c) Where the application is made by a member of the Council or by a Council Officer or immediate members of their family, or it involves land owned by any of them..
- (d) Applications for 25 or more dwellings (other than substitution of house types) and for commercial floor space of 10,000m/sq. or more.
- (e) Where the proposal involves the Council as applicant or land owner except where applications are for works to protected trees.
- (f) Matters which the Development Planning Manager, 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.
- (g) The revocation of any planning or other permission, with or without the payment of compensation by the Council.
- (h) 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.

<b><i>Function:</i></b>	<b><i>Delegation on to:</i></b>
<b>A(2). Functions relating to town and country planning and development control (other than applications)</b>	
<b>1.</b> Power to serve a completion notice.	Chief Executive (in consultation with the relevant local Ward Members), including withdrawal and all enforcement within the Committee's powers.
<b>2.</b> Power to serve a planning contravention notice, breach of condition notice or stop notice.	Chief Executive (in consultation with the relevant local Ward Members) including withdrawal and all enforcement within the Committee's powers.
<b>3. Power to serve a temporary stop notice.</b>	Development Planning Manager (in consultation with the relevant local Ward Members) including withdrawal and all enforcement within the Committee's powers.
<b>4.</b> Power to issue an enforcement notice.	Chief Executive (in consultation with the relevant local Ward Members) including withdrawal and all enforcement within the Committee's powers.
<b>5.</b> Power to apply for an injunction restraining a breach of planning control.	Chief Executive (in consultation with the relevant local Ward Members).
<b>6.</b> Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Chief Executive (in consultation with the relevant local Ward Members) including withdrawal and all enforcement within the Committee's powers.
<b>7.</b> Power to apply for an injunction in relation to a listed building.	Chief Executive (in consultation with the relevant Ward Members).
<b>8 Powers to acquire a listed building in need of report and to serve a repairs notice.</b>	Chief Executive (in consultation with the relevant Ward Members).
<b>9 Power to serve a notice requiring the proper maintenance of land.</b>	Chief Executive (in consultation with the relevant local ward Members) including withdrawal and enforcement within the Committee's powers.

<b>Function</b>	<b>Delegation on to:</b>
<b>B. Planning related functions</b>	
1. Powers relating to the preservation of trees under the Town and Country Planning Act 1990	Development Planning Manager (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.
2. Powers relating to the protection of important hedgerows under The Hedgerows Regulations 1997 (S.I. 1997/1160).	Development Planning Manager

<b>Function</b>	<b>Delegation on to:</b>
<b>C. Public Rights of Way</b> (under the Highways Act 1980 except where otherwise stated)	
1. Power to create footpaths and bridleways and restricted byways.	No onward delegation
2. Power to create footpaths and bridleways and restricted byways by agreement.	No onward delegation
3. Power to stop up footpaths and bridleways and restricted byways.	Head of Paid Service
4. Power to determine application for public path extinguishment order.	Head of Paid Service
5. Power to make a rail crossing extinguishment order.	No onward delegation
6. Power to divert footpaths and bridleways and restricted byways.	No onward delegation

<b><i>Function</i></b>	<b><i>Delegation on to:</i></b>
<b>7.</b> Power to make a public path diversion order.	No onward delegation
<b>8.</b> Power to make a rail crossing diversion order.	No onward delegation
<b>9.</b> Duty to keep register with respect to applications under sections 118ZA, and 119ZA of the Highways Act 1980.	Development Planning Manager
<b>10.</b> Power to decline to determine certain applications (section 121C of the Highways Act 1980).	No onward delegation
<b>11.</b> Power to extinguish certain public rights of way associated with compulsory purchase under the Acquisition of Land Act 1981.	No onward delegation
<b>12.</b> Power to extinguish public right of way over land acquired for clearance (section 294 of the Housing Act 1985).	No onward delegation
<b>13.</b> Power to authorise stopping up or diversion of highway (section 247 of the Town and Country Planning Act 1990).	No onward delegation
<b>14.</b> 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
<b>15.</b> 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

#### **B.1.4. Removal of Delegation**

Referral up to Council by Planning Committee

- a) 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 Member must identify the grounds of significance justifying the motion. If the motion is seconded, the proposition shall be open to debate.
- b) 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.
- c) 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.
- d) 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.
- e) If the motion to refer up is not carried, the item shall be dealt with in accordance with the Committee's delegated powers.

### **B.2.1 REGULATORY COMMITTEE**

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:

- Executive or overview and scrutiny functions;
- already delegated elsewhere by the Council, or are statutory committee functions (such as those matters under the Licensing Act 2003);
- already delegated by the Council to Officers of the Council;
- exercisable only by the Council itself; or
- 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.

### **B.2.2 Membership**

- a) **Appointment.** The Regulatory 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.

- b) **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.
- c) **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.

### B.2.3 Regulatory Panels (Sub-Committees)

- a) **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.
- b) **Chairman.** The Chairman shall be appointed at the first meeting following the Annual Council meeting, and before proceeding to any other business.
- c) **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.

### B.2.4 Functions

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:
<b>A. General licensing and registration functions</b>	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Director, Law and Governance
2. Power to license the use of moveable dwellings and camping sites.	Director, Law and Governance
3. Power to license hackney carriages and private hire vehicles.	Director, Law and Governance
4. Power to license drivers of hackney carriages and private hire vehicles.	Director, Law and Governance

Function	Delegation on to:
<b>A. General licensing and registration functions</b>	
5. Power to license operators of hackney carriages and private hire vehicles.	Director, Law and Governance
6. Power to license sex shops and sex cinemas.	Reserved to Committee
7. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.	Director, Law and Governance
8. Power to license pleasure boats and pleasure vessels.	Director, Law and Governance
9. Power to license market and street trading.	Director, Law and Governance
10. Power to register and license premises for the preparation of food.	Director, Law and Governance
11. Power to license scrap yards.	Director, Law and Governance
12. Power to license premises for the breeding of dogs.	Director, Law and Governance
13. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Director, Law and Governance
14. Power to register animal trainers and exhibitors.	Director, Law and Governance
15. Power to license zoos.	Director, Law and Governance
16. Power to license dangerous wild animals.	Director, Law and Governance
17. Power to license knackers' yards.	Director, Law and Governance
18. Power to license persons to collect for charitable and other causes.	Director, Law and Governance

Function	Delegation on to:
<b>A. General licensing and registration functions</b>	
19. Power to grant consent for the operation of a loudspeaker.	Director, Law and Governance
20. Power to authorise erection of stiles etc. on footpaths or bridleways.	Director, Law and Governance
21. Power to approve meat product premises.	Director, Law and Governance
22. Power to approve premises for the production of minced meat or meat preparations.	Director, Law and Governance
23. Power to approve dairy establishments.	Director, Law and Governance
24. Power to approve egg product establishments.	Director, Law and Governance
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.	Director, Law and Governance
26. Power to approve fish products premises.	Director, Law and Governance
27. Power to approve dispatch or purification centres.	Director, Law and Governance
28. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Director, Law and Governance
29. Power to approve factory vessels and fishery product establishments.	Director, Law and Governance
30. Power to register auction and wholesale markets.	Director, Law and Governance
31. Duty to keep register of food business premises.	Director, Law and Governance



Function	Delegation on to:
<b>A. General licensing and registration functions</b>	
32. Power to register food business premises.	Director, Law and Governance
33. Power to register motor salvage operators.	Director, Law and Governance

Function	Delegation on to:
<b>B. Powers relating to complaints about high hedges</b>	Director, Law and Governance

Function	Delegation on to:
<b>C. Functions relating to health and safety</b>	
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, <b><i>which for the avoidance of doubt includes Section 19</i></b> , 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 Director, Law and Governance, such proceedings as he or she considers necessary.

### **B.3.1 LICENSING COMMITTEE**

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.

### **B.3.2 Membership**

- a) **Appointment.** The Licensing Committee will consist of nine Members, appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting. These Members will be those same Members 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.
- b) **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.
- c) **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.

### **B.3.3 Licensing Panels (Sub-Committees)**

- a) **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.
- b) **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 members.

### **B.3.4 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).

This includes the powers to:-

1. Determine applications for personal licences.
2. Determine applications for premises licences and club premises certificates.
3. Determine applications for the variation of premises licences and club premises certificates.
4. Register and deregister designated premises supervisors.
5. Determine applications for the transfer of premises licences.
6. Review premises licences and club premises certificates.
7. Determine police objections to temporary event notices.

### **Functions relating to gambling**

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

This includes the powers to:-

1. Where representations are made and not withdrawn, determine applications for:
  - a. Premises licences.
  - b. Variation of premises licences.
  - c. Transfer of premises licences.
  - d. Provisional transfer of premises licences.
  - e. Club gaming and club machine permits.
2. Cancel club gaming and club machine permits.
3. Deciding to give counter notice to a temporary use notice.
4. Take action under section 202 as a result of a review.
5. Register a pool betting licence.
6. Grant a track betting licence.
7. License an inter-track betting scheme.
8. Grant gaming and betting machine licences.
9. Register societies wishing to promote lotteries.
10. Issue premises licences and receive temporary use notices.

### **B.4.1 SCRUTINY COMMISSION AND PANELS**

The main role and purpose of the Scrutiny Commission and Panels is the exercising of the Council's overview and scrutiny functions, as set out in Part 2 Article 7.01 of this Constitution.

### **B.4.2. Membership and Procedure**

The Scrutiny Commission and Panels will be appointed and chaired in accordance with Part 2 Article 7.04 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.

### **B.5.1 CRIME AND DISORDER COMMITTEE**

### **B.5.2 Membership and Procedure**

- a) **Appointment.** The responsibilities of the Crime and Disorder Committee are delegated to the Communities Scrutiny Panel.
- b) **Quorum.** Rules regarding quorum shall follow those of the Community Leadership Scrutiny Panel (Part 4(5) 3.02 of the Constitution).

### **B.5.3 Functions**

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).

<b>Functions relating to Crime and Disorder in the authority's district</b>
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.
2. Duty to review or scrutinise decisions made, or other action taken, by the Community Safety Partnership.
3. Duty to make reports or recommendations to the local authority with respect to the discharge of those functions.

### **B.6.1 AUDIT AND STANDARDS COMMITTEE**

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.

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.

## **B.6.2 Membership and Procedure**

### **a. Appointment**

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

### **b. Chairman**

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

### **c. 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.

### **d. 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:

- i) notice of a meeting;
- ii) the agenda of a meeting
- iii) reports relating to items when the meeting was or is to be open to the public; and
- iv) minutes or summaries of proceedings

the authority will provide to every parish Council for which it is responsible copies of the same upon request.

## **B.6.3 Functions**

The Audit and Standards Committee will exercise the following functions :

- a) 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;
- b) 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 ;
- c) Review summary internal audit reports and the main issues arising and seeking assurance of actions taken on the issues raised in these reports.
- d) Approve internal audit's strategy plan and performance (although the Committee would not have the authority to direct internal audit);
- e) 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;
- f) Ensure that the Council's Governance Statement and other assurance statements required of the Council properly reflect the risk environment and any actions required to improve it.
- g) Receive the annual report of the Head of Internal Audit.
- h) 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.
- i) Review and adopt the Annual Governance Statement
- j) Promote and maintain high standards of conduct by Councillors and co-opted members
- k) Assist the Councillors and co-opted members to observe the Members' Code of Conduct(s)
- l) Advise the Council on the adoption or revision of the Members' Code of Conduct and monitor its operation
- m) 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
- n) 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

- o) 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).
- p) Overview of the public interest disclosure (whistleblowing) protocol;
- q) Process of complaints handling and Local Government Ombudsman investigations;
- r) Oversight of the Constitution; and
- s) Recommend changes to procedures, or the Codes, or any other part of the Constitution in respect of probity issues considered required in the light of:
- t) experience on any matters arising from investigations by the Local Government Ombudsman where maladministration is found; and
- u) matters referred to the Committee by the Council or the Cabinet.

#### **B. 6.4 Standards Sub Committee**

The Audit and Standards Committee has established a Sub Committee ("The Standards Sub Committee") to exercise functions n) and o) set out in B6.3 above.

#### **Form and Composition**

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

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 Members**

- a) The Parish Members will be selected in accordance with the following process:
  - i) The Monitoring Officer, in consultation with the Committee Chairman, will draw up a person specification and nomination form for the appointment of Parish Members to the Standards Sub Committee from the date of appointment until the date of the following Town and Parish Council elections;
  - ii) 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; and
  - iii) 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

Each parish member will hold office until:

- i) they resign from office

- ii) they are no longer a parish Councillor;
- iii) they are elected as a Councillor of a principal authority; or
- iv) 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.

The Parish members will not be entitled to vote at meetings of the Standards Sub Committee

### **Proceedings of the Standards Sub Committee**

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**

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

### **Quorum**

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

## **B.7.1 CONSTITUTIONAL REVIEW COMMITTEE**

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.

### **B.7.2 Membership and Procedure**

- a) **Appointment.** The Constitutional Review Committee will consist of seven 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.
- b) **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.

### **B.7.3 Functions**



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).

<b>Functions relating to the Council's Constitution and related functions delegated by Council</b>	
<b>1.</b>	Make recommendations in accordance with Article 15 of the Constitution arising from: <ul style="list-style-type: none"> <li><b>(a)</b> the conduct from time-to-time of a review of elements of the Council's Constitution; and</li> <li><b>(b)</b> consideration and evaluation of proposals submitted for changes to the Constitution.</li> </ul>
<b>2.</b>	Making recommendations to the Cabinet or to the relevant Officers regarding arrangements for providing appropriate support services to meet the needs of elected Members.
<b>3.</b>	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.

### **B.8.1 EMPLOYMENT COMMITTEE**

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.

### **B.8.2 Membership and Procedure**

- a) Appointment.** The Employment Committee will comprise seven 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.
- b) 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.

### **B.8.3 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).

<b>Functions relating to the Employment of Officers and related functions delegated by Council</b>
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- |  |
|--|
| 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. |
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### **B.9.1 INVESTIGATING AND DISCIPLINARY COMMITTEE**

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.

#### **B.9.2 Membership and Procedure**

- a) **Appointment.** The Investigating and Disciplinary Committee (IDC) will comprise five Members, 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.
- b) **Quorum.** Except where authorised by statute or ordered by the Council, the quorum shall be three
- c) **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.

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.

#### **B.9.3 Functions**

The Investigating and Disciplinary Committee will exercise the following functions :

- a) Consider allegations relating to the conduct or capability of the Head of Paid Service, Section 151 (Chief Financial Officer) Officer or the Monitoring Officer;
- b) 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;

- c) 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;
- d) 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;
- e) Authority to negotiate any settlement in consultation with internal / external auditors and appoint such independent external advisers as required in this respect.

### **B.10.1 APPEALS COMMITTEE**

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.

### **B.10.2 Membership and Procedure**

- a) **Appointment.** The Appeals Committee will comprise five Members, 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.
- b) **Quorum.** Except where authorised by statute or ordered by the Council, the quorum shall be three

### **B.10.3 Functions**

The Appeal Committee will exercise the following functions :

- a) Hear the appeals;
- b) Confirm either the action; impose no sanction or impose a lesser action.

### **B.11.1 FULL COUNCIL**

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).

<b>Function</b>	<b>Delegation on to</b>
<b>A. Functions relating to elections</b>	
<b>1.</b> Duty to appoint an Electoral Registration Officer.	No onward delegation
<b>2.</b> Power to assign Officers in relation to requisitions of the Registration Officer.	Electoral Registration Officer
<b>3.</b> Functions in relation to Parishes and Parish Councils.	Electoral Registration Officer
<b>4.</b> Power to dissolve small Parish Councils.	No onward delegation
<b>5.</b> Power to make orders for grouping Parishes, dissolving groups and separating Parishes from groups.	No onward delegation
<b>6.</b> Duty to appoint the Returning Officer for local government elections.	Electoral Registration Officer
<b>7.</b> Duty to provide assistance at European Parliamentary elections.	Electoral Registration Officer
<b>8.</b> Duty to divide constituency into polling districts.	Electoral Registration Officer
<b>9.</b> Power to divide electoral divisions into polling districts at local government elections.	Electoral Registration Officer
<b>10.</b> Powers in respect of holding of elections.	Electoral Registration Officer
<b>11.</b> Power to pay expenses properly incurred by Electoral Registration Officers.	Director Finance and Assets and Section 151 Officer
<b>12.</b> Power to fill vacancies in the event of insufficient nominations.	Electoral Registration Officer
<b>13.</b> Duty to declare vacancy in office in certain cases.	Electoral Registration Officer

<b>Function</b>	<b>Delegation on to</b>
<b>14.</b> Duty to give public notice of a casual vacancy.	Electoral Registration Officer
<b>15.</b> Power to make temporary appointments to Parish Councils.	Electoral Registration Officer
<b>16.</b> 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
<b>17.</b> Duty to consult on change of scheme for elections.	Electoral Registration Officer
<b>18.</b> Duties relating to publicity.	Electoral Registration Officer
<b>19.</b> Duties relating to notice to the Electoral Commission.	Electoral Registration Officer
<b>20.</b> Power to alter years of ordinary elections of parish councillors.	No onward delegation
<b>21.</b> Functions relating to change of name of electoral area.	No onward delegation

<b>Function</b>	<b>Delegation on to</b>
<b>B. Functions relating to name and status of areas and individuals</b>	
<b>1.</b> Power to change the name of the District.	No onward delegation
<b>2.</b> Power to change the name of a Parish.	No onward delegation
<b>3.</b> Power to confer title of honorary alderman or to admit to be an honorary freeman.	No onward delegation

Function	Delegation on to
4. Power to petition for a charter to confer Borough status.	No onward delegation

Function	Delegation on to
<b>C. Functions relating to community governance</b>	
1. Duties relating to community governance reviews.	No onward delegation
2. Functions relating to community governance petitions.	Electoral Registration Officer
3. Functions relating to terms of reference of review.	No onward delegation
4. Power to undertake a community governance review.	No onward delegation
5. Functions relating to making of recommendations.	No onward delegation
6. Duties when undertaking a review.	No onward delegation
7. Duty to publicise outcome of a review.	Electoral Registration Officer
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Electoral Registration Officer
9. Power to make agreements about incidental matters.	No onward delegation

Function	Delegation on to
<b>D. Power to make, amend, revoke or re-enact or enforce byelaws.</b>	No onward delegation

Function	Delegation on to
<b>E. Power to promote or oppose local or personal Bills.</b>	No onward delegation

Function	Delegation on to
<b>F. Miscellaneous</b>	
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.
2. Duty to make arrangements for proper administration of financial affairs etc.	No onward delegation.
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(8)).
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(8)).
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(8)).
5A. Duty to provide staff, etc to person nominated by Monitoring Officer.	No onward delegation (see Monitoring Officer Protocol in Part 5).
5B. Powers relating to overview and scrutiny committees (voting rights of co-opted members).	No onward delegation
6. Power to appoint officers for particular purposes (appointment of "proper officers").	Head of Paid Service
7. Power to make payments or provide other benefits in cases of maladministration etc.	Chief Executive or Monitoring Officer

Function	Delegation on to
<p><b>8.</b> 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).</p>	<p>Audit and Standards Committee</p>
<p><b>9.</b> 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.</p>	<p>No onward delegation</p>