

**North East Lincolnshire Council**

**Constitution**

**Part 2 – Decision Making**

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## **ARTICLE 1 – THE CONSTITUTION**

This Article sets out the main provisions of the Constitution. It emphasises that the Council will act within the law and in accordance with the provisions of the Constitution. One of the main purposes of the Constitution is to involve the whole community in decision making.

### **1.01 Powers of the Council**

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

### **1.02 The Constitution**

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

### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

- i) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- ii) support the active involvement of citizens in the process of local authority decision making;
- iii) help councillors represent their constituents more effectively;
- iv) enable decisions to be taken efficiently and effectively;
- v) create a powerful and effective means of holding decision makers to public account;
- vi) ensure that no one will review or scrutinise a decision in which they were directly involved;
- vii) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- viii) provide a means of improving the delivery of services to the community.

### **1.04 Interpretation and Review of the Constitution**

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

The Council will monitor and evaluate the operation of the Constitution as set out in [Article 15](#).

## ARTICLE 2 - MEMBERS OF THE COUNCIL

This Article sets out the composition of the Council and how Councillors are elected. The roles and functions of Councillors are set out together with their rights and duties.

### 1.01 Composition and eligibility

- a) **Composition:** The Council consists of 42 members, also called councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- b) **Eligibility:** Only registered voters of the area or those living or working there will be eligible to hold the office of councillor.

### 1.02 Election and terms of councillors

The election of councillors usually takes place on the first Thursday in May in any election year. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date when their period of office ends. North East Lincolnshire's Councillors are elected "by thirds" (see also the Section headed "How the Council operates" in Part 1).

### 1.03 Roles and functions of all councillors

- a) **Key Roles** All councillors will have these key roles which are set out in more detail in the role descriptions which are included in Part 3 of this Constitution:
  - i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - ii) represent their communities and bring their views into the Council's decision making process, i.e. become the advocate of and for their communities;
  - iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
  - v) be involved in decision making;
  - vi) be available to represent the Council on other bodies; and
  - vii) maintain the highest standards of conduct and ethics.
- b) **Rights and Duties**
  - i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- iii) For these purposes "confidential" and "exempt" information are defined in the Access to Information Rules in [Article 3](#) of this Constitution.

#### **1.04 Conduct**

Councillors will at all times observe the Council's Code of Conduct and the Protocol on Member/Officer Relations set out in Part 3 of this Constitution.

#### **1.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in [Appendix 1](#) of this Article.

## ARTICLE 2 – APPENDIX 1

### MEMBERS' ALLOWANCES SCHEME

This Scheme was approved in July 2022 following an independent review and report submitted to the Council. The Scheme came into force on the 19<sup>th</sup> May, 2022.

The current rates per annum are as follows: -

#### **Band A**

Leader	£22,500.00
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#### **Band B**

Deputy Leader	£16,875.00
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#### **Band C**

Designated Cabinet Members & Portfolio Holders	£11,250.00
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#### **Band D**

Chairman of Planning Committee	£6,750.00
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#### **Band E**

Chairmen of Scrutiny Panels	£5,625.00
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#### **Band F**

Chairman of Standards and Adjudication Committee	£4,500.00
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#### **Band G**

Chairman of Licensing and Community Protection Committee	£4,500.00
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#### **Opposition Group Leaders**

Opposition Group of 10 Members or more	£2,250.00
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Opposition Groups with between 6 and 10 members	£1,500.00
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Opposition Groups with between 2 and 5 members	£750.00
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#### **Co-opted Members' Allowances**

Independent Chairman of Audit and Governance Committee	£4,500.00
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Co-opted Members (excluding the Chairman of the Standards & Audit Committee)	£260.00
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#### **Civic Allowances**

Mayor	£8,000.00
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Deputy Mayor	£500.00
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Basic Allowance (payable to all Members)	£8,530.00
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### **Pensions**

Members are no longer entitled to join the Local Government Pension Scheme.





## ARTICLE 3 - CITIZENS AND THE COUNCIL

This Article sets out what citizens can expect from the Council and also their rights and responsibilities.

### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in [Appendix 1](#) of this Article;

- a) **Voting and Petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- b) **Information and Participation.** Citizens have the right to:
  - i) attend meetings of the Council, Cabinet and committees except where confidential or exempt information is likely to be disclosed, and the meeting (or the relevant part of it) is therefore held in private;
  - ii) submit questions to the Council in accordance with the Council's public question time procedure (see Council Standing Orders)
  - iii) submit petitions in accordance with the Petition Scheme ([Appendix 2](#) of this Article);
  - iv) speak at Planning Committee on applications for which they are either the applicant or agent, or have made written representations (see [Appendix 3](#) of this Article)
  - v) submit questions via the Council's scrutiny process (see [Appendix 4](#) of this Article)
  - vi) find out from the forward plan what key decisions will be taken by the Cabinet and when;
  - vii) see reports and background papers, and any records of decisions made by the Council and the Cabinet;  
and
  - viii) inspect the Council's accounts and make their views known to the external auditor
- c) **Complaints.** Citizens have the right to complain to:
  - i) the Council itself under its complaints procedure;
  - ii) the Ombudsman after using the Council's own complaints procedure;
  - iii) the Standards and Adjudication Committee about a breach of the Councillor's Code of Conduct, in accordance with the Local Assessment arrangements

### 3.02 Citizens' responsibilities

Citizens are expected to conduct themselves in a reasonable and non-confrontational manner, when dealing with councillors or officers. Equally, citizens are expected to show respect for things owned by the Council, councillors or officers.

## **ARTICLE 3 – APPENDIX 1**

### **ACCESS TO INFORMATION PROCEDURE RULES**

This part sets out the rules regarding access by members of the public to meetings, documents and minutes of decisions. The Council has decided to hold all its meetings at which a decision will be made in public with the usual ability to deal with sensitive ("exempt") information in private.

#### **1. SCOPE**

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees (if any), the Standards and Adjudication Committee and regulatory committees and meetings of the Cabinet (together called meetings).

The proper officer for the purpose of these Rules will be the Council's Monitoring Officer.

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

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

#### **3. RIGHTS 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 days notice of any meeting by posting details of the meeting at the Municipal Offices, Grimsby (the Council's principal offices).

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the Council's offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.. Where reports are prepared after the summons has been sent out, the proper officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

#### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- a) any agenda and reports which are open to public inspection;
- b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- c) if the proper officer thinks fit, copies of any other documents supplied to

councillors in connection with an item to any person on payment of a charge for postage and any other costs.

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

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

- a) the minutes of the meeting or records of decisions taken together with reasons, for all meetings of the 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.

## **8. BACKGROUND PAPERS**

### **List of background papers**

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

- i. disclose any facts or matters on which the report or an important part of the report is based; and
  - ii. which have been relied on to a material extent in preparing the report
- but does not include published work or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political adviser.

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

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

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

A written summary of the public's rights to attend and to inspect and copy documents must be kept at and available to the public at the Council's offices.

## **10. EXCLUSION OF ACCESS (BY THE PUBLIC AND MEDIA) TO MEETINGS**

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

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

## 10.2 Exempt information - discretion to exclude public

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

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

## 10.3 Meaning of Confidential Information

Confidential Information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## 10.4 Meaning of Exempt Information

Exempt information is defined in Schedule 12A of the Local Government Act 1972 (as amended) and means information falling within the seven categories below and is not prevented from being exempt by virtue of the 2 qualifications below 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.

CATEGORY	DEFINITION
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)	"Financial or Business Affairs" includes contemplating, as well as past or current, activities
4. Information relating to any consultation or negotiations or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown or employees of, or office holders under, the authority	"Employee" means a person Employed under a contract of service. "Labour Relations Matter" means (b) any of the matter specified in paragraphs (a) 2(g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or (c) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the

	<p>enactment is mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office holders under the authority as they apply in relation to employees of the authority;</p> <p>"Office Holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or an employee of the authority.</p>
<b>5.</b> Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
<b>6.</b> Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	
<b>7.</b> Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

#### **Qualifications to exempt information:**

Information falling within paragraphs 1-7 is not exempt information if it falls within any of the following categories:-

<b>Category</b>	<b>Definition</b>
<b>8.</b> Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under: (i) The Companies Act 2006 (ii) The Friendly Societies Act 1974 (iii) The Friendly Societies Act 1992 (iv) The Co-operative and Community Benefit Societies	<p>"Registered" in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any Building Society (within the meaning of that Act).</p>

Act 2014 (v) The Building Societies Act 1986 (vi) The Charities Act 2011	
<b>9.</b> Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.	
Information which: (a) falls within any of paragraphs 1-7 above; and (b) is not prevented from being exempt 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	

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE CABINET**

Rules 13 - 23 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 -11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer, other than a political assistant, present within 28 days of the date which is stated in the forward plan as the date by which it is to be decided, then it must also comply with Rule 1 - 11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

## **13. PROCEDURE PRIOR TO PRIVATE MEETINGS**

13.1 If the Cabinet and its committees decide to hold a meeting in private, at least 28 days before a meeting it must -

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

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

- 13.2 At least five clear days before a private or part private meeting the decision making body must -
- (a) Make available at the offices of the council a further notice of its intention to hold a meeting or part meeting in private.
  - (b) Publish that notice on the Council's website.

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

- 13.3 Where the date by which a meeting must be held makes compliance with the above arrangements impracticable, the meeting may only be held in private where the decision making body has obtained agreement from -
- (a) The Chairman of the relevant Scrutiny Panel or
  - (b) If there is no such person, or if the Chairman of the relevant Scrutiny Panel is unable to act, the Mayor, or
  - (c) Where there is no Chairman of either the relevant Scrutiny Panel or the Council, the Deputy Mayor that the meeting is urgent and cannot reasonably be deferred.
- 13.4 As soon as reasonably practicable after the decision making body has obtained agreement to hold a private meeting, it must -
- (a) Make available at the offices of the council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and
  - (b) Publish that notice on the Council's website.

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

- 14.1 Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency) a key decision may not be taken unless:
- (a) A Notice has been published in connection with the matter in question at least 28 days before a key decision is made;
  - (b) Where the decision is to be taken at a meeting of the Cabinet or a Committee of the Cabinet notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

#### **15. THE FORWARD PLAN**

- 15.1 The Forward Plan has been designated as the required 28 day Notice required under paragraphs 13 and 14 above. It will be prepared on a monthly basis and subsequent plans will cover period beginning with the first day of the second month covered in the preceding plan.



- 15.2 Where a decision maker intends to make a key decision, that decision must not be made until a document, the Forward Plan, has been published which states
- (a) that a key decision is to be made on behalf of the Council;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.

At least 28 clear days before a key decision is made, the document referred to above must be made available for inspection by the public

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

Where, in relation to any matter

- (a) the public may be excluded from the meeting at which the matter is to be discussed, or
- (b) documents relating to the decision need not be disclosed to the public, the document referred to above must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

## **16. GENERAL EXCEPTION**

- 16.1 Where the publication of the intention to make a key decision via the Forward Plan is impracticable, the decision may only be made -
- (a) where the proper officer has informed the chairman of the relevant Scrutiny Panel or, if there is no such person, each member of the relevant Scrutiny Panel by notice in writing, of the matter about which the decision is to be made;
  - (b) where the proper officer has made available at the offices of the council for inspection by the public and published on the council's website, a copy of the notice given pursuant to the above (a); and
  - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to above.
- 16.2 As soon as reasonably practicable after the proper officer has complied with the above he or she must -
- (a) make available at the offices of the council a notice setting out the reasons why compliance with paragraph 15.2 is impracticable; and
  - (b) publish that notice on the council's website.

## **17. SPECIAL URGENCY**

- 17.1 Where the date by which a key decision must be made, makes compliance with paragraphs 15.2 and 16.1 impracticable, the decision may only be made where the decision maker has obtained agreement from -
- (a) the chairman of the relevant Scrutiny Panel, or
  - (b) if there is no such person, of if the chairman of the relevant Scrutiny Panel is unable to act, the Mayor, or
  - (c) where there is no chairman of either the relevant Scrutiny Panel or of the Council, the Deputy Mayor,
- that the making of the decision is urgent and cannot reasonably be deferred
- 17.2 As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must -
- (a) make available at the offices of the council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred, and
  - (b) publish that notice on the council's website.

## **18. REPORT TO COUNCIL**

- 18.1 When a Scrutiny Panel can require a report

If a Scrutiny Panel thinks that a key decision has been taken which was not:

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

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

- 18.2 Cabinet's Report to Council

The Leader must submit to the Council at least annually a report containing details of each executive key decision taken during the period since the last report was submitted to the authority where the making of the decision was agreed as urgent in accordance with rule 17.

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

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

## **19. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person

presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include -

- (a) a record of the decision including the date it was made
- (b) a record of the reasons for the decision
- (c) details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision making body which made the decision and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

## **20. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

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

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

### **20.2 Provision of copies of reports to Scrutiny Panels**

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

### **20.3 Record of individual decision**

As soon as reasonably practicable after the decision has been taken by an individual member of the Cabinet, or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, The record will include -

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

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

## **21. INSPECTION OF DOCUMENTS FOLLOWING KEY DECISIONS**

- 21.1 After a meeting of a decision making body at which an executive decision has been made, or after an individual member or officer has made an executive decision the Proper Officer must ensure that a copy of –
- (a) any records prepared in accordance with the above and
  - (b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with rules 19 and 20.3, where only part of the report is relevant to such a decision, that part, must be available for inspection for members of the public as soon as reasonably practicable at the offices of the council and on the council's website.

## **22. SCRUTINY PANELS ACCESS TO DOCUMENTS**

### **22.1 Rights to copies**

Subject to Rule 22.2 below, a scrutiny panel (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and contains material relating to

- a) any business transacted at a public or private meeting of the Cabinet or its committees
- b) any decision taken by an individual member of the Cabinet (where this is subsequently allowed within the Constitution).
- c) Any decision that has been made by an officer of the Authority in accordance with executive arrangements.

Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after Cabinet receives the request.

### **22.2 Limits on rights**

A scrutiny panel will not be entitled to:

- a) any document that is in draft form;
- b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- c) the advice of a political adviser.

## **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **23.1 Material relating to previous business**

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

- a) it contains exempt information falling within paragraph 1,2, 4, 5 and 7 of the categories of exempt information; or
- b) it contains Confidential information as defined in these procedural rules
- c) it contains the advice of a political adviser.

**23.2 Material relating to key decisions**

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

Any document which is required to be available for inspection by a member of the council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

**23.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

## **ARTICLE 3 – APPENDIX 2**

### **PETITION SCHEME**

North East Lincolnshire Council welcomes petitions as one way in which you can let us know your concerns. We set out below how the Council will respond to petitions which you send us.

#### **1.1 What is a petition?**

We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we set a requirement for at least 20 signatories or petitioners before we treat it as a petition. This applies whether you live, work or study in North East Lincolnshire or if you are visitor.

#### **1.2 What should a petition contain?**

A petition should include –

- 1.2.1 A clear statement of your concerns and what you want the Council to do. This must relate to something which is the responsibility of the Council, or over which the Council has some influence. Where a petition relates to a matter which is within the responsibility of another Council or public body, we will ask the petition organiser whether s/he would like us to redirect the petition to that other Council or public body. Where a petition relates to a matter over which the Council has no responsibility or influence, we will reject the petition and return it to the petition organiser with an explanation of that decision;
- 1.2.2 the name and contact details of the "petition-organiser" or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address. Where an email address is given the Council reserves the right to call for a postal address at its discretion;
- 1.2.3 the names of at least 20 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but actual signature is not essential. Where the petition is in electronic form, a list of the names of the petitioners will suffice. You may include the addresses of petitioners, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a planning application, but this is not essential. If you want your petition to be debated at a meeting of the Council ("A Petition for Debate"), your petition will need to contain a higher number of signatories or petitioners (see below);
- 1.2.4 If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

#### **1.3 Who should you send a petition to?**

Where you submit a petition in response to consultation by the Council, please

address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

Alternatively, you can e-mail your petition to [democracy@nelincs.gov.uk](mailto:democracy@nelincs.gov.uk)

We will ensure that your petition is acknowledged within 5 working days of receipt. Details of the petition will also be published on the Council website in order to provide key information about the progress of the petition.

## **1.4 What type of Petition?**

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

### **1.4.1 Ordinary Petitions**

These are petitions which do not come within any of the following specific types. Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under North East Lincolnshire Councils arrangements for dealing with Standards allegations under the Localism Act 2011, rather than considered under this Petition Scheme.

### **1.4.2 Consultation Petitions**

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

### **1.4.3 Statutory Petitions**

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

### **1.4.4 Petitions for Debate**

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 1,000 signatories or petitioners (this is reduced to 400 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the Council's area).

## **1.5 Petitions and the Council's Website**

- 1.5.1 When a petition is received, within 5 working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

As soon as it is decided who the petition will be considered by within the Council, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the Council's decision will be notified to the petition organiser and put on the website within 5 working days of that consideration.

Petitions are presented on the petitions website in the order in which they are received, but the website can be searched for key-words to identify all petitions relating to a particular topic. All petitions are kept on the website for 2 years from the date of receipt.

## **1.6 The role of Ward Councillors**

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

## **1.7 What happens when a petition is received?**

Whenever a petition is received –

- 1.7.1 In some cases, it may be possible to resolve the petitioners' request directly, by getting the relevant Cabinet Member or officer to take appropriate action. Where this is done, the petition organiser will be asked whether s/he considers that the matter is resolved.
- 1.7.2 Unless the matter has been resolved to the satisfaction of the petition organiser, within 5 working days of receipt of the petition, a response will be sent to the petition organiser acknowledging receipt of the petition and setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 5 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting forms part of existing public speaking rights at that meeting. All correspondence will be via email where possible.
- 1.7.3 Whilst the Council is committed to dealing with petitions promptly, a petition will normally need to be received at least 10 working days before a relevant meeting if it is to be reported to that meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary to hold the petition over until the following meeting of the relevant body.
- 1.7.4 At each stage of the consideration of the petition, within 5 working days of any decision, the key petition information will be updated on the Council's website to ensure that petitioners can track progress of their petition.



- 1.7.5 What happens next depends on the type of petition being considered, as explained below.

## **1.8 What happens to a Consultation Petition?**

- 1.8.1 Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application or a proposed traffic regulation order.
- 1.8.2 The petition will be reported to the person or body who will take the decision on the proposal or application at the meeting.
- 1.8.3 The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees. However, all Planning applications are determined by the Planning Committee (with one exception), all Licensing applications are determined by the Licensing and Community Protection Committee, and traffic regulation orders are determined by the Cabinet Member (or Portfolio Holder) with responsibility for environmental matters. The one exception in respect of planning applications is that the Council's Executive Director for Environment, Economy and Resources and/ or the Statutory Planning Officer have delegated power to determine domestic planning applications where no objection has been received. So, where a petition has been received amounting to a material objection to the grant of planning permission, the application would be reported to the Planning Committee for decision. Where the petition supports the planning application and there are no other objections received, it may be determined by the Statutory Planning Officer
- 1.8.4 Where the petition relates to a matter which is within the delegated power of a Council officer, s/he will not exercise those delegated powers. The petition will be referred to the relevant Cabinet member, for decision.
- 1.8.5 Where the petition relates to a matter which is within the delegated powers of an individual Cabinet Member, s/he may decide not to exercise those delegated powers but to refer the matter to Cabinet for decision.

## **1.9 What happens to a Statutory Petition?**

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

## **1.10 What happens to Petitions for Debate?**

- 1.10.1 Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council, the annual Mayor Making Ceremony or at Extraordinary (or Special) Meetings of Council which are not convened to consider the subject matter of the petition.
- 1.10.2 The petition organiser will be invited to address the meeting for up to 5 minutes

on the subject of the petition.

## **1.11 What happens to an Ordinary Petition?**

- 1.11.1 Each Ordinary petition will be reported to the next convenient meeting of the relevant Cabinet Member, for a decision.
- 1.11.2 At the meeting, when the matter to which the petition relates is considered –
- 1.11.3 Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise. A maximum of 30 minutes will be allowed at each meeting for considering such petitions and any petitions not reached in the time allowed will be referred to the relevant Cabinet Member for consideration or deferred until the next meeting.
- 1.11.4 Any petitions relevant to particular items of business, such as petitions relating to planning applications or proposed traffic regulation orders, will be taken together with that item of business, in the normal order of business.
- 1.11.5 The decision-taker or the Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 5 minutes. The Cabinet Member/Chair may then ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address him/her on the matter for up to 3 minutes (each). The Cabinet Member/Chair will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body. Before reaching a final decision, the relevant Cabinet member may require further investigations to be carried out and the results of such investigations included in the report to the relevant Cabinet member / body prior to a final decision being taken on the subject matter of the petition.
- 1.11.6 Within 5 working days of the consideration of the petition by the relevant Cabinet Member / decision making body, the petition organiser will be notified of the Cabinet Member's decision and advise him/her that if s/he is not satisfied with that decision, s/he may require the matter to be reported to the next convenient meeting of the appropriate Scrutiny Committee (or Panel) for review.

## **1.12 Appeal to Scrutiny**

- 1.12.1 If the petition organiser is not reasonably satisfied with the outcome of the Council's consideration of his/her petition, he/she may appeal to Scrutiny by notifying the Monitoring Officer of his/her intention to appeal within 20 working days of being notified of the Council's decision on the petition. This right of appeal applies to ordinary petitions only.
- 1.12.2 Within 5 working days of receipt of intention to appeal, the petition organiser will be notified of the time, date and place of the next convenient meeting of the

Scrutiny Committee (or Panel) and will invite the petition organiser to attend the meeting and to address the Panel for up to 5 minutes on why s/he considers that the decision on the petition is inadequate.

- 1.12.3 Scrutiny may not over-ride the decision of any Cabinet Member, but the Cabinet Member must consider any recommendations made by Scrutiny.

### **1.13 The role of the Petition Organiser**

- 1.13.1 Where the petition is not accepted for consideration (see below for grounds for rejection of petitions), the petition organiser will be advised of the rejection and the grounds for such rejection.
- 1.13.2 Where the petition is accepted for consideration, the petition organiser will receive acknowledgment of receipt of the petition within 5 working days of receipt by the Council and will be advised as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 5 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.
- 1.13.3 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.
- 1.13.4 The petition organiser will be regularly informed of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

### **1.14 Petitions which will not be considered**

#### **1.14.1 Duplicate Petitions**

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

#### **1.14.2 Repeat Petitions**

A petition will not normally be considered where a petition on the same issue and seeking the same outcome has been received within the last 6 months, whether or not from the same petition organiser.

#### **1.14.3 Rejected Petitions**

Petitions will not be reported if in the opinion of the Council's Monitoring Officer, they are rude, offensive, defamatory, scurrilous, time-wasting, reasonably perceived (at the sole discretion of the Monitoring Officer but in consultation with political group leaders) to attempt to usurp or undermine the decision making process or any provision of the Constitution or do not relate to something which is within the responsibility of the Council, or over which the Council has some influence.

## **ARTICLE 3 - APPENDIX 3**

### **Public Speaking at Planning Committee**

#### **1. Introduction**

- 1.1 Most planning and related applications do not go to the Planning Committee for a decision. Instead, they are dealt with by a Senior Council Officer and his team under powers delegated to him by the Planning Committee. This approach is widespread to Councils across the country and, at North East Lincolnshire Council, includes all non-controversial applications. In such cases, written comments are positively encouraged and are fully considered before a decision is taken; but there is no opportunity to speak to the Planning Committee.
- 1.2 More information about those applications which do go to Planning Committee can be found in the Council's Constitution (see Part 3 Section 5 powers delegated to the Executive Director for Environment, Economy and Resources).
- 1.3 The planning applications which are to be considered at Planning Committee are published in an agenda. This is available at least 5 full days beforehand.
- 1.4 Planning Committee normally meets every four weeks on a Wednesday -- at 9.30am in Grimsby Town Hall.
- 1.5 Public speaking will be permitted each time a planning, or related, application is considered by the Planning Committee. However, in order to do so you must register your intention to speak, more details about which are given below.
- 1.6 It is important that people affected by a development are able to speak at Planning Committee in order to reinforce their written comments. It is equally important that the applicant, or their representative, can speak to the Planning Committee and respond to issues raised. Local parish and ward councillors may also wish, and are entitled, to speak.
- 1.7 This document explains the related procedures, to ensure that the entitlement to speak to the Planning Committee is clear.

#### **2 Registering an Intention to Speak - what you must do before Planning Committee**

- 2.1 You are only able to speak to the Planning Committee if:
  - 1. You are the applicant or a person acting on their behalf; or
  - 2. You, or someone you represent, have previously made written comments on the application to the Council.
- 2.2 Separate rights also exist for Ward and Parish Councillors which are explained below.
- 2.3 You must let us know that you would like to speak by, at the very latest, 5pm on the Monday before the Wednesday meeting. This is so that we can make

suitable arrangements for those who wish to speak. This can be done by 'phoning (01472) 324124, or by emailing [Planning@nelincs.gov.uk](mailto:Planning@nelincs.gov.uk). Alternatively, a form (found here: <https://www.nelincs.gov.uk/planning-and-development/planning-committee/#1450871718717-b6cf6844-eb08>) can be posted or emailed.

### **3 Speaking at Planning Committee**

- 3.1 Public speaking will be permitted each time a planning, or related, application is considered by the Planning Committee.
- 3.2 **Local residents and others**, who have previously written to the Council about an application, may speak to the Planning Committee. Up to 2 supporters may speak for no more than 5 minutes in total and up to 2 objectors may also speak for no more than 5 minutes in total. If more than two people have requested to either support or object to an application, their details, with their permission, will be shared with other objectors / supporters at the time they register to speak. This is in order that they can agree who will speak at Planning Committee and how they will split their time.
- 3.3 In those cases where a petition has been submitted, a spokesperson, on behalf of the petitioners, will continue to need to register a request to speak at Planning Committee. Their entitlement to speak will not extend beyond the 5 minutes as set out above.
- 3.4 At the discretion of the Chair, and in the case of major strategically significant proposals, additional public speakers may be permitted. In such cases there may be a wider range of views and opinions which it would be valuable for Planning Committee to hear, before taking a decision or making a recommendation to national government.
- 3.5 Additional plans, photographs or information which local residents and others wish to present to Planning Committee to supplement their case should be submitted at the earliest possible opportunity and at the latest by the Monday before the Wednesday Committee meeting. This is in order that we can circulate the information to Councillors and to the applicant. The submission of additional plans, photographs or information will **not** normally be allowed on the day of Planning Committee.
- 3.6 **Ward Councillors** may speak to the Planning Committee, for up to 5 minutes each, about an application in their ward. They may also speak for up to 5 minutes on a planned major development which is not within their ward, if the Chair agrees that it has a wider interest beyond a single ward.
- 3.7 **Parish Councils** may send a representative to speak to the Planning Committee for up to 5 minutes about an application in their parish. They may also speak for up to 5 minutes on a planned major development which is not within their parish, if the Chair agrees that it has a wider interest beyond a single parish.

- 3.8 **Applicants and/or their agents** may speak to the Planning Committee for up to a total of 5 minutes and no more. This maximum time may be used by up to two people. Additional plans or material to support an application will not normally be accepted on the day of Planning Committee. Any additional plans received on the day of the Committees may result in an application being taken off the agenda, to be considered at a later date, so as to give proper time for the amended details to be looked at.
- 3.9 The use of electronic presentation media (such as PowerPoint) is acceptable. However, in order for suitable arrangements to be made for this it should be sent as early as possible, via email, to the Development Management officer dealing with the application or to [Planning@nelincs.gov.uk](mailto:Planning@nelincs.gov.uk). The latest that such presentations should be sent is 5pm on the Monday before Planning Committee.

#### **4 Arriving at the Planning Committee Meeting**

- 4.1 It is helpful, in order to assist the smooth running of the meeting, that on arriving at the committee room in Grimsby Town Hall, people who have registered to speak make themselves known to the Committee Clerk. This then helps the Planning Committee Chair know which applications most people have come to hear. The Committee Chair will, as a result, normally vary the order in which items on the agenda are considered so that those with the most public interest are heard first of all.
- 4.2 Once a public speaker has spoken to Planning Committee there is no further right to speak at the meeting or add additional comments; this must all be done within the allotted 5 minutes.

#### **5 Planning Committee – Order of Business**

- 5.1 The discussion of applications is, in each case, in the following order:
1. Chair of Planning Committee announces the application.
  2. Executive Director for Environment, Economy and Resources, or his representatives, presents the application and outline the main points and recommendation contained within a detailed written report in front of the Committee. This presentation is normally supported by extracts from the plans submitted with the application and photographs of the site and its surroundings being shown to the Planning Committee via a large screen.
  3. Objector(s) address Committee.
  4. Developer/applicant/agent or supporter(s) address Committee
  5. Ward Members (not on Planning Committee) address the Committee
  6. Parish Councillors address Committee
  7. Executive Director for Environment, Economy and Resources, or his representatives, at the invitation of the Chair, respond to any issues raised.
  8. Councillors on Planning Committee debate the application and may ask questions of the Council officers present.
  9. A Planning Committee councillor proposes what should happen to the application (normally approval with conditions, refusal or deferral for a site

visit or further information).

10. In the event that the above proposal is seconded by another Planning Committee member the Committee votes, with the permission of the Committee Chair, on the proposition.

## **6 Getting the Best from Speaking at Planning Committee**

- 6.1 When speaking at Planning Committee it is recommended that you restrict your comments to those matters which the Planning Committee can take into account when it makes a decision. If detailed comments are made about matters which the Committee cannot take into account then Council officers present will advise the Committee Chair that this is so. The matters which the Planning Committee cannot take into account are prescribed nationally and normally include land ownership issues, the perceived impact of a development on land and property values and existing businesses and the loss of a private view. Further advice on this is available here: <http://www.nelincs.gov.uk/resident/planning-and-development/commenting-on-a-planning-application/>
- 6.2 Anyone can attend any Planning Committee, whether you are speaking or not. If you think you might want to speak to the Committee in the future, you may find it useful to attend an earlier meeting to see how they work.
- 6.3 We recognise that public speaking can be an intimidating experience for anyone. But please be assured that everyone speaking to the committee is made welcome and will be treated with respect. If you would like further reassurance, please contact the Development Management team on (01472) 324213

## **7 Councillors**

- 7.1 Councillors at North East Lincolnshire Council must comply with a Code of Conduct (as set out in the Constitution). The rules set out are to ensure that Councillors behave properly and lawfully at all times.

## **ARTICLE 3 – APPENDIX 4**

### **Public Question Time at Scrutiny**

- A person resident in North East Lincolnshire, if the question has been submitted in writing to the Assistant Chief Executive (in their role as Statutory Scrutiny Officer) at the Municipal Offices, Town Hall Square, Grimsby, no later than 5 working days before the date of the relevant scrutiny panel, can ask the scrutiny panel any question relating to the remit of the panel.
- The Assistant Chief Executive will be responsible for confirming which Scrutiny Panel the question will go to. The Assistant Chief Executive, in consultation with the Monitoring Officer, shall be responsible for deciding the extent to which the answer to a question should reveal information which is exempt information within the meaning of Schedule 12A of the Local Government Act 1972.
- Public questions will appear as an agenda item (as the first agenda item after apologies and declarations of interest) for the relevant scrutiny panel, as and when there are questions.
- The agenda item on public questions will not exceed 15 minutes in total, with 3 minutes allocated to each individual question.
- If the person asking the question is present at the meeting, they shall be given the opportunity of putting the question to the panel and will receive a copy of the response in writing after the meeting. The person asking the question needs to be made aware that it may not be possible to provide a full response at the meeting, as it may depend on the panel or a partner organisation (e.g. one of the NHS Trusts) reviewing the issue in greater detail, or referring the matter to the relevant Portfolio Holder or Officer before a final response is provided.
- If the person asking the question is not present at the meeting, they will be sent a copy of the response to their question in writing.
- No more than 2 questions may be asked by any one person at the meeting.
- Questions and answers shall not be the subject of debate by the Panel unless the Panel Chair, on advice from the legal representative, considers it to be appropriate and necessary.
- Questions and summarised answers will be included in the minutes.



## **ARTICLE 4 - DECISION MAKING**

This Article deals with who is responsible for making decisions within the Council and the recording of this information. It also sets out the main principles behind the making of decisions ensuring they are made on a clear and fair basis after due consideration of all relevant advice.

### **4.01 Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in this Part of the Constitution and separates out decision making between the Council, Cabinet and Regulatory Committees and those functions exercised by officers on behalf of members as well as arrangements for functions to be delegated out through joint arrangement or contract.

### **4.02 Principles of decision making**

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

- a) proportionality (i.e. the action must be proportionate to the desired outcome);
- b) due consultation and the taking of professional advice from officers;
- c) respect for human rights (see below for further details);
- d) a presumption in favour of openness;
- e) clarity of aims and desired outcomes;
- f) an explanation of the options considered before a decision was reached;
- g) an appropriate assessment of any known or emerging risks; and
- h) the reasons why decisions were made are given.

### **4.03 Types of decision**

- a) Decisions reserved to Full Council. Decisions relating to the functions listed in Article 5.01 will be made by the full Council and not delegated.
- b) Key Decisions.

A key Decision must be included in the forward plan and is a decision as defined in Article 7.

- (i) These are key decisions which may only be made by the Cabinet, individual Portfolio Holders or Officers, such decisions being defined in Article 7.
- (ii) The Cabinet, an individual Portfolio Holder or an Officer may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Article 7.

### **4.04 Decision making by the Full Council**

Subject to Article 4.08, the Council meeting shall follow the Standing Orders set out in Article 5 when considering any matter.

#### **4.05 Decision making by the Cabinet**

Subject to Article 4.08, the Cabinet or individual Portfolio Holder shall follow the Cabinet Procedures Rules set out in Article 7 when considering any matter.

#### **4.06 Overview and Scrutiny**

The Scrutiny Panels shall follow the Overview and Scrutiny Procedures Rules set out in Article 8 of this Constitution when considering any matter.

#### **4.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 4.08, other Council committees and sub-committees will follow those parts of the Council's Standing Orders set out in Article 5 of this Constitution as apply to them.

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

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in the Human Rights Act 1998.

#### **4.09 Decision Making, Assurance and Resource Management: roles and responsibilities of Councillors and Officers**

**Councillors** – all Councillors are charged with the overall governance of the Council and must seek assurance from senior officers that the Council resources are managed appropriately. Portfolio Holders have specific responsibility for seeking assurance from Directors that resources within their areas of portfolio responsibility are being managed appropriately. Councillors will set policies to determine the standards they require for governance based on advice from the Chief Executive, Executive Director Place and Resources (Chief Finance Officer) and Monitoring Officer.

**Executive Director Place and Resources (Chief Finance Officer) and Monitoring Officer** – must establish the systems within the organisation for securing good governance and sound financial control. They must also monitor its compliance.

**Council Leadership Team** - are responsible for the ensuring compliance with the Council's policies and develop systems that are robust and compliant with the Council's procedure requirements. They must also ensure that controls are operating effectively, instigate mitigating actions where required and provide the necessary assurances to the Head of Paid Service through their annual governance statements and supervision arrangements.

**Resource Managers** – all managers with responsibility for resources must ensure that the Council's resources are protected and used appropriately and effectively to deliver priorities. They must operate robust performance management systems to effectively monitor and manage risks and secure assurances of compliance with policy and procedures.

**Staff** – all staff have a duty to operate within the Council's policies and procedure rules

at all times. They must also protect the Council resources and assets and ensure they are appropriately deployed to deliver the Council's priorities.

**Finance staff** – are responsible for providing professional advice to managers on the use of resources and escalating concerns to senior officers as required. They also have a duty to advise the Executive Director Place and Resources (Chief Finance Officer) of any non-compliance with policy and procedures they are aware of.

**Internal Audit** – monitor internal control arrangements including the robustness of systems and arrangements for compliance. Internal Audit must provide professional advice to all Leadership Team members and primarily the Executive Director Place and Resources (Chief Finance Officer) and Monitoring Officer of any serious control breaches and arising patterns of behaviour which are a fundamental concern.

#### **4.10 Decision Making by Officers**

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

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

##### **Executive decisions taken by officers**

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

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

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

DCLG recommends that decisions to allocate social carers to particular individuals, to review housing benefit or to allocate market stalls to traders are examples of the type of decision that do not need recording under the 2012 Regulations. Whereas, decisions

taken by officers to award contracts above specified values (see the Council's requirements below) or to exercise compulsory purchase powers, to award discretionary rate relief or to change the opening hours of libraries are cited as the type of decision taken by an officer that should be recorded.

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

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

### **Non-executive decisions taken by officers**

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

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

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

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

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

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

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

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

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

### **Recording Decisions**

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present, the person presiding, must ensure that a written statement is produced for every executive decision made.

The statement must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-maker when making the decision;

#### **4.11 Duration of Decision**

A decision (or delegation) of whatever nature shall be deemed to have a maximum life span of two years from the date made or published (if liable to publication) prior to implementation. Unless the decision (or delegation) has been implemented in part or in full in the meantime, then a refreshed decision (or delegation) will have to be sought.

## **ARTICLE 4 – APPENDIX 1**

### **RESPONSIBILITY FOR FUNCTIONS**

#### **Council Functions (Section 1)**

Certain functions must remain with full Council. The table in Section 1 of this part of the Constitution defines these functions.

#### **Local Choice Functions (Section 2)**

Some functions, known as local choice functions, may be allocated by the full Council to the Cabinet or retained by it or allocated to a Committee appointed by the Council. The table in Section 2 of this part of the Constitution details the present arrangements with regard to the apportionment of these local choice functions between the full Council, Committees and Cabinet.

#### **Regulatory Functions (Section 3)**

Some other functions, of a regulatory nature, cannot be exercised by the Cabinet. These are therefore Council retained functions which may be delegated by full Council. Section 3 of this part of the Constitution provides details of the Committees the full Council has set up to undertake these regulatory functions and also shows which local choice functions have been delegated to them. This section also details the Council's scrutiny arrangements.

#### **Cabinet Functions (Section 4)**

The legislative framework set by the Local Government Act 2000 provides that all other Council functions are undertaken by the Cabinet. These functions are often called either Cabinet or executive functions.

#### **Delegation of Functions to Officers (Section 5)**

The full Council and Cabinet has determined that certain powers of the Council shall be delegated to officers in accordance with the Scheme of Delegation which is set out in Sections 3 and 5.

### **Compulsory Reporting Requirements**

For the purposes of this Part of the Constitution, the following mandatory requirements shall apply to all decisions taken by the full Council, Cabinet, Committees and Officers as well as reports to Overview and Scrutiny:

- (i) The Monitoring Officer, Section 151 Officer and HR Group Manager shall be consulted in respect of all reports to elected members
- (ii) Directors shall ensure that any report submitted to elected members and any decision taken by Officers, acting with delegated authority, shall be preceded by an assessment of any risk(s) to the Council associated with the proposed report/decision as set out in the officers' report writing guide issued by the Monitoring Officer and reviewed from time to time

- (iii) Where not otherwise prescribed by law or this Constitution, the detail of any decision taken by an Officer, acting with delegated authority, shall be in such form prescribed by the Monitoring Officer
- (iv) Any decision taken in accordance with paragraph 14 of Section 5 shall be recorded in such form prescribed by the Monitoring Officer.

## **Section 1 - Matters which it is the responsibility of the full Council to discharge**

Only the Council will exercise the following functions:

- a) adopting and changing the Constitution
- b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Article 3 of this Constitution, making decisions about any matter in the discharge of an Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- d) appointing the leader;
- e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- f) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- g) adopting a Members allowances scheme under Article 2.05;
- h) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- i) confirming the appointment and dismissal of the Head of Paid Service;
- j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- k) all local choice functions set out in Section 2 which the Council decides should be undertaken by itself rather than the Cabinet; and
- l) all other matters which, by law, must be reserved to Council.



## SECTION 2 - RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

These are matters which may be but need not be, the responsibility of the Cabinet. These are known under the legislation as "Local Choice" functions because the Full Council has a choice about how it allocates the responsibility. The table below describes the Functions and which part of the Council has delegated responsibility for carrying each of the functions. In this Part of the Constitution any reference to an Act or statutory Instrument includes reference to any modification, amendment or re-enactment thereof

Function	Decision Making Body
Any function under a local Act	Council
The determination of an appeal against any decision made by or on behalf of the authority where no specific arrangements have been made	Appeals Committee
The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (appeals against exclusion of pupils).	Council function delegated to the Director of Children's Services
The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals)	Council function delegated to the Director of Children's Services
The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Council
The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996(b) for enabling questions to be put on the discharge of the functions of a police authority.	Council
The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Joint Appointments Committee set up under the Police Act 1996
The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under Schedule 18(8) of the Local Government and Public Involvement in Health Act 2007.	Cabinet/Scrutiny shared function as set out in respective terms of reference

Any function relating to contaminated land	Council functions delegated to Licensing and Community Protection Committee and to the Director of Economy, Environment and Infrastructure as set out in the Scheme of Delegation and subject to the reservations and limitations
The discharge of any function relating to the control of pollution or the management of air quality	
The service of an abatement notice in respect of a statutory nuisance	
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	
The inspection of the authority's area to detect any statutory nuisance	
The investigation of any complaint as to the existence of a statutory nuisance	
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interest in land.	Council function delegated to Planning Committee and subsequently to the Director of Economy, Environment and Infrastructure
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Council function delegated to the Licensing and Community Protection and Planning Committees and subsequently to all Directors as set out in the approved Managerial Structure.
The making of agreements for the execution of highways works	Council function delegated to Planning Committee and to the Director of Economy, Environment and Infrastructure as set out in the Scheme of Delegation subject to the express reservations and limitations

<p>The appointment of any individual -</p> <ul style="list-style-type: none"> <li>(a) to any office other than an office in which he is employed by the authority;</li> <li>(b) to anybody other than – <ul style="list-style-type: none"> <li>(i) the authority;</li> <li>(ii) a joint committee of two or more authorities; or</li> </ul> </li> <li>(c) to any committee or sub-committee of such a body, and the revocation of any such appointment</li> </ul>	<p>Council function or the Cabinet where the appointment relates to a Cabinet function</p>
<p>Functions and responsibilities in respect of Local Area Agreements</p>	<p>Cabinet</p>

### **Section 3 - RESPONSIBILITY FOR COUNCIL FUNCTIONS OF A REGULATORY NATURE (NON CABINET FUNCTIONS)**

1. Planning Committee  
Licensing and Community Protection Committee  
Standards and Adjudication Committee  
Appointments Committee  
Audit and Governance Committee  
Overview and Scrutiny
2. Details about each of these bodies are set out below. These details set out the Terms of Reference and delegated powers exercised by each on behalf of the Council. These comprise regulatory and other powers reserved by legislation to the Council (that is functions which cannot be exercised by the Cabinet) and local choice functions not delegated to Cabinet by Council. The delegation of relevant powers to officers are also included.
3. Some of these powers are in turn delegated by Council to officers to exercise. Details of these officer delegated powers are set out in Section 5 and are subject to the requirements and limitations set out in that part of the delegation scheme.
4. Any reference in this Scheme of Delegation to any Act or Statutory Instrument includes any modification, amendment or re-enactment thereof.
5. The Council has transferred a range of regeneration, property and technical services to Engie, for a period of 10 years from the 1st July 2010. Any references in this Scheme of Delegation to the "Regeneration Partner" should be construed accordingly.
6. The Council has transferred a range of adult social care services to the North East Lincolnshire Clinical Commissioning Group. Any references in this Scheme of Delegation to the "CCG" shall be construed accordingly.

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
Planning	11 members (politically balanced)	<b>Terms of Reference</b> Functions in relation to town and country planning, development control and enforcement and various statutory functions relating to trees, listed or dilapidated buildings, building control and conservations; commons registration and various highway functions, save for those functions reserved by standing orders or Regulations to be carried out by Cabinet or Full Council.	
		<b>Delegated Powers</b> 1. The determination of planning applications under Part III of the Town and Country Planning Act 1990 except:- (a) applications delegated to the Director of Economy, Environment and Infrastructure	Refer to delegation to the Director of Economy, Environment and Infrastructure
		<b>Functions</b> 1. The determination of planning applications under Part III of the Town and Country Planning Act 1990 except: (a) applications delegated to the Director of Economy, Environment and Infrastructure.	Refer to delegation to the Director of Economy, Environment and Infrastructure
		2. 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 (Paragraph 2(6) (a) of Schedule 2 to the Planning and Compensation Act 1991 paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act). 3. Power to (i) decline to determine subsequent and	Items 2 and 4 to 27 inclusive delegated to the Director of Economy, Environment and Infrastructure but subject to any limitations set out in this Part 3 of the Constitution.

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		overlapping applications under Section 70A and 70B of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) (ii) decline to determine subsequent and overlapping applications under Section 70B of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004 (iii) decline to determine subsequent and overlapping applications under sections 81A and 81B of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.	Committee matter
		4. Power to grant or refuse planning permission for development without complying with conditions to which previous planning permission is subject (Section 73 of the Town and Country Planning Act 1990).	Delegated to the Director of Economy, Environment and Infrastructure subject to the limitations set out in Section 5, paragraph 12 of this part of the Constitution
		5. Power to grant or refuse planning permission for development carried out without planning permission (Section 73A of the Town and Country Planning Act 1990)	As above
		6. To determine (approval or refusal) minor amendments submitted following previous grants of planning permission. This shall include revised site, revised house types, changes of materials, changes to door or window positions and dimensions of built development.	
		7. To respond to consultations from other Councils, statutory bodies and Government Agencies/departments in respect of development.	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>8. Power to grant or refuse consent for the display of advertisements (Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007).</p> <p>9. Power to grant or refuse listed building consent (Section 16(1) and 2, 17 and 33 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990).</p>	<p>Delegated to the Statutory Planning Officer subject to the limitations set out in Section 5, paragraph 12 of this part of the Constitution. Delegated to the Director of Economy, Environment and Infrastructure subject to the limitations set out in Section 5, paragraph 12 of this part of the Constitution.</p>
		<p>10. Power to grant or refuse conservation area consent (Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act).</p>	<p>Delegated to the Director of Economy, Environment and Infrastructure subject to the limitations set out in Section 5, paragraph 12 of this part of the Constitution.</p>
		<p>11. Power to grant or refuse hazardous substances consent (Section 9(1) and 10 of the Planning (Hazardous Substances) Act 1990)).</p>	<p>Delegated to the Director of Economy, Environment and Infrastructure subject to the limitations set out in Section 5, paragraph 12 of this part of the Constitution.</p>
		<p>12. Making of Tree Preservation Orders and Provisional Tree Preservation Orders (Section 198- 201 of the Town and Country Planning Act 1990 amended by the Planning Act 2008) and the service of Building Preservation Notices where there is an imminent threat of destruction or damage under Section 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p>	
		<p>13. Confirmation of Tree Preservation Orders</p>	<p>Delegated to the Director of</p>

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
			Economy, Environment and Infrastructure where no objections have been received.
		14. Power to dispense with duty to replace trees (Section 206(2) of the Town and Country Planning Act 1990 as amended by the Planning Act 2008).	
		15. Power to enforce duty to replace trees (Section 207 of the Town and Country Planning Act 1990 as amended by the Planning Act 2008).	
		16. Power to dispense with duty to replace trees in conservation areas (Section 213(2) of the Town and Country Planning Act 1990 as amended by the Planning Act 2008).	
		17. Power to enforce duty to replace trees in conservation areas (Section 213(3) of the Town and Country Planning Act 1990 as amended by the Planning Act 2008).	
		18. Power to grant or refuse consent under a tree preservation order (the Town and Country Planning (Tree Preservation) (England) Regulations 2012)	
		19. Power to give directions as to the replanting of land ((the Town and Country Planning (Tree Preservation) (England) Regulations 2012)	
		20. To determine whether Environmental Statements are necessary or to require further information in respect thereof.	
		21. To provide a "scoping brief" in relation to the requirement for an Environmental Statement.	



<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		22. To accept or reject any Environmental Statement provided in the course of a planning application	
		23. To determine whether prior approval is necessary for the siting and appearance of relevant telecommunications equipment and to determine such applications.	
		24. To determine whether prior approval for demolition of buildings is necessary.	
		25. To determine whether prior approval for agricultural buildings or operations is necessary.	
		26. To determine which method should be adopted for dealing with planning appeals lodged against the Council's decisions and preparing and presenting the Council's case to the Inspector whether by writing or at a hearing or Inquiry.	
		27. Power to require information as to interests in land (Section 330 of the Town and Country Planning Act 1990)	
		28. Power to serve a planning contravention notice, breach of condition notice or stop notice (Sections 171 C, 187A and 183(1) of the Town and Country Planning Act 1990)	Item 28-33 delegated to Director of Economy, Environment and Infrastructure subject to limitations as set out in this part of the Constitution
		29. Power to issue (and arrange for the service of) an enforcement and (where applicable) a Stop Notice (Section 172 of the Town and Country Planning Act 1990).	Director of Economy, Environment and Infrastructure, in consultation with the Monitoring Officer
		30. Power to issue (and arrange for the service of) a Temporary Stop Notice (Section 171E to 171H of the	Director of Economy, Environment and

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		Town and Country Planning Act 1990).	Infrastructure, in consultation with the Monitoring Officer
		31. Power to issue and arrange the service Notices under Section 215 of the town and Country Planning Act 1990 if it appears that the amenity of the area is being adversely affected by the condition of the land.	Director of Economy, Environment and Infrastructure
		32. Power to issue a listed building enforcement notice (Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990).	Director of Economy, Environment and Infrastructure in consultation with the Monitoring Officer
		33. Power to serve an urgent works notice (Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990).	Director of Economy, Environment and Infrastructure in consultation with the Monitoring Officer
		34. Power to revoke or modify any listed building consent (Section 23(1) of the Planning (Listed Building and Conservation Areas) Act 1990).	Director of Economy, Environment and Infrastructure
		35. Power to apply for an injunction restraining a breach of planning control (Section 187B of the Town and Country Planning Act 1990).	Committee matter but delegated to the Director of Economy, Environment and Infrastructure in any case where, in his/her opinion, in consultation with the Monitoring Officer, it would not be reasonably practicable to seek Committee approval
		36. Power to authorise entry onto land (Section 196A of the Town and Country Planning Act 1990).	Director of Economy, Environment and Infrastructure
		37. The making of agreements for the execution of	Director of Economy,

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		highway works	Environment and Infrastructure
		38. Power to make Limestone Pavement Orders (Section 34(2) Wildlife and Countryside Act 1981)	Director of Economy, Environment and Infrastructure
		39. Powers relating to protection of hedgerows (Hedgerows Regulations 1997)	Director of Economy, Environment and Infrastructure
		40. Power to create footpaths and bridleways (Section 25 and 26 of the Highways Act 1980).	
		41. Power to stop up, divert and/or extinguish footpaths and bridleways and make Gating Orders in accordance with all powers conferred by the Highways Act 1980 (as amended by the Town and Country Planning Act 1990) and the Clean Neighbourhoods and Environment Act 2005.	
		42. Power to make applications to the Magistrates Court pursuant to Section 113 of the Highways Act 1980.	
		43. Duty to assert and protect the rights of the public to use and enjoyment of highways (Section 130 of the Highways Act 1980).	
		44. Powers relating to the removal of things so deposited on highways as to be a nuisance (Section 149 of the Highways Act 1980).	Director of Economy, Environment and Infrastructure
		45. Duty to keep a definitive map and statement under review (Section 53 of the Wildlife and Countryside Act 1981 (c.69))	
		46. Duty to reclassify roads used as public paths (Countryside and Rights of Way Act 2000).	
		47. Power to grant a street works licence (Section 50	Items 47-56 delegated to the

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		of the New Roads and Street Works Act 1991 (c.22)).	Director of Economy, Environment and Infrastructure subject to any limitations set out in this part of the Constitution
		48. Power to permit deposit of builder's skip on highway (Section 139 of the Highways Act 1980 (c.66))	
		49. Power to license planting, retention and maintenance of trees etc., in part of highway (Section 142 of the Highways Act 1980).	
		50. Power to authorise erection of stiles etc., on footpaths or bridleways (Section 147 of the Highways Act 1980).	
		51. Power to license works in relation to buildings etc., which obstruct the highway (Section 169 of the Highways Act 1980).	
		52. Power to consent to temporary deposits or excavations in streets (Section 171 of the Highways Act 1980).	
		53 Power to dispense with obligations to erect hoarding or fence (Section 172 of the Highways Act 1980).	
		54. Power to restrict the placing of rails, beams etc., over highways (Section 178 of the Highways Act 1980).	
		55. Power to consent to construction of cellars etc., under street (Section 179 of the Highways Act 1980	
		56. Power to consent to the making of openings into cellars etc., under streets, and pavement lights and	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		ventilators (Section 180 of the Highways Act 1980).	
Licensing Sub Committees	5 Sub Committees of 3 members	All powers under the Licensing Act 2003 delegated to the Sub-Committees by the full Council on the 16th December 2004, as set out in the appendix to this scheme of delegation.	
Licensing and Community Protection Committee	10 members (politically balanced)	<p><b><u>Terms of Reference</u></b></p> <p>All powers conferred on the Licensing Committee under the Licensing Act 2003 and the Gambling Act 2005 , subject to the delegation of powers to the Licensing Sub-Committees</p>	The Director of Economy, Environment and Infrastructure is authorised to exercise all powers approved by the full Council on the 16th December 2004, as set out in the <a href="#">appendix</a> to this scheme of delegation
		All powers of the Licensing Authority as a Responsible Authority under the Licensing Act 2003 as a result of the Police Reform and Social Responsibility Act 2011	Director of Economy, Environment and Infrastructure
		Matters relating to Taxi, gaming, entertainment, food and miscellaneous licensing and statutory provisions including functions relating to parishes and elections and Health and safety to the extent that those functions are discharged otherwise than in the council's capacity as employer	
		<p><b>Functions</b></p> <p>1. In respect of Hackney Carriage and Private Hire licences to determine licence applications which have not been determined by the Director of Economy, Environment and Infrastructure pursuant to his/her delegated powers.</p>	Delegated to the Director of Economy, Environment and Infrastructure subject to limitations as set out in Section 5 and in particular where the applicant has more than six

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
			penalty points on his/her DVLA driving licence; or has an unspent conviction; or spent conviction for violence or indecency, then the application will be dealt with by a Licensing Panel made up of five members of the Committee
		2. To receive reports for information on the suspension and revocation of licences.	
		3. To receive, at regular intervals, a report of all licences issued, renewed or refused.	
		4. to receive an annual report of all hackney carriage and private hire licences issued or renewed where the vehicle in question is over the age of five years. 5 to receive periodic reports on random inspections carried out.	
		6. to vary, amend or revoke the standard conditions of hackney carriage or private hire operators, vehicle and drivers' licences.	
		7. to determine the fees payable for the issue and renewal of hackney carriage and private hire licences (including inspections).	
		8. to determine the hackney carriage tariff from time to time.	
		9. to approve the siting or relocation or removal of hackney carriage ranks and to authorise the appropriate statutory notices.	
		10. In relation to Public Entertainment Licences and	Director of Economy,

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		private places of entertainment covered under the Licensing Act 2003	Environment and Infrastructure subject to limitations set out in Section 5 and provided no objections are made
		11. to determine new applications upon receiving recommendations from the appropriate officers and outside bodies and impose conditions.	Director of Economy, Environment and Infrastructure subject to limitations set out in Section 5 and provided no objections are made
		12. to vary, amend or revoke the standard conditions otherwise imposed upon the grant of a new licence.	
		13. to vary the conditions attached to an existing licence upon receiving recommendations from the appropriate officers and outside bodies.	Director of Economy, Environment and Infrastructure subject to limitations set out in Section 5 and provided no objections are made
		14. to receive and approve annual reports on the renewal of licences.	
		15. to revoke licences.	
		16. to determine the fees payable for applications to issue and renew licences.	
		17. to determine policy in respect of those matters for which the Committee is responsible and the authorisation of all work necessary to assist the formulation and execution of that policy.	
		18. In relation to amusements machines and amusements with prizes permits and licences, street collections, betting track licences, inter-track betting scheme, sex establishments and nurses agencies	

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		licences	
		19. to grant and renew licences and permits on recommendations from the appropriate officers and outside bodies and to impose conditions.	Director of Economy, Environment and Infrastructure except where there are objections and excluding matters relating to Sex Establishments
		20. to vary the conditions attached to an existing licence or permit upon receiving recommendations from the appropriate officers and outside bodies.	
		21. to vary, amend or revoke the standard conditions imposed upon the grant of amusements with prizes permits and licences.	
		22. to receive reports on applications for permits for small lotteries where adverse comments have been received from the police and to determine the application.	
		23. to determine the licence fee payable in respect of sex establishments.	
		24. To receive reports on applications for permits for house to house collections and street collections where adverse reports are received and to determine the application.	
		25. Power to issue permits for the operation of minibuses (Section 19 of the Transport Act 1985.	
		26. Power to register pool promoters (Part 5 of the Gambling Act 2005).	Items 26 to 33 inclusive delegated to the Director of Economy, Environment and Infrastructure, subject to any



<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
			limitations stated
		27. Power to register societies wishing to promote lotteries (Part 5 of the Gambling Act 2005).	
		28. Power to issue cinema and cinema club licences (Licensing Act 2003).	
		29. Power to issue theatre licences (Licensing Act 2003).	
		30. Power to licence performances of hypnotism (The Hypnotism Act 1952).	
		31. Power to license night cafes and take-away food shops (Schedule 2 of the Licensing Act 2003).	
		32. Power to license market and street trading (Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 and Section 6 of the London Local Authorities Act 1994).	
		33. Power to license pleasure boats and pleasure vessels (Section 94 of the Public Health Acts Amendments Act 1907).	
		34. Power to issue licences authorising the use of land as a caravan site ("site licences") (Section 3(3) of the Caravan Sites and Control of Development Act 1960).	Director of Economy, Environment and Infrastructure
		35. Power to license the use of moveable dwellings and camping sites (Section 269(1) of the Public Health Act 1936).	Director of Economy, Environment and Infrastructure
		36. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis (Sections 13	Items 36 to 38 inclusive delegated to the Director of

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		and 17 of the Local Government (Miscellaneous Provisions Act 1982)).	Economy, Environment and Infrastructure subject to any limitations stated.
		37. Power to register and license premises for the preparation of food (Section 19 of the Food Safety Act 1990).	
		38. Power to license scrap yards (Section 7 of the Scrap Metal Dealers Act 2013).	
		39. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds (The Safety of Sports Grounds Act 1975).	Director of Economy, Environment and Infrastructure, in consultation with the Monitoring Officer
		41. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds (Part III of the Fire Safety and Safety of Places of Sport Act 1987).	
		42. Power to license premises for the breeding of dogs (Part 2 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018).	Director of Economy, Environment and Infrastructure
		43. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business (Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963); the Riding Establishments Act 1964 and 1970 (1964 c.70 and 1970) and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018).	Renewals delegated to Director of Economy, Environment and Infrastructure, new applications to be determined by Committee
		44. Power to register animal trainers and exhibitors (Section 1 of the Performing Animals (Regulation) Act	

<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		1925.	
		45. Power to license zoos (Section 1 of the Zoo Licensing Act 1981).	
		46. Power to license dangerous wild animals (Section 1 of the Dangerous Wild Animals Act 1976).	Director of Economy, Environment and Infrastructure
		47. Power to license guard dogs (Section 1 of the Guard Dogs Act 1975).	Director of Economy, Environment and Infrastructure
		48. Power to license knackers' yards (Section 4 of the Slaughterhouses Act 1974. See also regulation 21 of the Animal By-Products Order (Enforcement) (England) Regulations 2013/2952	Director of Economy, Environment and Infrastructure
		49. Power to license the employment of children (Part II of the Children and Young Persons Act 1933, byelaws made under that Part)	Director of Economy, Environment and Infrastructure
		50. To carry out the duties and powers set out in the Registration Service Act 1953, the Registration of Births, Deaths and Marriages Regulations 1968 onwards and by the Local Registration Scheme.	Items 50 to 53 inclusive delegated to the Assistant Chief Executive
		51. Power to approve premises for the solemnisation of marriages (Section 46A of the Marriage Act 1949 and Marriages and Civil Partnerships (Approved Premises) Regulations 2005).	
		52. Power to determine fees in connection with the provision of civil registration services (births, deaths and marriages)	
		53. Power to register common land or town or village greens, except where the power is exercisable solely for the purposes of giving effect to :	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>(i) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or</p> <p>(ii) an order under section 6 of the Commons Act 2006).</p>	
		54. Power to license persons to collect for charitable and other causes (Section 5 of the Police, Factories etc., (Miscellaneous Provisions) Act 1916) as amended by the Local Government Act 1972 and section 2 of the House to House Collections Act 1939 as amended by the Local Government Act 1972).	Items 54 to 67 inclusive delegated to the Director of Economy, Environment and Infrastructure subject to any limitations stated
		55. Power to approve meat product premises (Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)(d) as amended by regulation 2 of the Meat Products (Hygiene) (Amendment) Regulations 1999 (S.I. 1999/683).	
		56. Power to approve premises for the production of minced meat or meat preparations (Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).	
		57. Power to approve dairy establishments (Regulations 5 of the Dairy Products (Hygiene) (Amendment) Regulations 1996 (S.I. 1996/1699).	
		58. Power to approve egg product establishments (Regulations 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).	
		59. 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 premises (Schedule 1A of	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)(a).	
		60. Power to approve fish products premises (Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).	
		61. Power to approve dispatch and purification centres (Regulation 1 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
		62. Power to register fishing vessels on board which shrimps or molluscs are cooked (Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
		63. Power to approve factory vessels and fishery products establishments (Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
		64. Power to register auction and wholesale markets (Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
		65. Duty to keep register of food business premises (Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).	
		66. Power to register food business premises (Regulation 9 of the Food Premises (Registration) Regulations 1991.	
		67. Power to issue a licence to move cattle from a market to a holding if an animal is not correctly tagged	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		or marked (Regulation 3 and 16 of the Cattle Identification Regulations 2007 (S.I 2007/529).	
		<b><u>Elections</u></b> Elections and electoral registration including: - 81. Duty to appoint an electoral registration officer (Section 8(2) and 52(2) to (4) of the Representation of the People Act 1985).	
		68. Functions in relation to parishes and parish councils (Local Government (Parishes and Parish Councils) Regulations 1999 (SI 1999/545)).	Assistant Chief Executive
		69. Power to dissolve small parish councils (Section 10 of the Local Government Act 1972) and power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	
		70. Duty to appoint returning officer for local government elections (Section 35 of the Representation of the People Act 1983). Duty to provide assistance at European Parliamentary elections (Section 6(7) and (8) of the European Parliamentary Elections Act 2002).	Chief Executive
		71. Duty to divide constituency into polling districts.	As above
		72. Power to assign officers in relation to requisitions of the registration officer.	Assistant Chief Executive
		73. All other functions relating to Parliamentary, local government and European Parliamentary Elections.	Chief Executive and Assistant Chief Executive
		74. Power to divide electoral divisions into polling districts at local government elections (Section 31 of the Representation of the People Act 1983).	As above

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		75. Powers in respect of holding of elections (Section 39(4) of the Representation of the People Act 1983).	As above
		76. Power to pay expenses properly incurred by electoral registration officers (Section 54 of the Representation of the People Act 1983).	As above
		77. Power to fill vacancies in the event of insufficient nominations (Section 21 of the Representation of the People Act 1985).	As above
		78. Duty to declare vacancy in office in certain cases (Section 86 of the Local Government Act 1972).	As above
		79. Duty to give public notice of a casual vacancy (Section 87 of the Local Government Act 1972).	As above
		80. Power to make temporary appointments to parish councils (Section 91 of the Local Government Act 1972).	Committee function
		81. 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 (Section 10 of the Representation of the People Act 2000 (c.2)).	
		<u>Functions relating to name and status of area</u> On recommendation to Council:- 82. Power to change the name of a county, district or London Borough (Section 74 of the Local Government Act 1972).	
		83. Power to change the name of a parish (Section 75 of the Local Government Act 1972 and Part 4 of	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		the Local Government and Public Involvement in Health Act 2007).	
		84. Power to confer title of honorary alderman or to admit to be an honorary freeman (Section 249 of the Local Government Act 1972).	
		85. Power to petition for a charter to confer borough status (Section 245b of the Local Government Act 1972).	
		<u>Byelaws</u> On recommendation to Council where statute requires:- 86. Power to make, amend, revoke or re-enact byelaws (Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c.30) (a).	
		<u>Miscellaneous Functions</u> 87. Power to require information as to interests in land (Section 16 of the Local Government (Miscellaneous provisions) Act 1976 (c.57)).	All Directors
		<u>Health and Safety</u> 88. Functions under any "relevant statutory provision" 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	Director of Economy, Environment and Infrastructure
		<u>Environmental Protection</u> 89. Any function relating to contaminated land (Part IIA of the Environmental Protection Act 1990 and subordinate legislation under that Part).	Director of Economy, Environment and Infrastructure within policies set by Committee



<b>Committee</b>	<b>Membership</b>	<b>Terms of Reference and Powers</b>	<b>Delegation of Powers to Officers</b>
		90. Powers relating to the control of pollution and the management of air quality (The Pollution Prevention and Control Act 1999 Part I of the Environmental Protection Act 1990 and the Clean Air Act 1993 (c.11)).	Director of Economy, Environment and Infrastructure within policies set by Committee
		91. Duty to serve abatement notice in respect of statutory nuisance (Section 80 (1) of the Environmental Protection Act 1990) (Local Choice function).	Director of Economy, Environment and Infrastructure
		92. Power to resolve that Schedule 2 to the Noise and Statutory Nuisance Act 1993 is to apply in the authority's area (Section 8 of the Noise and Statutory Nuisance Act 1993	
		93. Duty to inspect area to detect statutory nuisance (Section 79 of the Environmental Protection Act 1990).	Items 93 to 98 inclusive delegated to the Director of Economy, Environment and Infrastructure subject to any limitations stated.
		94. Duty to investigate statutory nuisance complaints (Section 79 of the Environmental Protection Act 1990).	
		95. Power to grant consent for the operation of a loudspeaker (Schedule 2 to the Noise and Statutory Nuisance Act 1993).	
		96. Power to issue street litter control notice (Sections 93 and 94 of the Environmental Protection Act 1990.	
		97. Enforcement of legislation relating to straw and stubble burning etc. (Section 152 of the Environmental Protection Act 1990.	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<u>98. Local Bills</u> To recommend to Council to promote or oppose Bills in Parliament by the Council and the support of, or opposition to, Bills otherwise affecting the Council's interests.	
		Ozone-Depleting Substances Regulations 2015 (SI 2015/168)	All powers conferred on the Council, as Port Health Authority, under the Regulations, delegated to the Director of Economy, Environment and Infrastructure.
		<b>Scrap Metal Dealers Act 2013</b>	
		Fee setting	Director of Economy, Environment and Infrastructure in consultation with the Chair of Licensing & Community Protection Committee
		Administration & Enforcement of the Act	Director of Economy, Environment and Infrastructure
		Grant of a site or collectors licence with no conditions	Authorised Officers
		Grant of a site or collectors licence with conditions	Licensing & Community Protection Committee
		Refusal, revocation or variation of a site or collectors licence	Licensing & Community Protection Committee
		Power to make closure order	Authorised Officers
Standards	9 elected members of the	1. Dealing with any referrals as considered	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
and Adjudication Committee	<p>authority</p> <p>The Standards and Adjudications Committee is established as a pool of members from which a Referrals Panel, a Hearings Panel and an Appeals Panel may be formed as sub-committees on a needs basis and subject to the Referrals and Hearings Panels comprising at least 3 members and the Appeals Panel comprising no more than 5 members, subject to political balance requirements.</p>	<p>appropriate by the Monitoring Officer and to receive regular reports from the Monitoring Officer on the discharge of any delegations afforded to that position.</p>	
		<p>2. To consider any complaints relating to an alleged breach of the Code of Conduct in accordance with the 'Arrangements' and to convene, as appropriate, sub-committees ('Referrals Panels') to consider such matters.</p>	
		<p>3. To make determinations in respect of complaints that members and co-opted members of the Council and Parish and Town Councils in the area may have reached the Code of Conduct and to convene, as appropriate, sub-committees ('Hearings Panels') to consider such matters and to impose, or recommend the imposition of, the sanctions detailed in the</p>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		'Arrangements'.	
		4. To deal with the grant of exemptions from political restriction in respect of any post holder and give directions on any post to be included in the list of politically restricted posts maintained by the authority.	
		5. To consider appeals against dismissal and grievances by employees of the Council.	
		6. To hear and determine in accordance with the appropriate conditions of service appeals against disciplinary action and against grading assessments by the Executive Director Place and Resources	
		7. To hear and determine appeals in relation to grievances required to be settled under the Council's Grievance Procedure.	
		8. To hear and determine appeals arising under the appeal arrangements relative to car allowances.	
		9. To determine student awards appeals.	
		10. To hear and determine any other internal appeal or review within the Council not falling within the delegated powers of any other Committee.	
Appointments Committee	7 (of which at least one must be a Cabinet member)	<b>Terms of Reference and Delegated Powers</b> 1. To approve and conduct the recruitment process for the Head of Paid Service and to recommend the appointment of the Head of Paid Service to Full Council. 2. To determine all matters relating to the performance, pay and terms and conditions of employment of the Chief Executive and Head of Paid Service and Chief Officers. 3. To approve the recruitment process for Chief Officers and to carry out interviews and	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>appointments.</p> <p>Terms of Reference 1-3 inclusive are exercised by the Appointments Committee Subject to the provisions of the Officer Employment Procedure Rules set out in <a href="#">Article 13</a> of the Constitution.</p>	
		<p>4. (i).Approval of redundancy, early retirement in the interests of the efficiency of the service, or flexible retirement is delegated to the Director in consultation with HR and Finance. In accordance with the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Council has discretionary powers to award employees:</p> <ul style="list-style-type: none"> <li>• a one off lump sum payment of up to 104 weeks' pay where their employment is terminated early</li> <li>• to use the employee's actual week's pay to determine the redundancy payment.</li> </ul> <p>The Appointments Committee will consider whether the Council should exercise its discretionary powers in relation to these aspects. Discretion is not normally exercised on the lump sum payment. HR will compile a report with full costs for each employee for consideration by the Appointments Committee.</p>	<p>Chief Executive where allowed for within Council set policy, otherwise Committee decision</p>
		<p>4 (ii) In accordance with the Local Government Pension Scheme Regulations (LGPS) 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, the Council has discretionary powers in relation to the following:</p> <ul style="list-style-type: none"> <li>• Awarding additional pension entitlement which must not exceed £6,500 in any one year</li> </ul>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<ul style="list-style-type: none"> <li>• Flexible retirement without actuarial adjustments</li> <li>• Waive of actuarial reduction if an employee retires after age 55</li> <li>• Apply the 85 year rule to benefits drawn before age 60</li> </ul> <p>These discretions are not normally exercised. The Appointments Committee will consider whether the Council should exercise its discretionary powers in relation to these aspects. HR will compile a report with full costs for each employee for consideration by the Appointments Committee.</p>	
		5. Power to appoint staff (Section 112 of the Local Government Act 1972)	Chief Executive, Deputy Chief Executive and all Directors within their respective areas of responsibility save for appointments reserved to the Appointments Committee
		6. To review the Annual Pay Policy Statement and make recommendations to Council as appropriate.	
Audit and Governance Committee	10 Members: 1 x Independent Chair plus 9 elected members (politically balanced)	<p><b>Purpose</b></p> <p>The purpose of the Audit and Governance Committee is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. The committee's role in ensuring that there is sufficient assurance over governance risk and control gives greater confidence to all those charged with governance that those arrangements are effective and have oversight of both internal and external audit together with the financial and governance reports, helping to ensure that there are</p>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>adequate arrangements in place for both internal challenge and public accountability. In a local authority the full council is the body charged with governance. The audit committee may be delegated some governance responsibilities but will be accountable to full council.</p> <p><b>Terms of Reference:</b></p> <ol style="list-style-type: none"> <li>1. To approve the Council's Annual Statement of Accounts, including the income and expenditure account, balance sheet and cash flow statement.</li> <li>2. To consider and approve, on behalf of the council the external auditor's Annual Governance Report.</li> <li>3. To approve the Internal Audit Charter, Internal Audit Plan and Performance Indicators</li> <li>4. To review summary internal audit reports and any significant issues arising and recommend appropriate actions is response.</li> <li>5. To consider the Head of Internal Audit's annual report and opinion and the level of assurance it can give over the Council's Corporate Governance Arrangements.</li> <li>6. To consider reports dealing with the management and performance of internal audit.</li> <li>7. To monitor and keep under review the Council's arrangements to secure value for money.</li> <li>8. To monitor and keep under review the Council's Risk Management arrangements.</li> <li>9. To monitor and keep under review the effectiveness of the Council's anti-fraud and corruption arrangements (including the consideration of an annual report summarising</li> </ol>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>the Council's actions in relation to good conduct and anti-fraud and corruption).</p> <ol style="list-style-type: none"> <li>10. To monitor and keep under review treasury management arrangements to ensure that the treasury management strategy and policies follow the CIPFA code of practice and are scrutinised in detail before being accepted by the Council.</li> <li>11. To receive and approve treasury management practices and schedules.</li> <li>12. To monitor and review the Council's assurance statements, including the Council's Code of Governance and the Annual Governance Statement, to ensure that they properly reflect the risk environment and any actions required to improve it, and to monitor management action in response to the action plan arising from it</li> <li>13. To consider the reports of external audit and inspection agencies insofar as they affect the Council's Corporate Governance Arrangements.</li> <li>14. To monitor management action in response to issues raised by external audit.</li> <li>15. To comment on the scope and depth of external audit work and to ensure it gives value for money.</li> <li>16. To commission work from internal and external audit.</li> <li>17. To review any issue referred to it by the Chief Executive or a Director and any Council body.</li> <li>18. To consider the Council's compliance with its own and other published standards and controls.</li> <li>19. To refer items to the Audit Working Group for detailed consideration.</li> <li>20. To produce an annual report for full council summarising its work during the year.</li> </ol>	



Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>21. To provide at each meeting the opportunity to have a private meeting with only the external and internal auditors present.</p> <p>22. To monitor and keep under review the Council's arrangements for partnership governance</p>	
<b>Overview and Scrutiny - Five Scrutiny Panels</b>	<p>8 members per Panel with membership from across panels as a whole (proportionate to party membership within Council). In respect of the Children and Lifelong Learning Scrutiny Panel – Ten members (with two parent governor and two diocesan voting representatives co-opted on to this panel).</p>	<ul style="list-style-type: none"> <li>• See Overview and Scrutiny Procedures Rules for individual Panel terms of reference and powers</li> </ul>	
<b>Health and Well Being Board</b> <b>(incorporated into the Place Board partnership)</b>	<p>Three Councillors (nominated by the Leader in accordance with Section 194 of the Health and Social Care Act 2012), including, in any event, the Portfolio</p>	<p>1. In accordance with Sections 195 and 196 of the Health and Social Care Act 2012:</p> <p>(i) the Health and Wellbeing Board must, for the purpose of advancing the health and wellbeing of the people in its area, encourage persons who arrange for the provision of any health or social care services in</p>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
<b>arrangements (preserving the Health and Wellbeing Board's statutory standing and membership).</b>	Holder with responsibility for Wellbeing (and chair	that area to work in an integrated manner. (ii) the Health and Wellbeing Board must, in particular, provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.	
	designate of the Health and Wellbeing Board) Director of Children's Services Director of Adult Social Services Director of Public Health Three representatives of the Clinical Commissioning Group, including the Chief Accountable Officer and the Deputy Chief Executive 1 x representative of Healthwatch 1 x Provider	(iii) the Health and Wellbeing Board may encourage persons who arrange for the provision of any health-related services in its area to work closely with the Health and Wellbeing Board. (iv) the Health and Wellbeing Board may encourage persons who arrange for the provision of any health or social care services in its area and persons who arrange for the provision of any health-related services in its area to work closely together. (v) the Health and Wellbeing Board is responsible for exercising the functions of the Council and any partner Clinical Commissioning Group under Sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 (Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategy) (vi) the Health and Wellbeing Board may exercise such other functions that may, from time to time, be delegated to it by the Council in accordance with Section 196 of the Health and Social Care Act 2012	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
	representative	<p>(vii) the Health and Wellbeing Board may give the Council its opinion on whether the Council is discharging its duty under section 116B of the 2007 Act (duty to have regard to assessments and strategies)</p> <p>(viii) the Health and Wellbeing Board may arrange for the discharge of its functions by a sub-committee, other than any functions conferred on the Health and Wellbeing Board by the Council under Section 196 (2) of the Health and Social Care Act 2012</p>	
	<p>1 x Community representative</p> <p>1 x Voluntary Sector representative</p> <p>1 x NHS commissioning board representative</p>	<p>(ix) the Health and Wellbeing Board will discharge its responsibilities in respect of pharmaceutical needs assessments in accordance with the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013</p> <p>2. Save as otherwise provided in statute, secondary legislation or this scheme of delegation, the Health and Wellbeing Board shall operate in accordance with the Council's Constitution, including Standing Orders and the Access to Information Procedure Rules.</p> <p>3. The Health and Wellbeing Board shall be quorate when:</p> <p>(i) three statutory Board members are present; and</p> <p>(ii) one elected member and one CCG representative are present</p> <p>4. The Health and Wellbeing Board may establish working arrangements, including roles and responsibilities as it considers appropriate, provided that they do not conflict with the provisions of this scheme of delegation and the Council's statutory</p>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		responsibilities set out in sections 194 – 196 of the Health and Social Care Act 2012.	
<b>Union Board</b>	Each Partner shall be represented on the Union Board by 4 individuals ("Members"). The individuals shall be drawn from the Council's Cabinet and the CCG's Governing Body (3) and Community forum (1)	<ol style="list-style-type: none"> <li>1. The Partners have developed integrated commissioning arrangements for section 75 services ("the s75 Services") as defined in the s75 Agreement.</li> <li>2. The Partners establish committees in common made up of a committee of each of the Partners (so far as the CCG is concerned a -committee of its Governing Body and the Council a committee of Cabinet) to govern the strategic overview and development of the s75 Services pursuant to the s75 Agreement, s75 of the National Health Service Act 2006 and other enabling legislation. The Partners remain sovereign organisations which shall comply with the legal and regulatory obligations that apply to them.</li> <li>3. The Partners have put in place aligned delegations to enable the empowerment of the Union Board representatives to deliver on their behalf the following functions. The delegations will be reviewed and amended from time to time to include additional or amended functions as are necessary to comply with the s75 Agreement and in particular variations to the Commissioning Plans: <ol style="list-style-type: none"> <li>(i) Oversee, and provide strategic direction / leadership for the delivery of the s75 arrangements and the development, implementation and on-going operation of the s75 Services;</li> <li>(ii) Monitor and review the effectiveness of the arrangements and make recommendations to the Partners (e.g. in the event of any changes to legislation, developments in best practice or requirements imposed by or on the Partners);</li> </ol> </li> </ol>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<ul style="list-style-type: none"> <li>(iii) On an annual basis, undertake a review of delivery against three year rolling Business Plan and Critical Success Factors and provide the necessary approvals;</li> <li>(iv) Make recommendations to each of the Partners regarding budget and resources and no later than early December in each year submit these to the Partners for approval as part of the Business Plan and each Partner's budget setting process;</li> <li>(v) Agree the Financial Contributions to be included within the Commissioning Plans for each of the relevant financial years;</li> <li>(vi) Consider and agree redeployment, retention or apportionment of any projected or unplanned underspend in respect of a Pooled Fund;</li> <li>(vii) Receive the Quarterly Reports from the Pooled Fund Manager(s);</li> <li>(viii) Receive an annual report from the Partners by no later than 30<sup>th</sup> June in each year covering the progress and achievement of the Union's strategic objectives in the 12 month period ending on the preceding 31st March;</li> <li>(ix) Co-operate with and participate in Overview and Scrutiny exercises of the Partners into the activities of the Services and ensure that engagement and consultation obligations of the Partners are undertaken;</li> <li>(x) Review and ensure the operation and effectiveness of the Union arrangements and Agreement at least every two years and consider ways in which the arrangements can be developed and make recommendations to the Partners as appropriate;</li> <li>(xi) from time to time identify, develop and approve appropriate methodology to support further integration of the Partners so as to achieve the objectives of efficiency and value for money across the Partners;</li> <li>(xii) Unless provided for in these Terms of Reference, all other decisions arising from, or in connection with, the</li> </ul>	

Committee	Membership	Terms of Reference and Powers	Delegation of Powers to Officers
		<p>s75 Services shall be taken by each Partner in accordance with their existing decision making processes;</p> <p>(xiii) Receive notifications as regards "high" residual risks in relation to the delivery of the Commissioning Plans;</p> <p>(xiv) Receive notifications and assurances of actions taken to appropriately address complaints in relation to the operation of the s75 arrangements.</p>	
<b>Humber Leadership Board</b>	8 Members (2 from each Local Authority)	<p>The Board's key functions are as follows:</p> <ol style="list-style-type: none"> <li>1. Facilitate cooperation and collaboration between the Humber local authorities on cross Estuary working on the following themes:               <ol style="list-style-type: none"> <li>a) Clean Growth</li> <li>b) Ports including a potential Freeport</li> <li>c) Shared management of Estuary assets</li> <li>d) Co-ordinating joint marketing of the Humber for inward investment in relevant sectors</li> </ol> </li> <li>2. Enable collective decision-making on issues that require sub-regional agreement from the constituent authorities.</li> <li>3. Ensure local democratic and financial accountability, working with both the Hull &amp; East Riding and Greater Lincolnshire LEPs and the use of public funding streams which are allocated by Government to the LEPs.</li> <li>4. Act as the formal link between local authorities in the Humber on activity relevant to the above themes.</li> </ol>	

## SECTION 4 - RESPONSIBILITY FOR CABINET FUNCTIONS

All functions which are neither regulatory nor reserved to Council are functions to be exercised by the Cabinet. These functions include all the Council's powers and duties.

1. The Cabinet will lead the preparation of the Council's policies and budget and will be responsible for the implementation of decisions within the policy framework set by the Council in relation to all of the Council's functions which are not the responsibility of any other part of the Council.
2. Decisions will be taken either by all the members of the Cabinet as collective majority decisions or by individual portfolio holders at formal scheduled meetings to which the press and public can be present. The responsibilities of Cabinet Members are set out below and in Part 3.
3. Cabinet members shall be assigned portfolios by the Leader of the Council. These portfolios are as set out below. Specific Delegated powers have been given to individual Cabinet Members in respect of their portfolios.
4. The contents of each service theme within portfolios shall be interpreted broadly and any activity or function not specifically referred to is deemed to be included within the portfolio theme to which it most closely relates. In the event of uncertainty, the Leader of the Council, after consultation with the Cabinet, will arrange for the discharge of the function in question either by the Cabinet or portfolio holder or by an officer.
5. Individual members of the Cabinet may also make decisions within their areas of responsibility (Portfolios). As with Cabinet Decisions there are specific legal requirements that must be observed in order to ensure that any decisions made are open and transparent. Specific decision making powers have been delegated to individual Cabinet Members as set out below:
  - 5 (i) The Leader of the Council and Portfolio Holder for Economy, Regeneration, Devolution and Skills:
    - a. The Leader is responsible for providing overall political leadership for the Council in relation to the co-ordination and delivery of Council policies, strategies and services. The Deputy Leader shall fulfil these responsibilities in the Leader's absence.
    - b. The Leader is responsible for leading the Cabinet in its work to develop the policy framework and budget and to deliver services to the local community.
    - c. The Leader is responsible for the Cabinet approach to the Town Deal and its constituent parts.
    - d. The Leader will hold Cabinet responsibility for:
      - Economic strategy
      - Regeneration, inward investment and growth
      - Business support and local enterprise

- Devolution, regional development and strategic economic collaboration
- Skills and employability

e. The Portfolio Holder has the following delegated powers within the above portfolio:-

- (i) To have oversight of the performance and value for money of services within the remit of the Portfolio
- (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
- (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
- (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
- (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio.

5 (ii) Deputy Leader and Portfolio Holder with responsibility for Health, Wellbeing and Adult Social Care

a. The areas and functions of Portfolio responsibility are:

- Adult social care
- Health and adult social care commissioning and provision
- Public health and health inequality
- Health and care partnership, collaboration and integration

b. The Portfolio Holder has the following delegated powers within the above portfolio:

- (i) To have oversight of the performance and value for money of services within the remit of the Portfolio
- (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
- (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation, provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.



- (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
- (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio.
- (vi) To have oversight of the partnership arrangements with the CCG.

5 (iii) Portfolio Holder with responsibility for Environment and Net Zero

- a. The functions and areas of Portfolio responsibility are:
  - Waste, recycling and environmental management
  - Neighbourhood Services, street scene, parks and open spaces
  - Climate change related policy implementation affecting the natural environment
  - Net Zero, decarbonisation, the NEL Carbon Roadmap and the Green Agenda.
- b. The Portfolio Holder has the following delegated powers within the above portfolio:-
  - (i) To have oversight of the performance of and value for money of services within the remit of the Portfolio
  - (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
  - (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
  - (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
  - (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio
  - (vi) To agree amendments to the list of protected sites, in the interests of protecting and enhancing the local environment in the Borough, in accordance with the process agreed by Cabinet.

5 (iv) Portfolio Holder with responsibility for Housing, Infrastructure and Transport

- a. The functions and areas of Portfolio responsibility are:
    - All aspects of housing
    - Planning, development control, highways and transportation
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- Traffic management, parking and regulation.
- b. The Portfolio Holder has the following delegated powers within the above portfolio:-
- (i) To have oversight of the performance of and value for money of services within the remit of the Portfolio
  - (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
  - (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
  - (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
  - (v) To make Orders under the Road Traffic Regulation Act 1984 (including any modification or re-enactment thereof), including the consideration of any objections to such Orders, subject to referral to Cabinet where the proposal has significant land use implications or significantly affects one or more wards.
  - (vi) To consider options for controlled parking and substantial traffic management schemes requiring consultation, together with methods of consultation.
  - (vii) To agree individual traffic management schemes (including proposals for related land use) for approval where the cost of any one scheme does not exceed £50,000, in consultation with other Cabinet members, where appropriate.
  - (viii) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio
- 5 (v) Portfolio Holder with responsibility for Safer and Stronger Communities
- a. The functions and areas of portfolio responsibility are:
- All aspects of local authority enforcement and regulatory services
  - Environmental health, port health, food safety, pollution control, trading standards and licensing
  - Community Safety and anti-social behaviour
  - Voluntary and community sector
  - Emergency planning and civil contingencies
- b. The Portfolio Holder has the following delegated powers within the above
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Portfolio:

- (i) To have oversight of the performance and value for money of services within the remit of the Portfolio
- (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
- (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
- (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
- (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio.

5 (vi) Portfolio Holder with responsibility for Children and Education

- a. The areas and functions of Portfolio responsibility are:
  - Statutory Lead Member for children's services
  - Safeguarding of children and young people
  - Corporate parenting, care leavers and family support
  - Early help
  - SEND
  - School improvement and education
- b. The Portfolio Holder has the following delegated powers within the above portfolio:
  - (i) To have oversight of the performance and value for money of services within the remit of the Portfolio
  - (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
  - (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
  - (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.

- (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio.

5 (vii) Portfolio Holder with responsibility for Culture, Heritage and the Visitor Economy.

- a. The areas and functions of Portfolio responsibility are:
  - Tourism and the visitor economy
  - Leisure, sport and recreation including the playing pitch strategy
  - Culture, Borough Heritage, museums and the arts
  - Equalities, diversity and inclusion
- b. The Portfolio Holder has the following delegated powers within the above portfolio:
  - (i) To have oversight of the performance and value for money of services within the remit of the Portfolio
  - (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
  - (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
  - (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
  - (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio.

5 (vii) Portfolio Holder with responsibility for Finance, Resources and Assets

- a. The areas and functions of Portfolio responsibility are:
    - Financial strategy and corporate governance
    - Revenue budget and capital programme
    - Digital strategy, inclusion and development
    - Shared services and commercial development
    - Financial inclusion
    - Assets (corporate, commercial, community) and estate management
  - b. The Portfolio Holder has the following delegated powers within the above portfolio:
    - (i) To have oversight of the performance and value for money of services within the remit of the Portfolio
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- (ii) To approve modifications to existing policies affecting the services within the Portfolio (including those having council wide implications), excluding those policies forming part of the Council's Policy Framework.
  - (iii) To approve or commission the conduct of consultation exercises in respect of those aspects of Council activity within the remit of the Portfolio and to determine action in response to such consultation , provided that the outcome of any consultation (insofar as it concerns any element of the Council's Policy Framework) is reported to Cabinet for collective decision.
  - (iv) To receive and determine action in response to qualifying petitions received under the Petition Scheme.
  - (v) To consider and approve the Annual Governance Statement(s) submitted by Directors within the remit of the Portfolio.
  - (vi) To determine any appeal against a decision of the Executive Director Place and Resources in relation to applications for Discretionary Rate Relief.
6. Cabinet will function in accordance with the Cabinet Procedure Rules set out in Article 7 of this Constitution.
7. The role of the Cabinet is to:
- lead the preparation of the Council's policies and budget;
  - lead the community planning process and the attainment of Best Value / Continuous Improvement;
  - implement the Council's policies and budget; and
  - take in-year decisions on such matters.
8. Cabinet will:-
- a. consider and manage the exercise of all the functions and powers of the Council which are by law to be the responsibility of the Cabinet;
  - b. consider and make recommendations to the full Council on any matters which it is the responsibility of the full Council to determine (other than on matters which are by law not the responsibility of the Cabinet).
  - c. ensure that the Council is fulfilling its continuous improvement duty under the Local Government Act 1999
  - d. consider and respond to reports and recommendations from scrutiny.

## 9. Taking Cabinet Decisions

- a. The Cabinet may take decisions, collectively, on any matter within the scope of the Cabinet's role set out above and shall take any decision which is a Key Decision. Individual Portfolio Holders may also take Key Decisions if included within the Scheme of Delegation to Portfolio Holders.
- b. A Key Decision will be a decision (whether taken collectively or individually by members) which is likely:
  - (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards.

A decision will be considered financially significant if:

- (i) in the case of revenue expenditure, it results in the incurring of expenditure or making savings of £350,000 or greater;
- (ii) in the case of capital expenditure, the capital expenditure/savings are in excess of £350,000 or 20% of the total project cost, whichever is the greater

In determining whether a decision is significant in terms of its effect on an area comprising two or more wards, consideration shall be given to:

- (i) the number of residents/service users that will be affected in the wards concerned;
- (ii) the likely views of those affected (i.e. is the decision likely to result in substantial public interest)
- (iii) whether the decision may incur a significant social, economic or environmental risk.

Any decision (including any recommendations) which relates to the approval, modification, adoption or variation of any material aspect of the Council's Policy Framework, falling within the reserved powers of Council, will be a Key Decision.

Provided always that in respect of any proposed decision in the case of revenue or capital expenditure, that will result in the incurring of expenditure or making savings of between £50,000 and £350,000 Directors and the Chief Executive, as the case may be, shall consult the relevant portfolio holder

- c. The Cabinet may also take decisions on any matter which:
  - (i) has been referred to the Cabinet by a portfolio holder or the Chief Executive or Director (whether or not the Chief Executive or the Director in question has delegated powers in respect of that matter); or
  - (ii) is one which the Cabinet has reserved specifically for decision to

them

- d. The Cabinet may delegate to a Director any power or responsibility or function which it is in law the responsibility of the Cabinet to discharge and may add to, vary or delete any delegation of such power, responsibility or function.
- e. In respect of powers or functions or responsibilities which are the responsibility of the Cabinet, the Cabinet will, after consultation with the Standards and Adjudication Committee and any other non-scrutiny committees affected, update the relevant delegations to officers set out in this Part of the Constitution at not less than annual intervals and will report to the full Council on any changes so made.
- f. Even when Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated those function.
- g. The Cabinet has no power to:
  - (i) take decisions on matters reserved to the full Council;
  - (ii) take decisions on matters which may not by law be determined by the Cabinet.

## **10.0 Taking Portfolio Holder Decisions**

### **How Individual Members Of the Cabinet Take Decisions**

- a When an individual member of the Cabinet is responsible for an executive function, any decision to be taken by that member will be taken according to the following rules, except when the member is taking decisions as part of a wider body with a membership from outside the Borough of North East Lincolnshire. In that case, an individual member will take decisions in accordance with the rules of that body.
- b All other decisions to be taken by an individual member will be taken in accordance with the Access to Information Rules in Article 3 of this Constitution.
- c The Cabinet member will agree the agenda for the meeting with the proper officer.
- d At each session the following business will be concluded:
  - i consideration of the minutes of the last meeting;
  - ii declarations of interest if any;
  - iii matters referred to the Cabinet member by the Scrutiny Panel (or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules (call – in procedure) set out in Article 8 of this Constitution
  - iv consideration of decisions as set out in the agenda for the proceedings.

**Who may speak**

Any member of the Council may attend but may only speak if invited to do so by the Cabinet member.

**IMPLEMENTING INDIVIDUAL PORTFOLIO HOLDER DECISIONS**

In order to allow for call-in, no individual member decision can be implemented until 5 working days after the decision has been published, unless the urgency provisions set out in rule 15 of the Overview and Scrutiny Rules apply.

All proposed individual member (key) decisions taken will be published in accordance with the Access to Information Procedure Rules.



## **SECTION 5 - SCHEME OF DELEGATION TO OFFICERS**

### **1. General Principles**

- 1.1. These arrangements delegate a wide range of management and operational functions to officers and will operate so that decisions are taken at the lowest appropriate level, at the nearest point to local provision of services to the customer and in a way that clearly identifies accountabilities.
  - 1.2. This Scheme does not delegate to Officers:
    - 1.2.1. Any matter reserved to Full Council;
    - 1.2.2. Any matter which by law may not be delegated to an Officer;
    - 1.2.3. Key decisions which must be determined by members, save key decisions that have been delegated to officers by the Cabinet;
    - 1.2.4. Any regulatory functions which are specifically reserved to the relevant Committee.
  - 1.3. Directors are responsible for retaining a record of Delegated Decisions which they (or their officers) take and the reasons for such decisions sufficient for audit and evidential purposes (against the eventuality of evidence being required for Judicial Review, Employment Tribunal, Ombudsman, External Audit, OFSTED or other proceedings or investigation), and for ensuring that all those who need to know are informed promptly of the decision, such records being subject to audit by the Monitoring Officer at any time.
  - 1.4. Officers are accountable to the Council for any decision which they make, and may be required to report to, and to attend and answer questions from, Overview and Scrutiny and/or the Audit and Governance Committee, in respect of any decision which they make.
  - 1.5. This Scheme of Delegation operates subject to the "cascade" principle. These arrangements include the power for officers to further delegate in writing all or any of the delegated powers to other officers (described by name or post) either fully, in part or under the general supervision and control of the delegating officer. The named officers will keep the Monitoring Officer, informed of all arrangements (other than arrangements which are made for a specified period of less than six months) which they make to authorise other officers to act on their behalf.
  - 1.6. Where under this Scheme of Delegation, delegated powers are to be exercised by the holders of various posts the appropriate Director must ensure the same are exercised in accordance with relevant Council policies and procedures and:
    - 1.6.1. put appropriate systems and arrangements in place (if they do not already exist) for the proper management, discharge, control and effective monitoring and review of the exercise of such delegated powers (including, for example, maintaining an up-to-date list of all officers, with job titles, who are authorised to act under this Scheme of Delegation to Officers);
    - 1.6.2. as part of the production of the Annual Governance Statement,
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undertake a review of such systems and arrangements to ensure appropriateness and fitness for purpose and, where necessary, implement changes to such systems and arrangements to ensure they comply with any Internal Audit recommendations or best practice requirements and the Council's Assurance Framework.

- 1.7. Before making a decision under delegated powers officers will satisfy themselves that the decision is:
    - 1.7.1. authorised by law and, if in doubt, will consult with the Monitoring Officer or his nominee;
    - 1.7.2. within the financial provision in the revenue and capital budget for their service and, if in doubt, will consult with the Section 151 Officer or his nominee;
    - 1.7.3. in accordance with any relevant requirements set out in the Contract Procedure Rules and the Finance Procedure Rules.
  - 1.8. Any exercise of delegated powers by officers shall be subject to:
    - 1.8.1. any statutory restrictions;
    - 1.8.2. the Council's Constitution;
    - 1.8.3. the Council's policies approved from time to time including particularly those relating to employment, equality and diversity.
  - 1.9. For the avoidance of doubt, any reference to a specific post or named officer will be interpreted as including other officers of the Council who that specific postholder or named officer authorises to exercise delegated powers on his or her behalf.
  - 1.10. When exercising delegated powers in relation to any matter which may be regarded as sensitive or contentious, officers will have regard to the need to inform and to liaise with the relevant Cabinet Member(s) and members representing the area that will be affected by the decision in accordance with any protocols which may be approved from time to time.
  - 1.11. Prior to exercising delegated powers officers shall undertake a risk assessment in respect of the proposed decision and, in any event, shall take account of, where relevant, the implications arising from the decisions in respect of:
    - Data Protection and Freedom of Information
    - Human Rights
    - Equality and Diversity
    - Crime and Disorder
    - Sustainability
    - The social, economic and environmental well-being of the Borough
  - 1.12. Notwithstanding the approval of this Scheme of Delegation, the Cabinet and any Committee exercising delegated powers may, through the course of any Municipal Year:
    - 1.12.1. approve further delegations to Officers, subject to appropriate advice from the Monitoring Officer;
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- 1.12.2. amend, substitute or remove specific delegations from this Scheme, subject to appropriate advice from the Monitoring Officer.
- 1.13. In exercising any delegated powers conferred under this Scheme, Officers must have regard to and comply with the Financial Procedure Rules.
- 1.14. In exercising any delegated powers conferred under this Scheme, insofar as the exercise of such powers involves the procurement of goods, works or services, Officers must have regard to and comply with the Contract Procedure Rules and the prevailing EU and/or domestic procurement rules.
- 1.15. This Scheme of Delegation is an integral part of Good Governance, Risk Management and the Assurance Framework, and the Leader/Cabinet model of executive arrangements. Compliance with the Scheme is, therefore, essential for the Council in order to ensure proper accountability, responsibility, openness, transparency, fairness, propriety and probity of its arrangements.
- 1.16. For the avoidance of doubt, in the event of there being:
  - 1.16.1. a vacancy of a Director; or
  - 1.16.2. the Director is unable to act, for any reason, for a long term (e.g., due to sickness or secondment to another organisation);
 then any 'Acting' or "Interim" Director shall have the same authority as the Director for the duration of the vacancy or the long term absence, subject to the approval of the Chief Executive.
- 1.17. The Council transferred a range of technical services to Equans, for an initial period of 10 years from 1st July 2010 subject to contractual extensions and subsequent variations. Such period now expires in 2025. Any references in this Scheme of Delegation to the "Regeneration Partner" should be construed accordingly.
- 1.18. Any reference to any primary legislation will be deemed to include all amendments and secondary legislation in force from time to time.

## **2. General delegation of powers**

- 2.1. Subject to compliance with legislation and the Constitution: The Chief Executive, Executive Director and all other Directors shall have power to:
  - 2.1.1. determine and exercise, having regard to prevailing Council policy, the operational requirements of their functions and to manage the human and material resources available for their functions, within any limitations specified in this Constitution and subject to appropriate consultation with the Monitoring Officer;
  - 2.1.2. determine the following miscellaneous staffing related matters, in compliance with Council policies and procedures in force from time to time:
    - 2.1.2.1. to approve special leave of absence, with or without pay;
    - 2.1.2.2. to authorise leave of absence for attendance at vocational

- conferences and courses;
- 2.1.2.3. to approve essential and casual user car allowances.
- 2.1.3. to decide the eligibility of employees to receive payment:
  - 2.1.3.1. of telephone charges;
  - 2.1.3.2. for temporarily undertaking additional duties and responsibilities where provided for in the conditions of service (in consultation with the Executive Director for Place and Resources (Section 151 Officer/Chief Finance Officer));
- 2.1.4. in accordance with any Relocation Scheme (in consultation with the Executive Director for Place and Resources (Section 151 Officer/Chief Finance Officer)):
  - 2.1.4.1. to extend sick pay, subject to appropriate medical advice;
  - 2.1.4.2. to take action, including dismissal against an employee in accordance with the Council's Disciplinary Procedures;
  - 2.1.4.3. to determine the award of facilities to employees to undertake post-entry training;
  - 2.1.4.4. to authorise overtime or additional hours within approved staffing budgets;
  - 2.1.4.5. to approve the carry over of annual leave from one year to the next of up to 5 days or such other limit as may be authorised by appropriate policy;
  - 2.1.4.6. to authorise the issue of protective/safety clothing and equipment.
- 2.1.5. to authorise the instruction of the Monitoring Officer to issue legal proceedings in respect of their specific areas of responsibility.
- 2.1.6. procure goods, works and services subject to compliance with the Contract Procedure Rules.
- 2.1.7. manage their budgets subject to compliance with the Financial Procedure Rules.

### **3. Powers delegated to the Chief Executive.**

- 3.1. Subject to compliance with legislation and the Constitution:
    - 3.1.1. to act as Head of Paid Service in accordance with the relevant provisions of the Local Government and Housing Act 1989 and to have all necessary powers to fulfil that statutory function;
    - 3.1.2. to have overall responsibility for the strategic direction, management and performance of the Council;
    - 3.1.3. to have overall control of the manner in which various functions of the Council are discharged;
    - 3.1.4. to be responsible for the organisation and management of the Council's staff and resources;
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- 3.1.5. in consultation with the Leader, Cabinet members and officers, to determine matters of dispute between Committees and/or operational areas of the Council;
  - 3.1.6. to represent the views of the Council in responding to consultations with the Council by any outside body on corporate strategic issues after consultation with the Leader and Deputy Leader;
  - 3.1.7. to exercise all Council responsibilities in respect of civil contingencies and emergency planning subject to prevailing legislation, such responsibilities to be delegated to such officer(s) as the Chief Executive considers appropriate, from time to time;
    - 3.1.7.1. In the event of a properly declared emergency, any senior officer of the Council acting as Incident Manager in either a strategic or tactical capacity, is delegated these powers by the Chief Executive Officer, subject to:
      - 3.1.7.1.1. A reasonable attempt to consult with the Chief Executive Officer or Section 151 Officer before committing the Council to expense of more than that permitted by the Officers Authorisation Limits set out in the Financial Procedure Rules (Appendix F).
      - 3.1.7.1.2. The nature of the emergency and planned response across the emergency services and Category 1 responders (and upon the documented advice given to the Incident Manager by a representative of the Humber Emergency Planning Service (HEPS)) being such, that the expenditure is reasonable and warranted.
  - 3.1.8. to determine or delegate the determination of applications for the allocation of ward funds subject to the prevailing criteria;
  - 3.1.9. to exercise all functions relating to elections and referenda including Parliamentary, Local Government and European Parliamentary elections, and to exercise all functions in relation to electoral registration;
  - 3.1.10. to have oversight of the Council's financial services functions, subject to the specific statutory responsibilities and delegations conferred on the Executive Director Place and Resources (Section 151 Officer/Chief Finance Officer) under this Scheme;
  - 3.1.11. to approve applications for Discretionary Rate Relief scored in accordance with the standard criteria;
  - 3.1.12. to appoint external individuals from outside the authority as 'Proper Officers' to fulfil regulatory roles, specifically (but not exhaustively) Proper Officers under the Public Health (Control of Disease) Act 1984 (as amended), 'Port Medical Officers' (in relation to the Public Health (Ships) Regulations 1979 (as amended)), 'Official Veterinarian' (in relation to EC Directive 97/78), Agricultural Analyst (in relation to the Agriculture Act 1970) and 'Public Analyst' (in relation to the Food Safety Act 1990);
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- 3.1.13. Whilst designated Executive Place Lead under the auspices of the Humber and North Yorkshire Integrated Care System to lead on place based arrangements, health and democratic integration in accordance with emerging policy;
- 3.2. To have oversight of functions and responsibilities delegated to:
  - 3.2.1. Assistant Chief Executive;
  - 3.2.2. Executive Director Place and Resources (Section 151 Officer);
  - 3.2.3. Director for Children's Services;
  - 3.2.4. Director for Adult Social Services;
  - 3.2.5. Director for Public Health.
- 4. To the Executive Director Place and Resources (designated, unless revoked in writing, as the Chief Executive's duly authorised deputy) the following powers:**
  - 4.1 Subject to such designation by the Chief Executive, compliance with legislation and the Constitution:
    - 4.1.1. in the absence of the Chief Executive, to exercise all powers delegated to the Chief Executive, as set out above;
    - 4.1.2. to exercise all powers in connection with the European Communities Act 1972 and any subsequent legislation arising from any withdrawal of the United Kingdom from the European Community or any part thereof;
    - 4.1.3. to authorise officers to exercise powers of entry in relation to the Deputy Chief Executive and Executive Director Place and Resources delegated functions and responsibilities;
    - 4.1.4. to authorise the issue of statutory notices, licenses and permissions in relation to the Deputy Chief Executive and Executive Director Place and Resources delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate;
    - 4.1.5. to authorise the withdrawal, review and cessation of any licenses, permissions or agreements in relation to the Deputy Chief Executive and Executive Director Place and Resources delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate.

## **5. Powers delegated to the Assistant Chief Executive**

- 5.1. Subject to compliance with legislation and the Constitution:

- 5.1.1. to act as the Council's designated Scrutiny Officer for the purposes of Section 9FB of the Local Government Act 2000 ;
- 5.1.2. To act as the Council's Deputy Electoral Registration Officer by virtue of the Representation of the People Act 1983 and to carry out all duties and responsibilities under that office.
- 5.1.3. To have oversight and lead responsibility for the Armed Forces Covenant statutory duty.
- 5.1.4. to ensure the Council discharges its responsibilities in connection with the Civil Contingencies Act and business continuity;
- 5.1.5. to exercise all functions in respect of civic and mayoral services; elections and electoral registration, and Registration and Celebratory Services;
- 5.1.6. to act as the Proper Officer for civil registration matters;
- 5.1.7. to act and lead at the direction of the Chief Executive on specific strategic or corporate projects and initiatives from time to time;
- 5.1.8. to be the lead Council officer for co-ordination and engagement with the voluntary and community sector, including but not limited to infrastructure development, community resilience and financial inclusion;
- 5.1.9. to be the lead Council officer in respect of the equality and diversity agenda;
- 5.1.10. to authorise the issue of statutory notices, licenses and permissions in relation to the Assistant Chief Executive delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate;
- 5.1.11. to authorise the withdrawal, review and cessation of any licenses, permissions or agreements in relation to the Assistant Chief Executive delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate.

## **6. Powers delegated to the Executive Director Place and Resources (Section 151 Officer/Chief Finance Officer)**

### **6.1. Subject to compliance with legislation and the Constitution:**

- 6.1.1. to exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act, 1972 and Section 114 of the Local Government Finance Act 1988, the CIPFA guidance on the role of the Section 151 Officer and [Article 12](#) of this Constitution and to report as appropriate to Cabinet and the Audit and Governance Committee on the discharge of such responsibilities;
  - 6.1.2. to determine and issue general guidelines to Members and Officers in relation to financial matters;
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- 6.1.3. to determine arrangements for Treasury Management in accordance with the Treasury Policy Strategy and any other arrangements approved by the Cabinet or Full Council;
  - 6.1.4. to determine and issue general guidelines to Officers on management of financial resources, insurance, debt recovery and writing-off of debts to approve applications for financial assistance, authorise any grant claims and approve the receipt of specific grant payments from third parties in all cases where the third party specifies that Director of Finance (Chief Finance Officer) (howsoever named) approval and/or certification is a condition of the receipt of any grant;
  - 6.1.5. to manage the Council's loan debt and to approve borrowings and investments by the Council in accordance with the statutory borrowing limits determined by the Council and the Council's Treasury Management Strategy as approved from time to time;
  - 6.1.6. to administer and collect Council Tax and Non-Domestic Rates (including setting Non-Domestic rates);
  - 6.1.7. to administer the Council Tax and Housing Benefit systems;
  - 6.1.8. to authorise the write off of debts in accordance with Financial Procedure Rules;
  - 6.1.9. to approve the National Non-Domestic Rates 1 return that determines the business rate base;
  - 6.1.10. to make arrangements for the internal audit of the Council;
  - 6.1.11. in respect of Assets and Estate Management:
    - 6.1.11.1. to negotiate the disposal and/or acquisition of land and property on behalf of the Council, provided that any proposed acquisition or disposal that qualifies as a Key Decision must be referred to Cabinet;
    - 6.1.11.2. to refer any proposed disposal at an undervalue to Cabinet in accordance with the Protocol on disposal of land at less than best price;
    - 6.1.11.3. to maintain a register of all undervalue disposals;
    - 6.1.11.4. in the case of any proposed acquisition or disposal, including those not qualifying as a Key Decision:
      - 6.1.11.4.1. to consult with the relevant Portfolio Holder(s) prior to proceeding;
      - 6.1.11.4.2. to notify the members for the relevant ward of the proposed acquisition or disposal, subject to any restrictions regarding the disclosure of "exempt" or confidential information;
    - 6.1.11.5. to recommend the exercise of the Council's powers of compulsory acquisition to Cabinet and/or Full Council, as appropriate;
    - 6.1.11.6. to determine all matters in respect of the Council's portfolio of offices, operational and commercial property, save where any
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related decisions qualify as Key Decisions which must be referred to Cabinet;

- 6.1.11.7. to determine all property related compensation claims, blight claims, licences, way leaves or any other dealings (excluding tenanted housing management property), save where any related decisions qualify as a Key Decision which must be referred to Cabinet.
  - 6.1.11.8. For the avoidance of doubt, in connection with Freshney Place, the Executive Director Place and Resources hereby delegates to the Assistant Director Regeneration, Deputy 151 Officer and Assistant Director Law and Governance, acting jointly, or by two of them only, and with engagement from the retained Asset Managers, the responsibility to make operational decisions including lettings, but not so as to exceed the key decision threshold.
  - 6.1.12. to exercise all the functions in relation to Customer Services, Information and Communication Technology; Procurement, Corporate Risk Management; Printing and Reprographic services, performance management, service improvements, business planning, the sustainable community strategy, media and communications, corporate strategy and policy development, research and information, organisational change, learning and development, member development, human resources and organisational development, corporate health and safety, equalities, skills and employability (excepting those related delegations made to the Director of Children's Services).
  - 6.1.13. to have oversight of Legal and Governance services, including Coroner's Service, Democratic Services and Internal Assurance;
  - 6.1.14. to interpret and determine conditions of services (including pay and other aspects of remuneration) for Council employees and to enter into agreements as appropriate with Trade Unions relating to personnel and training matters;
  - 6.1.15. to compile, monitor and review Council employment policies and procedures and issue instructions, guidelines, handbooks etc, as appropriate;
  - 6.1.16. support Directors in seeking compulsory redundancy and to issue instructions regarding the redeployment of employees who are at risk of redundancy;
  - 6.1.17. to issue or instruct the issue of any notices, including in respect of the determination of rents, licence fees and service charges, save where such a decision qualifies as a Key Decision which must be referred to Cabinet;
  - 6.1.18. to authorise officers to exercise powers of entry in relation to the Executive Director Place and Resources (Section 151 Officer) delegated functions and responsibilities;
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- 6.1.19. to issue statutory notices, licenses and permissions in relation to the Executive Director Place and Resources (Section 151 Officer) delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with Monitoring Officer as appropriate;
- 6.1.20. to authorise the withdrawal, review and cessation of any licenses, permissions or agreements in relation to the Executive Director Place and Resources (Section 151 Officer) delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate;
- 6.1.21. to authorise officers, in writing, to issue fixed penalty notices and other relevant administrative penalties under the legislation within the scope of the Director's areas of responsibility, save and except where authority to issue such notices has been lawfully delegated to the Regeneration Partner;
- 6.2. To have oversight of functions and responsibilities delegated to:
  - 6.2.1. Director for Economy Environment and Infrastructure.
- 6.3. Pursuant to the cascade principle (at para 1.5 above) the Executive Director Place and Resources hereby delegates such of the above functions (interpreted in their widest sense) to the following Assistant Directors (and equivalents; to include any and all Deputy Directors, Deputy Service Directors, and Deputy Statutory Officers) commensurate with their duties and responsibilities and the Executive Director Place and Resources shall have oversight of the functions and responsibilities so delegated to them:
  - 6.3.1. Assistant Director Strategy, Policy and Resources;
  - 6.3.2. Assistant Director Law and Governance;
  - 6.3.3. Assistant Director Finance (Deputy 151 Officer);
  - 6.3.4. Assistant Director People and Organisational Development.

## **7. Powers delegated to the Director of Economy, Environment and Infrastructure**

- 7.1 Subject to compliance with legislation and the Constitution:
  - 7.1.1. to exercise all functions of the Council in respect of:
    - 7.1.1.1. Environmental health, Bereavement Services, including cemeteries and crematoria, trading standards, port health, consumer protection and neighbourhood services;
    - 7.1.1.2. Health and Safety at Work (excluding those matters delegated to the Monitoring Officer regarding the Council's responsibilities as an employer);
    - 7.1.1.3. Licensing Authority functions and responsibilities;
    - 7.1.1.4. Waste Management (including collection and disposal);

- 7.1.1.5. Net Zero, decarbonisation, the NEL Carbon Roadmap and the Green agenda generally;
  - 7.1.1.6. to exercise all functions of the Council in respect of Community Safety and Anti-Social Behaviour, the sustainable community strategy and Local Strategic Partnerships, Safer Streets, Community Safety and Public Protection, Business engagement in relation to stronger towns;
  - 7.1.2. to set fees, in consultation with the Chair of the Licensing and Community Protection Committee, in relation to the Scrap Metal Dealers Act 2013;
  - 7.1.3. to act as the Officer designated Chief Inspector of Weights and Measures;
  - 7.1.4. to exercise all functions in relation to tourism, museums libraries, archives, sport, leisure, theatres and cultural services;
  - 7.1.5. to have oversight and lead responsibility for managing the contractual relationship with the Regeneration Partner, subject to the prevailing partnership governance arrangements;
  - 7.1.6. to exercise all functions of the Council in relation to regeneration, inward investment, economic development, strategic housing, highways, the highway network, traffic regulation, car park management, civil parking enforcement, local transport, planning, safety at sports grounds, building control, architectural and technical services, save and except any powers and functions that have been delegated to the Regeneration Partner, in accordance with any Order made pursuant to Section 70 of the Deregulation and Contracting out Act 1994 and/or any specific provision of the contract entered into between the Council and the Regeneration Partner, giving effect to the Regeneration Partnership;
  - 7.1.7. to authorise the Regeneration Partner, in writing, to act as the Council's agent in respect of any functions and responsibilities within the scope of the Regeneration Partnership, subject to consultation with the Monitoring Officer and the relevant Portfolio Holder(s);
  - 7.1.8. in respect of the Council's strategic housing services:
    - 7.1.8.1. the provision of services regarding housing allocation and homelessness;
    - 7.1.8.2. the provision of all housing services that have not been transferred via Large Scale Voluntary Transfer;
  - 7.1.9. the exercise of all Council functions regarding the condition and management of private sector housing
  - 7.1.10. to authorise officers to exercise powers of entry in relation to the Director for Economy, Environment and Infrastructure delegated
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functions and responsibilities;

7.1.11. to issue statutory notices, licenses and permissions in relation to the Director for Economy, Environment and Infrastructure delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with Monitoring Officer as appropriate;

7.1.12. to authorise officers, in writing, to issue fixed penalty notices and other relevant administrative penalties under the legislation within the scope of the Director's areas of responsibility, save and except where authority to issue such notices has been lawfully delegated to the Regeneration Partner;

7.1.13. In respect of planning and development control:

7.1.13.1. to determine all "Other" categories of planning applications, with the following exceptions:

7.1.13.1.1. Where there is a material planning objection from a Town or Parish Council and there is an officer recommendation to approve;

7.1.13.1.2. Where an elected Member of NELC has made a written request for an application to go to Planning Committee within the allocated time period and based on material planning reasons;

7.1.13.1.3. This includes:

- Changes of use
- Advertisements
- Householder development
- Listed Building Consents
- Conservation Area Consents

7.1.13.2. to determine\* all "Major" and "Minor" categories of planning applications with the following exceptions:

7.1.13.2.1. where more than three material planning objections \*\* have been submitted in writing within the Statutory Consultation period from separate households / businesses etc (excluding Statutory Consultees, which are considered in 7.1.13.2.5 below) and there is an officer recommendation to approve;

7.1.13.2.2. where an application seeks a proposal that is contrary to adopted and emerging development plan policy and there is an officer recommendation to approve;

7.1.13.2.3. where an application would require formal referral to the Government Office;

7.1.13.2.4. where applications are submitted by an elected member of

NELC, officers of the Planning Service, and senior officers of the Council, or where officers consider that there may be perceived issues of probity; \*\*\*

7.1.13.2.5. where a material planning objection has been submitted by a Statutory Consultee within the Statutory Consultation period and there is an officer recommendation to approve;

7.1.13.2.6. where an elected Member of NELC has made a written request for an application to go to planning committee within the allocated time period and based on material planning reasons, because the Member does not agree with the officer recommendation or anticipated officer recommendation;

7.1.14. To exercise all functions of the Council in respect of the Flood and Water Management Act 2010.

NOTE: "determine" includes approval and refusal.

\*\* "Material planning objection" will be broadly interpreted. However, objections will not be regarded as "material" where they: are not relevant to land use planning; not relevant to the application or other matters under consideration; are based on grounds of local competition; or are anonymous.

\*\*\* "Perceived issues of probity" includes the following: employees who are related to Members or Senior Officers; employees who have connections with outside bodies, groups and businesses that engage in the planning process; employees who are Parish Councillors; and organisations where Members have a leading position.

7.2. Pursuant to the cascade principle (at para 1.5 above) the Director of Economy, Environment and Infrastructure hereby delegates such of the above functions (interpreted in their widest sense) to the following Assistant Directors (and equivalents; to include any and all Deputy Directors, Deputy Service Directors, and Deputy Statutory Officers) commensurate with their duties and responsibilities and the Director of Economy, Environment and Infrastructure shall have oversight of the functions and responsibilities so delegated to them:

7.2.1. Assistant Director Environment;

7.2.2. Assistant Director Regeneration; and

7.2.3. Assistant Director Infrastructure.

7.2.4. Assistant Director Safer Towns and Communities

## **8. Powers delegated to the Director of Children's Services**

8.1. Subject to compliance with legislation and the Constitution:

8.1.1. to act as the Designated Director of Children's Services for the purposes of the Children Act 2004;

- 8.1.2. to discharge the functions conferred on or exercisable by the Council in its capacity as local education authority and children services authority;
  - 8.1.3. to discharge any function exercisable by the Council under Section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to children and young people and subject to the CCG arrangements;
  - 8.1.4. to exercise all functions and responsibilities in so far as they relate to: Skills, specifically related to children and careers education;
  - 8.1.5. to discharge the functions conferred on or exercisable by the authority which are Social Services functions (within the meaning of the Local Authority Social Services Act 1970), so far as those functions relate to children;
  - 8.1.6. to discharge the functions conferred on the authority under Sections 23 to 24D of the Children Act 1989;
  - 8.1.7. to discharge the functions conferred on the authority under Sections 10 to 12 and 17 of the Children Act 2004;
  - 8.1.8. to exercise all relevant children social services functions as conferred by the Children Act 1989, the Adoption and Children Act 2002, the Local Authority Social Services Act 1970, the Children (Leaving Care) Act 2000 and the Safeguarding Vulnerable Groups Act 2006 in the interests of safeguarding and promoting the welfare of children and young people;
  - 8.1.9. to have responsibility for Youth Services and Youth Justice Services;
  - 8.1.10. to exercise all functions and responsibilities in so far as they relate to: School Improvement and Education;
  - 8.1.11. to authorise officers to exercise powers of entry in relation to the Director of Children's Services delegated functions and responsibilities;
  - 8.1.12. to authorise the issue of statutory notices, licenses and permissions in relation to the Director of Children's Services delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate;
  - 8.1.13. to authorise the withdrawal, review and cessation of any licenses, permissions or agreements in relation to the Director of Children's Services delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate.
- 8.2. Pursuant to the cascade principle (at para 1.5 above) the Director of Children's Services hereby delegates such of the above functions (interpreted in their widest sense) to the following Assistant Directors (and equivalents; to include any and all Deputy Directors, Deputy Service Directors, and Deputy Statutory Officers) commensurate with their duties and responsibilities and the Director of Children's Services shall have oversight of the functions and responsibilities
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so delegated to them. For the avoidance of doubt the term “Service Director” shall be deemed to be commensurate with the term “Assistant Director” and shall in all cases be read as such:

- 8.2.1. Service Director Safeguarding and Early Help;
- 8.2.2. Service Director Regulated Provision;
- 8.2.3. Service Director Education and Inclusion; and
- 8.2.4. Assistant Director Children’s Assurance, Evaluation and Partnerships

## **9. Powers delegated to the Director of Adult Social Services**

9.1 Subject to compliance with legislation and the Constitution:

9.1.1. to act as the Designated Director of Adult Social Services (DASS), for the purposes of the Local Authority Social Services Act 1970, such responsibilities exercised pursuant to

9.1.1.1. any statutory guidance issued, from time to time, by the Secretary of State for Health; and

9.1.1.2. existing and future partnership arrangements.

9.1.2. to exercise all functions of the Council in respect of Adult Safeguarding;

9.1.3. These responsibilities include:

9.1.3.1. Accountability for assessing local needs and ensuring availability and delivery of a full range of adult social services;

9.1.3.2. Management of the Disabled Facilities Grant;

9.1.3.3. Professional leadership, including workforce planning;

9.1.3.4. Leading the implementation of standards;

9.1.3.5. Managing cultural change;

9.1.3.6. Promoting local access and ownership and driving partnership working;

9.1.3.7. Delivering an integrated whole systems approach to supporting communities; and

9.1.3.8. Promoting social inclusion and wellbeing.

9.1.4. to authorise officers to exercise powers of entry in relation to the Director of Adult Services delegated functions and responsibilities;

9.1.5. to authorise the issue of statutory notices, licenses and permissions in relation to the Director of Adult Services delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate;

9.1.6. to authorise the withdrawal, review and cessation of any licenses, permissions or agreements in relation to the Director of Adult Services delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate.

- 9.2. Pursuant to the cascade principle (at para 1.5 above) the Director of Adult Social Services hereby delegates such of the above functions (interpreted in their widest sense) to the following Assistant Directors (and equivalents; to include any and all Deputy Directors, Deputy Service Directors, and Deputy Statutory Officers) commensurate with their duties and responsibilities and the Director of Adult Social Services shall have oversight of the functions and responsibilities so delegated to them:
- 9.2.1. Assistant Director Adult Social Care.

## **10. Powers delegated to the Director for Public Health**

- 10.1. The Director of Public Health is a multi-faceted role between the Council, the wider Integrated Care System and (whilst formal arrangements remain extant) as Director for Public Health to North Lincolnshire Council.
- 10.2. Subject to compliance with legislation and the Constitution:
- 10.2.1. to undertake overall responsibility for all of the Council's duties to take steps to improve public health and to provide officers and elected members with appropriate advice and guidance;
  - 10.2.2. to undertake any of the Secretary of State's public health protection or health improvement functions delegated to local authorities, either by arrangement or under regulations, – including services mandated by regulations made under section 6C of the National Health Service Act 2006;
  - 10.2.3. to plan for, and respond to, emergencies that present a risk to public health, in consultation with the Council's emergency planning officer where appropriate;
  - 10.2.4. to undertake the Council's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders;
  - 10.2.5. to be responsible for the Council's public health response as a responsible authority under the Licensing Act 2003, including making representations about licensing applications under sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the Health and Social Care 2012;
  - 10.2.6. to produce and update as necessary the Joint Strategic Needs Assessment in consultation with the appropriate forum of the Integrated Care System;
  - 10.2.7. to lead on and co-ordinate the development, production, publication and updating of the Joint Health and Wellbeing Strategy in consultation with the appropriate forum of the Integrated Care System;
  - 10.2.8. to develop and implement a system for collecting and analysis data to deliver the Public Health Outcomes Framework;
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- 10.2.9. to produce the Director of Health and Well Being's annual report;
  - 10.2.10. to provide public health advice to NHS commissioners to help secure:
    - 10.2.10.1. commissioning strategies that meet the needs of vulnerable groups;
    - 10.2.10.2. the development of evidence-based care pathways and service specifications;
    - 10.2.10.3. evidence-based prioritisation policies;
    - 10.2.10.4. health needs audits and health equity audits and health impact assessments.
  - 10.2.11. to ensure delivery of the National Child Measurement Programme;
  - 10.2.12. to secure the delivery of the NHS Health Check assessment;
  - 10.2.13. to ensure appropriate access to sexual health services;
  - 10.2.14. to ensure appropriate clinical governance arrangements are in place in respect of any clinical services commissioned, including sexual health and drug and alcohol services;
  - 10.2.15. to maintain a particular focus on ensuring vulnerable and disadvantaged groups receive the attention they need, with the aim of reducing health inequalities, operating in consultation with the Deputy Chief Executive and Executive Director for Place and Resources and Director for Economy Environment and Infrastructure;
  - 10.2.16. to provide appropriate support to the Health and Well Being Board or its equivalent;
  - 10.2.17. to authorise officers to exercise powers of entry in relation to the Director of Public Health delegated functions and responsibilities;
  - 10.2.18. to authorise the issue of statutory notices, licenses and permissions in relation to the Director of Public Health delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate;
  - 10.2.19. to authorise the withdrawal, review and cessation of any licenses, permissions or agreements in relation to the Director of Public Health delegated functions and responsibilities and subject to any limitations set out in the Constitution, acting in consultation with the Monitoring Officer as appropriate.
- 10.3 Pursuant to the cascade principle (at para 1.5 above) the Director of Public Health hereby delegates such of the above functions (interpreted in their widest sense) to the following Assistant Directors (and equivalents; to include any and all Deputy Directors, Deputy Service Directors, and Deputy Statutory Officers) commensurate with their duties and responsibilities and the Director of Public Health shall have oversight of the functions and responsibilities so delegated to them:
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### 10.3.1 Assistant Director Public Health.

## **11. Powers delegated to the Monitoring Officer (Assistant Director Law and Governance)**

### 11.1. Subject to compliance with legislation and the Constitution:

- 11.1.1. to act as Solicitor to the Council and designated Monitoring Officer in accordance with the relevant provisions of the Local Government and Housing Act 1989 and [Article 12](#) of this Constitution;
- 11.1.2. To act as the Proper Officer for the purposes of the arrangements for the discharge of standards responsibilities, including maintaining the Register of Members' Interests and administering the complaints process for Member misconduct;
- 11.1.3. to authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings whether civil or criminal and to authorise officers of the Council to appear before the Courts;
- 11.1.4. to attest the Common Seal of the Council on any legal documentation required to be executed under Seal, unless delegated by the Chief Executive to another named Officer(s);
- 11.1.5. to determine and issue general guidelines to members and officers on legal, procedural and probity issues and to liaise between Standards and Adjudication Committee, the Audit and Governance Committee and such other bodies as necessary and to hold all records and registers relating to conduct and probity issues;
- 11.1.6. to issue any statutory notice (unless another officer is exclusively empowered by law) which may be deemed necessary in the interests of the Council and to negotiate the terms of and to sign any document, lease, contract, licence or otherwise on behalf of the Council, unless delegated to another named officer or postholder;
- 11.1.7. to exercise all functions relating to legal services, democratic services and HM Coroner for North and North East Lincolnshire;
- 11.1.8. to have responsibility for partnership governance.

### 11.2 Pursuant to the cascade principle (at para 1.5 above) the Monitoring Officer hereby delegates such of the above functions (interpreted in their widest sense) to the Deputy Monitoring Officer, commensurate with their duties and responsibilities, and the Monitoring Officer shall have oversight of the functions and responsibilities so delegated.

## **12. Authority to authorise directed surveillance.**

- 12.1. Only the Monitoring Officer and the Chief Executive (in consultation with the Monitoring Officer) shall be "Authorising Officers" for the purposes of authorising applications for directed surveillance.

- 12.2. Only the Monitoring Officer may delegate the authority to authorise directed surveillance to a named officer of at least "service manager level" where the Monitoring Officer is satisfied that the officer has completed the appropriate training.

### **13. DECISIONS TAKEN IN URGENCY**

Subject to the provisions of the Constitution and any statutory provision reserving a decision on any matter to the Council, Cabinet or a Committee, the Chief Executive, all Directors shall be empowered on behalf of and in the name of the Council to deal with matters of urgency or routine business normally requiring a Cabinet or Committee decision which may arise between the meetings of Cabinet / Committees or during any period when the Cabinet / Committees are in recess; provided that

- (i) there is no conflict with the Budget and Policy Framework (unless the urgency provisions in the Budget and Policy Framework Procedure Rules are followed)
- (ii) If a Key Decision is involved, the matter is contained in the Forward Plan (or the general exception or special urgency provisions are satisfied); and
- (iii) In respect of any matter falling within the terms of reference of a Committee the Officer shall first consult with the Chairman or, in his/her absence, the Deputy Chairman; and a report of the decision taken shall be submitted to the next ordinary meeting of the Committee; or in the case of all Executive matters the Officer shall first consult with the Chief Executive, relevant Portfolio Holder(s) and a report of the decision taken shall be submitted to the next ordinary meeting of the Cabinet.
- (iv) The Monitoring Officer and Section 151 Officer are consulted in respect of the proposed decision

The consultation and decisions referred to in this paragraph shall be recorded in writing, in such form as may be prescribed by the Monitoring Officer.

## ARTICLE 5 - THE COUNCIL MEETINGS

This Article sets out the roles of the Council including deciding upon its main policies and its budget together also with responsibility for dealing with regulatory functions such as Planning and Licensing and holding the Cabinet to account.

### 5.01 Functions of the full Council

- a) Only the Council will exercise the following functions:
- b) adopting and changing the Constitution
- c) approving or adopting the budget and policy framework, and any application to the Secretary of State in respect of any Housing Land Transfer;
- d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Article 3 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- e) appointing the Leader;
- f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- g) appointing representatives to outside bodies unless the appointment is in respect of a Cabinet function or has been delegated by the Council;
- h) adopting an allowances scheme under Article 2.05;
- i) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- j) confirming the appointment of the Head of Paid Service (Chief Executive);
- k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- m) all other matters which, by law, must be reserved to Council e.g. setting the Council Tax.

### 5.02 Meanings

**Policy Framework** The policy framework means the following plans and strategies:

- The Council Plan
- The Local Plan
- The Development and Growth Plan
- The Transport Plan
- The Safer and Stronger Communities Partnership Plan
- The Health and Well-being Strategy

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

**Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985. The Council transferred its housing stock to the Shoreline Housing Partnership in 2005.

### **5.03 Full Council Meetings**

There are three types of full Council meeting:

The annual meeting;  
Ordinary meetings; and  
Extraordinary (or Special) meetings

and they may be conducted in accordance with the Council's Standing Orders in Article 5 of this Constitution.

### **5.04 Responsibility for Functions**

The Council will maintain the information in Article 4 of this Constitution setting out the responsibilities for the Council's functions, which are not the responsibility of the Cabinet.

## **ARTICLE 5 – APPENDIX 1**

### **COUNCILS**

This part sets out the procedures for regulating various Council proceedings and business. These procedures are a mixture of the types of procedure used by Councils for many years, other procedures suggested by the Government and completely new procedures - which it is hoped will lead to more straightforward mechanisms for decision making.

The relevant legislation to this part is Schedule 12 of the Local Government Act 1972.

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## **PART A: COUNCIL MEETINGS**

1A.1 Subject to the provisions of these Standing Orders regarding Special Meetings, the number of meetings of Full Council to be scheduled each year shall be limited to the following:

- (i) Mayor Making
- (ii) Annual General Meeting
- (iii) A meeting for the exclusive purpose of approving the Budget and setting the Council Tax
- (iv) Four other Ordinary meetings

### **1. ANNUAL MEETING OF THE COUNCIL**

#### **1.1 Timing and business**

Each year the Council will hold an Annual Meeting.

A separate "Mayor Making" ceremony may be held one week before the Annual Meeting of Council to consider the election of the Mayor, the Deputy Mayor and the Leader / Deputy of the Council.

In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place on the third Thursday in May, or on a day in May agreed at the last meeting of the Council prior to the Annual Meeting.

1.2 The business to be conducted at the annual meeting will be:

- (i) elect a person to preside if the former Mayor is not present;
- (ii) elect the Mayor;
- (iii) declarations of interest
- (iv) elect the Deputy Mayor;
- (v) approve the minutes of the last meeting;
- (vi) receive any announcements from the Mayor and/or Chief Executive;
- (vii) elect the Leader;
- (viii) note the Leader's appointments to Cabinet, including the Deputy Leader ;
- (ix) appoint the Scrutiny Committees, a Standards and Adjudication Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions (as set out in Part 3 of this Constitution), and to appoint Chairs, Deputy Chairs and substitute Members to those Committees;
- (x) receive nominations of Councillors to serve on each Committee and Outside Body
- (xi) agree the Scheme of Delegation, or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year;



(xiii) consider any business set out in the notice convening the meeting.

## **2. ORDINARY MEETINGS**

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting.

2.2 The Order of Business at every meeting will be:

- (i) elect a person to preside if the Mayor and Deputy Mayor are absent;
- (ii) deal with any item required by statute to be done before any other item;
- (iii) approve the minutes of the last meeting;
- (iv) receive any declarations of interest from members;
- (v) receive any announcements from the Mayor and then a statement from the Leader of the Council, such statement to be for a duration of no longer than 15 minutes , updating Council in respect of:
  - key issues of significance to the social, economic or environmental well-being of the area
  - Special Urgency decisions taken in accordance with the Constitution
  - the implementation of Motions previously resolved at the preceding Council meeting(s).

Such statement (or any part thereof) shall be delivered verbally or in writing at the absolute discretion of the Leader.

- (vi) deal with any business remaining from the last Council meeting;
- (vii) receive reports and the minutes from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions submitted in accordance with procedural standing order 11, in the order received;
- (x) consider business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the overview and scrutiny Committees for debate;
- (xi) consider any other business which, by reason of special circumstances, should, in the opinion of the Mayor, be considered as a matter of urgency.

## **2.3 Variation of Order of Business**

Business falling under 2.1. i, ii, iii and iv above cannot be varied, but the remainder may be varied at the discretion of the Mayor, with good reason.

2.4 The Mayor may, for good reason, vary the day, time or place fixed for any meeting of the Council provided that any such variation in relation to the day or time may only be made five clear working days before the date originally fixed,

unless the cause for variation occurs within that period, in which case as much notice of the change as practicable must be given.

- 2.5 The Mayor may for good reason cancel a meeting of the Council.
- 2.6 All meetings of the Council shall commence at 7 o'clock in the evening in the Town Hall, Grimsby or at such other time or place as the Council or the Mayor may decide.
- 2.7 Meeting to consider the Budget and Medium Term Financial Plan

A separate meeting of the Council will be held on an annual basis to consider the Budget and Medium Term Financial Plan, within the legal time limit for holding the budget meeting.

### **3. SPECIAL MEETINGS**

#### **3.1 Calling Special Meetings**

In addition to the Chief Executive having the authority to call a Special Meeting of the Council, those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor at his/her discretion;
- (iii) the Monitoring Officer; and
- (v) any six members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **3.2 Business**

The business of a Special meeting of the Council shall be confined to the purpose for which it was convened except where the Mayor accepts an item as urgent business.

### **4. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Council when fixing its annual programme of meetings, or otherwise as determined by the Chief Executive in consultation with the Mayor and notified in the summons.

### **5. NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Standing orders. At least five clear working days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be

accompanied by such reports as are available.

If a member of the Council gives notice in writing to the Chief Executive of the Council that he desires summonses to attend meetings of the Council to be sent to him at some address specified in the notice other than his place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.

Want of service of a summons on any member of the Council shall not affect the validity of a meeting of the Council.

## **6. MAYOR AND DEPUTY MAYOR**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these standing orders apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairmen of Committees and Sub-Committees.

The Mayor and Deputy Mayor of the Council shall be elected annually by the Council from among the councillors.

The election of the Mayor shall be the first business transacted at the annual meeting of the Council followed by the appointment of the Deputy Mayor. The Mayor shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as Mayor.

At all meetings of the Council the Mayor, if present, shall preside.

If the Mayor is absent from the meeting the Deputy Mayor of the Council, if present, shall preside.

If both the Mayor and the Deputy Mayor of the Council are absent from a meeting of the Council another member of the Council chosen by the members of the Council present shall preside.

Any power or duty of the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

## **7. QUORUM**

The quorum of a meeting of the Council will be one quarter of the whole number of Members. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

- The quorum of a meeting of the Cabinet shall be 3 members.
- The quorum of a meeting of the Scrutiny Panel with responsibility for

Children Services shall be 3 members plus one co-opted Education member in respect of Education matters

- The quorum of a meeting of all other Scrutiny Panels shall be 3 members
- The quorum of a meeting of the Planning Committee shall be 3 members.
- The quorum of a meeting of the Licensing and Community Protection Committee shall be 4 members.
- The quorum of a meeting of any Sub-Committee of the Licensing Committee shall be 3 members.
- The quorum of a meeting of the Appointments Committee shall be 3 members
- The quorum of a meeting of the Standards and Adjudication Committee shall be 4 members.
- The quorum of a Sub-Committee of the Standards and Adjudication Committee shall be 3 for the Referrals, Hearings and Appeals Panels, while noting that the Appeals Panel should comprise no more than 5 members.
- The quorum of a meeting of the Audit and Governance Committee shall be 3 members.

## **8. DURATION OF MEETING**

Unless the majority of members present at the meeting considering an item (and excluding such members who have declared an interest in that item) vote for the meeting to continue, any meeting that has lasted until 10.00 p.m. will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. DECLARATIONS OF INTEREST**

For the purposes of this Standing Order:

(A) "meeting" means any meeting of -

- The Full Council
- The Cabinet
- A Cabinet Member acting in an individual capacity
- Any of the Council's or Cabinet's committees , sub-committees, joint committees and joint sub-committees
- A Scrutiny Panel, Joint Scrutiny Panel or a Select Committee or any sub-committee or working group thereof

(B) "Member" means a Councillor or a co-opted member of the Authority.

Where a Member has a Disclosable Pecuniary Interest (DPI) or an Other Registrable and/or Non-Registrable Interest, as defined in the code of conduct, in any business of the authority and a Member attends a meeting at which that business is considered, the Member must disclose to that meeting the existence and the nature of the interest at the commencement of the meeting, or otherwise when the interest becomes apparent.

When a Member discloses an interest pursuant to this Standing Order that is a

Sensitive Interest, as defined in the code of conduct, only the existence but not the nature of the interest shall be disclosed to the meeting.

Any Member who discloses an interest pursuant to this Standing Order that is either a DPI or an Other Registrable and/or Non-Registrable Interest shall, upon disclosing the interest, withdraw from the meeting room or chamber immediately before the debate or vote on the item of business being considered unless the code of conduct otherwise provides or a Dispensation has been granted by the Standards and Adjudication Committee (or, if applicable, the Monitoring Officer acting under delegated powers).

Any Member disclosing a DPI or an Other Registrable and/or Non-Registrable Interest pursuant to this Standing Order must not seek to improperly influence a decision about the business being considered.

## **10. QUESTIONS BY MEMBERS**

### **10.1 On reports of the Cabinet or Committees**

Subject to Standing Orders 10A and 10B, A member of the Council may ask the Leader, Deputy Leader, Portfolio holding member of the Cabinet or Chairman of a Committee any question without notice upon an item of the report or minutes of the Cabinet or a Committee when that item or minute is being received or is under consideration by the Council.

### **10.2 Questions on notice at full Council**

Subject to Standing order 10.3, a Member of the Council may ask:

- the Mayor;
- the Leader, Deputy Leader or a Member of the Cabinet; or
- the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects North East Lincolnshire

Any Member of Council is permitted to ask one question on notice (with a supplementary question where appropriate) of any Portfolio Holder at any one meeting of Council.

### **10.3 Notice of questions**

A Member may only ask a question under Standing order 10.2 if either:

- (a) the question has been submitted in writing at least 3 working days (for example, by 11.59pm on the Monday if the meeting is on a Thursday) prior to the Council meeting to the Chief Executive or the Monitoring Officer; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is

given to Chief Executive or the Monitoring Officer by noon on the day of the meeting.

Members are cautioned that any anomalies or issues arising with such submissions must be dealt with in good time (ideally in office hours) prior to the deadline. Otherwise, members accept the risk of a submission being ruled out of order with no right of appeal. A submission may be ruled out of order if it is found to be unsuitable in form, illegal, irregular or improper, vexatious, frivolous or derogatory to the dignity of the Council. Early submission is therefore encouraged.

#### **10.4 Response to Questions**

An answer may take the form of:

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

Responses to questions asked by Members should be answered fully, in a manner that is non-vexatious, non-frivolous or not derogatory to the dignity of the Council

#### **10.5 Supplementary question**

A member asking a question under Standing order 10.1 or 10.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### **10.6 Time Limits**

In respect of any question submitted in accordance with the provisions of these Standing Orders, each questioner will be limited to 2 minutes initially, and 1 minute for a relevant supplementary question, such limits to be subject to the discretion of the Mayor.

#### **10A Question Time at Council Meetings**

Prior to the consideration of the Minutes at all ordinary meetings of the Council, there shall be a period, not exceeding 15 minutes, for questions by members of the public.

The procedure in relation to such questions shall be as follows:-

- A person resident in the Borough of North East Lincolnshire may, if the question has been submitted in writing to the Chief Executive at the Municipal Offices, Town Hall Square, Grimsby, not later than the 5th working day before the date of the meeting of the Council ask the relevant Cabinet

- member any question relating to the business of the Council whether or not included in the proceedings of the Cabinet or Committees before the Council.
- The Chief Executive shall be solely responsible for the selection of questions to be answered. Any question may be edited by the Chief Executive to bring it into proper form and to secure reasonable brevity. The Chief Executive shall be responsible for deciding the extent (if at all) to which the answer to a question should reveal information which is exempt information within the meaning of Schedule 12A to the Local Government Act 1972.
  - If the person asking the question is present at the meeting he shall be given the opportunity of putting the question (in edited form where applicable) and the relevant Cabinet Member shall respond. The questioner also shall be given the answer in writing. Neither the question nor the response shall be the subject of debate.
  - If the person asking the question is not present at the meeting, the question and the answer shall be circulated in writing to Members and sent to the questioner.
  - Not more than two questions may be asked by any one person at any meeting.
  - Questions and answers, summarised if the Chief Executive thinks appropriate, shall be included in the minutes.

## **10B Cabinet & Regulatory Committee Minutes – Procedure for Submission to Council**

- 10B.1 At each of the scheduled Ordinary meetings of the Council, the Minutes of the Cabinet, Scrutiny and Committees (otherwise referred to as the “Minute Book”) shall be moved en bloc (normally) by the Leader of the Council and seconded (normally) by the Deputy Leader of the Council prior to being put to the vote.
- 10B.2 The Mayor shall only invite questions on the minutes of Cabinet, Regulatory and other Committees (but not Scrutiny Panels) where such questions have been received on Notice.
- 10B.3 Questions on Notice must be submitted to the Chief Executive and / or the Monitoring Officer by no later than 11.59pm on the second day before the date of the Council meeting (for example, by 11.59pm on the Tuesday if the meeting is on a Thursday). Questions will be referred to the appropriate Member referred to in 10.B.7. The Member shall provide a response at the Council meeting.
- 10B.4 A schedule of questions received in accordance with this Standing Order shall be made available at the meeting. At the relevant point, the Mayor will invite the questioner to read out their question. One minute shall be permitted for the question to be read out as submitted (without introductory preamble or comment). A supplementary question of one minute in duration (and without introductory preamble or comment) is permitted provided that it arises from the answer to the first question. The Member questioned shall use reasonable endeavours to appropriately respond to the supplementary question. Where a specific data set is requested a written response shall be deemed reasonable.

10B.5 No motion shall be permitted in respect of such Minutes except as to accuracy.

10B.6 In the case of any Minutes that have been referred to Council for a decision (i.e. a recommendation to Council) the report to the Cabinet or the non-executive committee or Scrutiny meeting which resulted in such a recommendation shall be set out in the agenda for members' information.

10B.7 In the case of questions relating to Cabinet or individual Portfolio Holder business, the Cabinet member whose Portfolio covers the area concerned shall reply. In the case of questions relating to Minutes of a regulatory, or other, committee the relevant Chairman shall reply provided that, if a question concerns a matter of Council policy, the relevant Portfolio Holder shall also have the right of reply.

## **10C QUESTIONS ON THE MINUTES OF THE FIRE AUTHORITY**

Minutes of the Fire Authority meetings are circulated to Members in advance of each ordinary Council meeting and will only be included on the agenda for the Council meeting if there are any questions from Members submitted to Democratic Services prior to publication of said agenda.

An elected member who submits a question on notice pursuant to this Standing Order will be entitled to ask one supplementary question arising from the original question or the reply.

Questions submitted and answers given pursuant to this Standing Order shall not be the subject of debate.

## **11 MOTIONS ON NOTICE**

**11.1** Except for Motions which can be moved without notice under Standing Order 12, notice of every motion, signed by the proposer and seconder and any other member giving the notice, must be submitted to the Chief Executive and/or the Monitoring Officer no later than 6 working days (excluding the day of receipt and the day of the meeting) before the date of the meeting (for example, by 11.59pm on the Tuesday if the meeting is on a Thursday).

Members are cautioned that any anomalies or issues arising with such submissions must be dealt with in good time (ideally in office hours) prior to the deadline. Otherwise, members accept the risk of a submission being ruled out of order with no right of appeal. A submission may be ruled out of order if it is found to be unsuitable in form, illegal, irregular or improper, vexatious, frivolous or derogatory to the dignity of the Council. Early submission is therefore encouraged.

**11.2** Motions on Notice may be submitted by email and the identification of the proposer and seconder in the email (or any form of Motion attached to the email) shall be deemed to satisfy the requirements of Standing Order 11.1.



**11.3** No more than one Motion on Notice per political group shall be permitted for consideration at an Ordinary meeting of the Council, subject to Mayoral discretion exercised in consultation with the Chief Executive and the Monitoring Officer. The consideration of any valid Motions received on Notice shall be subject to the provisions of Standing Order 8 (Duration of Meeting) and the discretion of the Mayor to determine that remaining business shall be considered at a date and time fixed by the Mayor. Motions received on Notice shall be listed on the agenda in the order in which they were received, unless notice is received that a Motion has been withdrawn.

#### **11.4 Scope**

Motions must be about matters for which the Council has a responsibility or which affect North East Lincolnshire.

The Chief Executive, in consultation with the Monitoring Officer, may rule out of order any motion which, in his/her opinion, would:

- a) risk defamation of any individual;
- b) involve a breach of standing orders or any other Council Procedure rules;  
or
- c) not be relevant to the Borough and its community.

#### **11.5 Withdrawing a Motion**

If a motion set out in the agenda is not moved and seconded by the Members who gave notice of it, it shall, unless postponed by the consent of the Council, be treated as withdrawn and shall not be moved without a new notice of motion under Standing Order 11.1.

#### **11.6 Reference of Motion**

If the subject matter of a motion of which notice has been duly given comes within the province of the Cabinet or any Committee, it shall, upon a motion (moved and seconded), stand referred to the Cabinet or such Committee, or to such other Committee as the Council may determine for discussion and report.

**11.7** The Member who has moved the Motion must be notified by the Chief Executive of the meeting(s) of the Committee(s) to which it has been referred, and has the right to attend the Meeting(s) and to explain the Motion.

### **12. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- a) to appoint a chairman of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;

- e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- f) to receive reports for adoption of recommendations of Committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion;
- i) to proceed to the next business;
- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) that the meeting continue beyond three hours in duration;
- n) to suspend a particular council procedure standing order;
- o) to exclude the public and press in accordance with the Access to Information Standing orders;
- p) to not hear further a member named under Standing order 19.3 or to exclude them from the meeting under Standing order 19.4 ;
- q) to give the consent of the Council where its consent is required by this Constitution; and
- r) to carry out a statutory duty which in the opinion of the Chairman is urgent.

### **13. STANDING ORDERS OF DEBATE**

#### **13.1 No speeches until motion seconded**

After the mover has moved a proposal and explained the purpose of it, no speeches other than that by the mover may be made until the motion has been seconded.

#### **13.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

#### **13.3 Seconders's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

#### **13.4 Content and length of speeches**

- a) Subject to paragraph (b) speeches must be directed to the question under discussion or to a personal explanation or point of order. Except as set out below, no speech may exceed 5 minutes without the consent of the Mayor.
- b) The mover of a motion may speak for up to 10 minutes and at the Council meeting which determines the budget, the Leader of the Council shall be allowed 20 minutes to deliver his/her budget speech.

### **13.5 When a Member may speak again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- a) to speak once on an amendment moved by another Member;
- b) to move a further amendment if the motion has been amended since he/she last spoke;
- c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d) in exercise of a right of reply;
- e) on a point of order;
- f) by way of personal explanation.

### **13.6 Amendments to motions**

- a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words; or
  - (iii) to insert or add words.as long as the effect of (ii) and (iii) is not to negate the motion.
- b) Where an amendment to a Motion on Notice is proposed, it shall be submitted in writing to the Monitoring Officer during the day before the day of the Council meeting to which it relates. Once agreed as valid by the Monitoring Officer, any such amendment may be tabled at any point during the debate as agreed with the proposer and seconder of the amendment. This does not preclude the moving of an amendment during any debate which arises from the debate itself.
- c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- d) If an amendment is not carried, other amendments to the original motion may be moved.
- e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- f) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### **13.7 Alteration of motion**

- a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

- c) Only alterations which could be made as an amendment may be made.

### **13.8 Withdrawal of motion**

A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### **13.9 Right of reply**

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

### **13.10 Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions [but a member who has already spoken under debate may not move or second a motion under paragraph (c) to (f) below]:

- a) to withdraw a motion;
- b) to amend a motion;
- c) to proceed to the next business;
- d) that the question be now put;
- e) to adjourn a debate;
- f) to adjourn a meeting;
- g) that the meeting continue beyond 3 hours in duration ;
- h) to exclude the public and press in accordance with the Access to Information Standing orders;  
and
- i) to not hear further a Member named under Standing order 19.3 or to exclude them from the meeting under Standing order 19.4

### **13.11 Closure motions**

- a) A Member unless he has already spoken to the item under debate may move, without comment, the following motions at the end of a speech of another Member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn the meeting.
- b) If a motion to proceed to next business is seconded, the Mayor will give the mover of the original motion a right of reply and then put the procedural motion to the vote and there shall be no debate on the matter.

- c) If a motion that the question be now put is seconded, the mover of the original motion will have a right of reply before the procedural motion is put to the vote and there shall be no debate on the matter.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- e) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the debate has not been reasonably exhausted then the closure motion will not be put to the vote.

### **13.12 Point of order**

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Standing Orders or the law. The Member must indicate the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

### **13.13 Personal explanation**

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

## **14. STANDING ORDERS OF DEBATE ON STATUTORY PLANS AND SCRUTINY REVIEWS**

### **14.1 Form of debate**

In the case of Statutory Plans, the Leader will introduce the matter and invite the relevant Portfolio holding Member of the Cabinet to present the Plan. In the case of Scrutiny Reviews, the Leader will invite the relevant Scrutiny Chairman to present the Review document.

### **14.2 Chairing of debate**

The debate will be chaired by the Mayor.

### **14.3 Standing orders of debate**

- a) The standing orders of debate applicable to motions as set out in 13.1 to 13.13 above shall not apply in these instances.
- b) Any Member or Officer of North East Lincolnshire Council in attendance at the meeting shall, with the permission of the Mayor, have the opportunity to contribute to the debate.
- c) Any Member or Officer wishing to contribute to the debate shall indicate their wish to the Chairman by the raising of a hand. The Mayor and/or

Monitoring Officer shall list those Members and/or Officers wishing to speak in the order in which they so indicate.

- d) Speeches made during such debate shall be limited to 5 minutes.
- e) Speeches shall be restricted to the subject matter of the Plan or Review under discussion.

## **15 PREVIOUS DECISIONS AND MOTIONS**

### **15.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six calendar months cannot be moved unless the notice of motion is signed by at least 6 Members (to include a Proposer and Seconded).

### **15.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six calendar months cannot be moved unless the notice of motion or amendment is signed by at least 6 Members (to include a Proposer and Seconded). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six calendar months from that date.

## **16 VOTING**

### **16.1 Majority**

Unless these Standing Orders or the law provide otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question is put.

### **16.2 Mayor's casting vote**

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

### **16.3 Show of hands**

Unless a mandatory recorded vote is taken or a recorded vote is otherwise requested in accordance with Standing Order 16.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **16.4 Recorded vote**

A mandatory recorded vote will be taken in respect of any Motion on Notice and any Amendment thereto received on Notice **and in respect of budget decisions taken at the meeting to consider the Budget and Medium Term Financial Plan**. In any other case, if 6 members present at the meeting demand

it, the names for and against (and abstaining from) the matter to be voted upon will be recorded in the minutes.

#### **16.5 Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **16.6 Voting on appointments**

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

#### **16.7 Electronic Voting**

If the electronic voting system is in operation members will have a period of 30 seconds in which to register their votes. At the expiry of the 30 second period, the votes registered shall be binding. Members who have not registered a vote at that time will be taken to have abstained. Standing Order 16.4 shall apply in respect of recorded votes save that votes will be recorded electronically and not via roll call.

### **17 MINUTES**

#### **17.1 Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **17.2 No requirement to sign minutes of previous meeting at special meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

#### **17.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

## **17A. Cabinet Working Parties**

A Cabinet Working Party may comprise any Member of the Council (apart from the Mayor and Deputy Mayor).

Each Cabinet Working Party shall be appointed by the Council and shall include up to 5 elected Members with additional co-opted members in appropriate cases. The terms of reference of each working party shall also be agreed.

Each Cabinet Working Party shall be chaired by the Cabinet member holding the portfolio which covers the area concerned or his/her nominee. A Deputy Chairman will be elected at the first meeting in each municipal year.

A maximum of 3 Cabinet members may be members of any one Working Party.

Cabinet Working Parties shall report directly and exclusively to the Cabinet and shall act in an advisory capacity only.

A Member of the Council may only attend a meeting of a Cabinet Working Party if he/she:

- a) is a member of the Cabinet Working Party; or
- b) has been permitted by the Chair of the Cabinet Working Party to attend (and the right to speak is also at the Working Party's discretion)

And for the avoidance of doubt, only a member of a Working Party is permitted to vote on any item.

Business shall not be transacted at a Cabinet Working Party meeting unless at least 3 members are present for the duration of the meeting.

All Cabinet Working Party Agenda, reports and related documents shall be treated as confidential unless and until they become public in the ordinary course of the Council's business and/or in accordance with law, or are authorised to be available for publication in accordance with Council policy.

The Council may impliedly or expressly vary any terms of this Standing Order 17A at its discretion.

## **18 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Standing orders in Article 3 of this Constitution or Standing order 20 (Disturbance by Public).

## **19 MEMBERS' CONDUCT**

### **19.1 Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will



ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **19.2 Chairman standing**

When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### **19.3 Member not to be heard further**

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

### **19.4 Member to leave the meeting**

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

### **19.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

## **20 DISTURBANCE BY PUBLIC**

### **20.1 Removal of member of the public**

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

### **20.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

### **20.3 The carrying and displaying of placards and/or banners by members of the public attending any meeting of the Council or Committee shall not be allowed.**

### **20.4 Filming and recording of meetings**

The Council supports the principle of transparency and encourages filming, recording and taking photographs at its meetings that are open to the public. It also welcomes the use of social networking websites (such as Facebook and

'X' (formerly known as Twitter)) and micro-blogging to communicate with people about what is happening, as it happens.

There is no requirement to notify the Council in advance, but it should be noted that the Chairman of the meeting will have absolute discretion to terminate or suspend any of these activities if, in their opinion, continuing to do so would prejudice proceedings at the meeting.

The circumstances in which termination or suspension might occur could include:

- public disturbance or suspension of the meeting
- the meeting agreeing to formally exclude the press and public from the meeting due to the confidential nature of the business being discussed
- where it is considered that continued recording/photography/filming/webcasting might infringe the rights of any individual
- when the Chairman considers that a defamatory statement has been made

In allowing this, the Council asks those recording proceedings not to edit the film/recording/photographs in a way that could lead to misinterpretation or misrepresentation of the proceedings, or infringe the core values of the Council. This includes refraining from editing an image or views being expressed in a way that may ridicule, or show a lack of respect towards those being photographed/filmed/recorded.

Those intending to bring large equipment, or wishing to discuss any special requirements are advised to contact the Council's Communications Team in advance of the meeting to seek advice and guidance. Please note that such requests will be subject to practical considerations and the constraints of specific meeting rooms.

The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.

At the beginning of each meeting, the Chairman will make an announcement that the meeting may be filmed, recorded or photographed. Meeting agendas will also carry this message.

## **21 SUSPENSION AND AMENDMENT OF STANDING ORDERS**

### **21.1 Suspension**

All of these Standing Orders except standing orders 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

## **21.2 Amendment**

Any motion to add to, vary or revoke these Standing Orders will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Standards and Adjudication Committee.

Once considered, the Standards and Adjudication Committee shall make recommendations back to Full Council at the next convenient meeting.

## **22 RECORD OF ATTENDANCE**

The Democratic and Scrutiny Team Manager shall keep a written record of all members of the Council attending a meeting of the Council, the Executive or any Committee or Sub-Committee of which they are members. This record shall be used for all purposes in connection with the Scheme for Members' Allowances or otherwise and shall be conclusive of attendance or otherwise at a particular meeting.

## **23 PETITIONS**

These Standing Orders shall operate subject to the provisions of the Petition Scheme, in respect of any petition referred to Full Council for debate. The time limit specified for consideration of a petition for debate, as set out in the Petition Scheme, shall apply. Subject to that time limit, the standing orders of debate set out in these Standing Orders shall apply.

## **PART B: COMMITTEE MEETINGS**

### **24 APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Standing Orders apply to meetings of Full Council. Only Standing orders 5-7, 9, 16, 18-19, 20 and 22 (but not Standing order 19.1) apply to meetings of Committees and Sub-Committees

### **25 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES APPOINTED BY THE COUNCIL**

#### **25.1 Allocation**

As well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members.

#### **25.2 Number**

For each Committee or Sub-Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or Sub-Committee save that each political group will have the right to name at least two substitute members. Any member who does not form part of a political group may only substitute for each other and may not nominate nor act as substitute for members of political groups.

#### **25.3 Powers and duties**

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

#### **25.4 Substitution**

- a) Substitute Members may attend meetings in that capacity only:
  - (i) when an ordinary Member has requested the Monitoring Officer to appoint a substitute for that meeting;
  - (ii) to take the place of the ordinary Member for whom they are the designated substitute; and
  - (iii) where the ordinary Member will be absent for the whole of the meeting.
- b) Following the appointment of a substitute for a particular meeting, the substitution shall remain, even if the ordinary Member finds that he/she is subsequently able to attend the meeting for which a substitution was requested.

## **ARTICLE 6 - CHAIRING THE COUNCIL**

This Article sets out the role and functions of the Mayor of the Council.

### **TITLE OF PERSON CHAIRING COUNCIL MEETINGS**

#### **6.01 Role and Function of The Mayor**

The Mayor is a councillor who will be elected by the Council to the position of mayor annually. The Mayor will have the following roles and responsibilities:

- i) to uphold and promote the purposes of the Constitution
- ii) to preside over meetings of the ("Full") Council as Chairperson so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- iii) to ensure that when held the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members (who are not on the Cabinet) are able to hold the members of the Cabinet to account;
- iv) to promote public involvement in the Council's activities;
- v) to be the conscience of the Council; and
- vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate, and to foster community identity and pride.

## **ARTICLE 7 - THE CABINET**

### **7.01 Role**

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

### **7.02 Form and composition**

The Cabinet will consist of the Leader of the Council together with the Deputy Leader and up to 8 other Councillors appointed to the Cabinet by the Leader.

### **7.03 The Leader**

The Leader will be a Councillor elected to the position of Leader by the Annual Meeting of the Council, or a subsequent Council meeting if the Annual Meeting fails to elect the Leader.

The Leader will hold office from the day of his/her election as Leader for a four year term or until:

- a) the day when the Council holds its first Annual Meeting after the Leader's normal date of retirement as a Councillor; or
- b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c) s/he is removed from office as Leader by resolution of the Council.
- d) s/he resigns from office.

### **7.04 Deputy Leader**

The Leader must appoint one of the other Cabinet members to be Deputy Leader.

### **7.05 Cabinet members**

Subject to paragraph 7.03 other Cabinet members (including the Deputy Leader) shall hold office until:

- a) they resign from office; or
- b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c) they are no longer Councillors; or
- d) they are removed from the Cabinet by the Leader

### **7.06 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in [Appendix 1](#) to this Article. Generally, meetings will be held in public.

### **7.07 Delegation to individual members of the Cabinet**

Individual members of the Cabinet (including the Leader and Deputy Leader) shall be responsible for the exercise of specific Cabinet functions set out in [Article 4 Appendix](#)

[1](#) Section 4. Otherwise Cabinet functions may be exercised only by the Cabinet, a Sub-Committee of Cabinet Members, or by officers, or by joint arrangements under a scheme of delegation approved by the Leader.

#### **7.08 Appointments to Outside Bodies**

The Council will be represented on a wide range of outside bodies. Such appointments are regarded as local choice functions and the Councillor appointed can either be a member of the Cabinet or another Councillor, subject to certain Outside Body appointments being deemed Portfolio Holder positions.

## **ARTICLE 7 – APPENDIX 1**

### **CABINET PROCEDURE RULES**

#### **1.1 Membership of the Cabinet**

1. The Cabinet does not function as a committee of the Council.
2. The Leader of the Council will appoint the Cabinet which will comprise:-
  - The Leader of the Council;
  - The Deputy Leader of the Council
  - Up to 8 other councillors.
3. The Cabinet has no power to co-opt other members onto the Cabinet.
4. No substitute Cabinet members are permitted.
5. In the event of a vacancy on the Cabinet, the Leader will appoint a new Cabinet member at the earliest opportunity. Pending a new appointment the Leader of the Council will allocate temporary responsibility for the vacant Cabinet member's portfolio, to one or more the remaining members of the Cabinet.
6. The Leader of the Council or in his absence the Deputy Leader may designate any Member of the Cabinet to take temporary responsibility for a Member's portfolio should that member be absent for other than a short period.
7. The Leader of the Council will allocate general portfolio responsibilities to each Member of the Cabinet.
8. The Leader of the Council will determine any detailed interpretation needed at any time on the contents of the portfolio.

#### **1.2 The Role of the Cabinet**

1. The role of the Cabinet is to:-
  - lead the preparation of the Council's policies and budget;
  - lead the community planning process and the attainment of best value;
  - implement the Council's policies and budget; and
  - take in-year decisions on such matters.
2. In support of the roles the Cabinet will:
  - a. consider and manage the exercise of all the functions and powers of the Council which are by law to be the responsibility of the Cabinet;
  - b. consider and make recommendations to the full Council on any matters which it is the responsibility of the full Council to determine



(other than on matters which are by law not the responsibility of the Cabinet).

- c. consider and respond to reports and recommendations from individual Scrutiny Panels or Select Committees.

### **1.3 Publication of Proposed Decisions and Decisions Taken**

All proposed decisions taken will be published in accordance with the Access to Information Procedure Rules.

### **1.4 Conflict of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 3 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 3 of this Constitution.
- (c) If the exercise of a Cabinet function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 3 of this Constitution.

### **1.5 Cabinet meetings — when and where?**

The Cabinet will meet at least every four weeks at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### **1.6 Public or private meetings of the Cabinet?**

The Cabinet will hold all its meetings in public, subject to the consideration of confidential or exempt information in accordance with Rule 10 of the Access to information Rules in Article 3 of the Constitution.

### **1.7 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be 3.

### **1.8 How are decisions to be taken by the Cabinet?**

- (a) Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in [Article 3](#) of the Constitution.
- (b) Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **2. HOW ARE CABINET MEETINGS CONDUCTED?**

### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader, shall preside but in his absence, then a person appointed to do so by those present shall preside.

### **2.2 Who may attend?**

Any member of the public may attend meetings of the Cabinet (but see qualification referred to in 1.7 above). Members of the Council may attend and speak with the permission of the Leader (or Chair) of Cabinet. The Cabinet may invite any individual member to address Cabinet on any matter but not vote.

### **2.3 What business?**

- Consideration of the minutes of the last meeting ;
- Declarations of interest (if any);
- Any presentations by third parties/partner organisations;
- Matters referred to the Cabinet (either by full Council or scrutiny ) for reconsideration through call-ins;
- Consideration of reports from scrutiny ;
- Consideration of any member reports
- Matters set out in the agenda for the meeting (i.e. officer reports) including key decisions;
- Urgent business.

### **2.4 Consultation**

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

### **2.5 Who can put items on the Cabinet agenda?**

- a) The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.
- b) Any member of the Cabinet may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the proper officer will comply.

- c) The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant scrutiny Panel or the full council have resolved that an item be considered by the Cabinet.
- d) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Scrutiny.
- e) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting. However, such items must be relevant to the Cabinet's terms of reference and it (or any similar item) must not have been before the Cabinet in the previous 3 months.
- f) The Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered

## **2.6 How is the Business actually conducted?**

The procedures for the conducting of business shall be at the discretion of the Chairman, subject to members' agreement. However, where formal voting takes place, this shall be by way of show of hands with the Chairman having the casting vote in the event of an equality of votes.

## **ARTICLE 7 – APPENDIX 2**

### **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

This Section contains particularly important rules regarding the Cabinet's decision making on policy and budgetary matters.

The budget and policy framework sets the context within which decision making by the Cabinet will take place.

#### **1. The Framework for Cabinet Decisions**

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

#### **2. Process for Developing the Framework**

The process by which the budget and policy framework shall be developed is:

- a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairs of Scrutiny will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If Scrutiny wishes to respond to the Cabinet in that consultation process then it may do so. As the Scrutiny Panels have responsibility for fixing their own work programme, it is open to the Scrutiny Panel(s) to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from Scrutiny into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- d) If the Council accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- e) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- f) Where it makes an in principle decision in relation to a draft plan or strategy, it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the

Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- g) Where the Council gives instructions in accordance with sub-paragraph (f), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may -
  - (i) submit a revision of the draft plan or strategy as amended by the Cabinet with the Cabinet's reasons for any amendment made to the draft plan or strategy, to the Council for its consideration; or
  - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- h) When the period specified by the Council, referred to in sub-paragraph (g), has expired, the Council must, when amending, approving or adopting the draft plan or strategy or, if there is one, a revised draft plan or strategy submitted to it by the Cabinet take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy submitted by the Cabinet, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.
- i) The Council's final decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
- j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. Decisions outside the budget or policy framework**

- a) Subject to the provisions of paragraph 5 (virement) the Cabinet, individual members of the Cabinet, any officers or joint arrangements discharging Cabinet functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- b) If the Cabinet, individual members of the Cabinet, any officers or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision

would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### **4. Urgent decisions outside the budget or policy framework**

- a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the Chair of a relevant Scrutiny Panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Scrutiny Panel's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant Scrutiny Panel the consent of the Deputy Chair will be sufficient.

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

#### **5. Virement**

Virement between budget heads is an integral and important feature of budgetary control. It allows service providers to adapt to service changes within Council policy. The details of virement can be found in the section on Financial Procedure Rules in [Article 14](#) of the Constitution.

#### **6. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual member of the Cabinet, officers or joint arrangements discharging Cabinet functions must be in line with it. Changes to any policy and strategy which make up the policy framework may be made within the general discretion of those bodies or individuals except those changes which relate to virements and supplementary estimates.

#### **7. Call-in of decisions outside the budget or policy framework**

- (a) Where a Scrutiny Panel is of the opinion that a Cabinet decision is, or if

made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officers report and to prepare a report to Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure, and to the Scrutiny Panel if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Scrutiny Panel. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
  - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;or
  - (ii) amend the Council's financial procedure rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Section 151 Officer.

## **8. Special Provisions regarding calculation of Budget and Precepts**

- (a) Subject to sub-paragraph (e) below, where, before 8th February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year –

- i. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- ii. estimates of other amounts to be used for the purposes of such a calculation;
- iii. estimates of such a calculation; or
- iv. amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them it must take the action set out in sub-paragraph (b) below.

- (b) Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a)(i) above, or issues a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (c) Where the Council gives instructions in accordance with sub-paragraph (b) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may -
  - (i) Submit a revision of the estimates or amounts as amended by the executive, which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (ii) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (d) When the period specified by the Council, referred to in paragraph (c) above, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in sub-paragraph (a)(ii) above, or issuing a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, take into account -
  - a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;



- b) the Cabinet's reasons for those amendments;
  - c) any disagreement that the Cabinet has with any of the Council's objections; and
  - d) the Cabinet's reasons for that disagreement,  
which the Leader submitted to the Council, or informed the Council of,  
within the period specified.
- e) Paragraphs (a) to (d) above shall not apply in relation to -
- a) calculations or substitute calculations which an authority is required to make in accordance with section 521, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## **ARTICLE 8 - OVERVIEW AND SCRUTINY**

This article sets out the role of Overview and Scrutiny which in North East Lincolnshire Council is carried out by Members forming Scrutiny Panels. The role of Scrutiny is to discuss and make recommendations on important Policy matters and to hold the Cabinet to account for the decisions they make.

### **8.01 Terms of reference**

The Council will appoint Scrutiny Panels to discharge the functions conferred by section 21 of the Local Government Act 2000 and regulations under section 32 of the Local Government Act 2000.

The Scrutiny Panels shall carry out a functional remit determined annually by full council.

### **8.02 General role**

Within their terms of reference, the Scrutiny Panels will:

- i) review and/or scrutinise decisions made or actions taken or proposed in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants and carry out policy reviews as appropriate; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

### **8.03 Specific functions**

Examples of Overview and Scrutiny functions are given below. Some provisions under (b) apply equally to (a), for example questioning members of the Cabinet.

- a) Policy development and review

The Scrutiny Panels may:

- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the Cabinet, other committees and chief officers about their views on issues and proposals affecting the area; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

b) Scrutiny Panels may:

- i) review and scrutinise the key decisions made by and performance of the Cabinet, individual portfolio holders and council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question members of the Cabinet and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the Cabinet and/or appropriate Committees and/or Council arising from the outcome of the scrutiny process;
- v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Panel and local people about their activities and performance; and
- vi) question and gather evidence from any person (with their consent)
- vii) Annual report: Scrutiny Panels must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- ix) Officers: Scrutiny Panels may exercise overall responsibility for the work programme of the officers employed to support their work.

#### **8.04 Finance**

The Panels will exercise overall responsibility for any finances made available to them.

#### **8.05 Proceedings of Scrutiny Panels**

The Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in [Appendix 1](#) of this Article.

## **ARTICLE 8 – APPENDIX 1**

### **OVERVIEW OF SCRUTINY PROCEDURE RULES**

#### **Introduction**

Effective scrutiny arrangements are an essential part of good governance in any local authority. Scrutiny is essential in achieving value for money and best practice and to ensure that there are appropriate checks and balances on the exercise of powers.

The council will appoint an Executive and Scrutiny Liaison Board (not being a formal committee of the council) and five scrutiny panels as follows to discharge the functions conferred by Section 21 of the Local Government Act 2000 (as amended):

1. Children and Lifelong Learning
2. Health and Adult Social Care
3. Economy, Culture and Tourism
4. Transport, Infrastructure and Strategic Housing
5. Communities

#### **Responsibilities**

##### **Executive and Scrutiny Liaison Board**

###### *Purpose:*

The Executive and Scrutiny Liaison Board is responsible for providing the strategic direction and management of the scrutiny function at North East Lincolnshire Council.

###### *Composition:*

The membership of the Executive and Scrutiny Liaison Board will be the Leader and Deputy Leader of the Council and Scrutiny Panel Chairs, supported by the Statutory Scrutiny Officer.

###### *Meetings*

Meetings will be scheduled every two months, at the end of each round of scrutiny panel meetings.

###### *Minutes*

Minutes of the Executive and Scrutiny Liaison Board will be circulated to all Elected Members once agreed.

###### *Terms of Reference:*

The Executive and Scrutiny Liaison Board will:

1. Have overall responsibility for the management and operation of the scrutiny function at North East Lincolnshire Council.
2. Agree / Commission Select Committees and Working Groups through the Scrutiny Panels.
3. Resolve any conflicts between Panels relating to the work programmes.
4. Coordinate work programmes with the Audit and Governance Committee.
5. Consider items on the Forward Plan and whether they would benefit from pre-decision scrutiny.
6. Determine how budget scrutiny, performance monitoring issues and matters of a corporate nature which affect the Council as a whole, are dealt with.
7. Oversee the development of member skills and competencies in scrutiny.
8. Review the scrutiny work programme on a rolling basis, making such changes and modifications as agreed, and submit the annual scrutiny report to the Annual Meeting of Council.

### Scrutiny Panels

#### *Purpose*

The Scrutiny Panels are responsible for:

1. holding the Executive (Cabinet) to account via the process of call-in or pre-decision scrutiny
2. undertaking policy development work
3. discharging statutory scrutiny functions as prescribed in legislation and, in particular, with regard to health, crime and disorder and education.
4. undertaking such other activity as may be commissioned either by Cabinet or Council, or as a result of the necessary exercise of statutory scrutiny responsibilities.

#### *Composition*

The membership of the scrutiny panels (except Children and Lifelong Learning Scrutiny Panel – see below) will be eight members per panel with membership appointed from non-Cabinet members (proportionate to party membership within the council).

In respect of the Children and Lifelong Learning Scrutiny Panel – ten members plus the statutory parent governor and diocesan voting representatives co-opted on to this Panel.

To invite agreed co-optees on to the Panel.

#### *General Role*

Within their terms of reference, the five scrutiny panels will:

1. Review and/or scrutinise the decisions made by the Cabinet, Portfolio Holders and/or council officers in relation to individual decisions.
2. Review and/or scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.

3. Examine called-in decisions made but not yet implemented by the Cabinet in accordance with the scrutiny procedure rules.
4. Examine key decisions on the Forward Plan as pre-decision scrutiny items.
5. Consider requests for Councillors Call for Action.
6. Consider petition appeals in accordance with the petitions scheme.
7. Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the five scrutiny panels and local people about their activities and performance.
8. Question members of the Cabinet and/or Committees and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
9. Question and gather evidence from any person (with their consent).
10. Make reports and/or recommendations to Council, Cabinet, relevant Portfolio Holder and/or the relevant committee in connection with the discharge of any functions.
11. Consider and make reports or recommendations on any matter affecting the area or its residents.
12. Work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
13. Promote equality and diversity across all of its work and the work of the Council.

#### *Limitations*

1. All aspects of partnership governance will be considered by the Audit and Governance Committee.

#### *Terms of Reference*

The Scrutiny Panels are responsible for scrutinising any matters affecting North East Lincolnshire within their remit. The areas of focus for each Panel include:

<b>Children and Lifelong Learning Scrutiny Panel</b>	<ul style="list-style-type: none"> <li>• Safeguarding children</li> <li>• Children's social care</li> <li>• Fostering and adoption</li> <li>• Looked after children and residential care</li> <li>• Corporate parenting</li> <li>• Children and young people leaving care</li> <li>• Children with disabilities</li> </ul>
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	<ul style="list-style-type: none"> <li>• Integrated family support (Including early intervention and prevention)</li> <li>• Early years and childcare</li> <li>• Family hubs</li> <li>• Education, standards, attainment and school improvement</li> <li>• Special educational needs and inclusion</li> <li>• Access and educational welfare services</li> <li>• Children's health commissioning</li> <li>• Child and adolescent mental health services (CAMHS)</li> <li>• Children's complex health care</li> <li>• Teenage pregnancy</li> <li>• Employability and skills</li> </ul>
<b>Health and Adult Social Care Scrutiny Panel</b>	<ul style="list-style-type: none"> <li>• Matters relating to the Health and wellbeing strategy</li> <li>• Health improvement</li> <li>• Public health (prevention agenda)</li> <li>• Adult social care</li> <li>• Integrated health and social care arrangements (referrals from and to the Integrated Care Board/Partnership and the Health and Wellbeing Board)</li> <li>• Health and social care providers in North East Lincolnshire (including voluntary, community and social enterprise sector)</li> <li>• Safeguarding adults</li> <li>• Health visiting</li> <li>• School nursing</li> </ul>
<b>Economy, Culture and Tourism Scrutiny Panel</b>	<ul style="list-style-type: none"> <li>• Matters pertaining to the Economic strategy</li> <li>• Economic development</li> <li>• External funding and inward Investment (including renewable energy)</li> <li>• Regeneration projects, including town centre and resort growth</li> <li>• Local enterprise and growth</li> <li>• Regeneration Partnership performance monitoring</li> <li>• Business and education partnerships</li> <li>• Tourism</li> <li>• Visitor economy and retail offer</li> <li>• Libraries, museums and culture</li> <li>• Local heritage</li> <li>• Leisure and sport</li> </ul>
<b>Transport, Infrastructure and Strategic Housing Scrutiny Panel</b>	<ul style="list-style-type: none"> <li>• Local Plan</li> <li>• Transport and traffic regulations (including parking)</li> <li>• Highways</li> <li>• Strategic housing</li> <li>• Asset management (including business centres)</li> <li>• Emergency planning and civil contingencies</li> <li>• Flood risk management</li> </ul>
<b>Communities Scrutiny Panel</b>	<ul style="list-style-type: none"> <li>• Crime and community safety</li> <li>• Youth justice/youth offending</li> </ul>

	<ul style="list-style-type: none"> <li>• Equality, diversity and inclusion</li> <li>• Community cohesion</li> <li>• Voluntary and community sector</li> <li>• Town and Parish Council liaison</li> <li>• Customer services</li> <li>• To discharge community governance review responsibilities under the Local Government and Public Involvement in Health Act 2007</li> <li>• Public protection (trading standards, licensing, port health, environmental health)</li> <li>• Empty and derelict property</li> <li>• Waste Strategy and collections</li> <li>• Street Scene</li> <li>• Parks, open spaces and physical resort management</li> <li>• Housing EnforcementHousing related support</li> <li>• Homelessness</li> <li>• Digital</li> <li>• Energy and climate change</li> </ul>
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### **Specific Panel Responsibilities:**

#### Communities Scrutiny Panel

In accordance with Sections 19 and 20 of the Police and Justice Act 2006, as amended by Section 126 of the Local Government and Public Involvement in Health Act 2007, the Communities Scrutiny Panel will act as the Crime and Disorder Committee of the Council, and in this respect to exercise the following functions:

- 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.
- To make reports or recommendations to the local authority with respect to the discharge of those functions.
- To make reports or recommendations to a responsible authority or to a co-operating person or body on a crime and disorder matter and consider responses to its reports and recommendations within 1 month of receipt or as soon as possible thereafter.
- To meet at least once in each municipal year.

#### Health Scrutiny Panel

In accordance with Section 21 of the Local Government Act 2000, as amended by the Health and Social Care Act 2001, the Health Scrutiny Panel will review and scrutinise the performance and general activities relating to the health providers in North East Lincolnshire in accordance with the requirements of current legislation. These functions include:-

- To lead on the review and scrutiny of NHS services, adults social care, health inequalities and improvement and public health services (including CQC



inspection reports).

- To consider the priorities for our partners, the Health and Wellbeing Strategy, the Clinical Commissioning Groups' plans and the Council's own priorities that relate to this agenda.
- To discharge the local authority's powers of review and scrutiny on such health related matters as designated within the Health and Social Care Act 2012, Statutory Instrument No. 218/2013 - The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and associated Department of Health Guidance.
- To develop a relationship with NHS England and the local Clinical Commissioning Group whilst providing challenge and assurance to their role in determining commissioning priorities regarding the provision of public health services for which they are responsible for local provision.
- To develop a relationship with the Health and Wellbeing Board and provide a "critical friend" approach to sharing information during the production and refresh of the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.
- To engage with the Clinical Commissioning Group regarding their commissioning priorities and also those health service providers around any changes that they wish to make in respect of their service provision. In undertaking these potential roles, the panel will need to be satisfied that the engagement process adopted has been robust.
- To undertake a strong process of review /evidence gathering which informs any decision regarding referral to the Secretary of State;
- To develop a relationship with the local Healthwatch organisation to enable any referrals from Healthwatch to be examined by the council as part of the review and scrutiny mechanism.
- To take a lead role in the review and scrutiny of those public health services that are transferred across to the local authority and signpost other scrutiny panels who may require the input of public health services in their activity.

## **Specific Functions**

### **(a) Policy Development and Review**

The five scrutiny panels may:

1. Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.
2. Conduct research, community engagement (as appropriate) and other consultation in reviewing and developing policy issues and possible options.

3. Question members of the Cabinet and chief officers from the Council about their views on issues and proposals affecting the area. Such questions must not, in the Monitoring Officer's reasonable opinion, be unsuitable in form, illegal, irregular or improper, vexatious, frivolous or derogatory to the dignity of the Council.
4. Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
5. Consider the impact of policies to assess if they have made a difference when these are reviewed.

(b) Annual Report

An annual report on the discharge of the scrutiny function will be presented to the Annual General Meeting of Council, following consideration and review by the Executive and Scrutiny Liaison Board.

**Functions of the [Statutory] Scrutiny Officer**

The Assistant Chief Executive is designated as the "Scrutiny Officer" under Section 21ZA of the Local Government Act 2000. Their duties include:

- The Scrutiny Officer will promote the role of the scrutiny panels.
- The Scrutiny Officer will provide support to the scrutiny panels.
- The Scrutiny Officer will provide support to members of the local authority, members of the Cabinet, and officers of the authority, in relation to the functions of the scrutiny panels.

Note: The [Statutory] Scrutiny Officer cannot be the Head of Paid Service, Monitoring Officer or Chief Financial Officer.

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1. Who may sit on the Scrutiny Panels?

Any Councillor, except a member of the Cabinet, may be a member of a Scrutiny Panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved and all Members must declare any such interest.

2. Co-optees

Scrutiny Panels shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

3. Education representatives

The Scrutiny Panel dealing with education matters shall include in its membership the

following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative;
- (c) parent governor representatives.

In addition, this Panel shall include one non-voting Trade Union representative. The relevant Scrutiny Panel in this paragraph is the overview and scrutiny committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Cabinet. Where this Panel deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### 4. Meetings of the Scrutiny Panels

The number and frequency of ordinary meetings of each Scrutiny Panel shall be agreed annually at the Annual General Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Panel meeting may be called by the Chairman of the Panel, by any two members of a Panel or by the proper officer if he/she considers it necessary or appropriate.

#### 5. Quorum

The quorum for all Scrutiny Panels is as set out in the Council's Standing Orders in [Article 5 \(Appendix 1\)](#) of this Council's Constitution.

#### 6. Who chairs Overview and Scrutiny meetings?

The appointment of the chair and provisions relating to them is a procedure set out in the Council Standing Orders. The Scrutiny Panel Chairs are appointed annually by full Council at its Annual General Meeting. In the absence of the Chair or Deputy Chair of a Scrutiny Panel, the Chair shall also be elected on a vote by show of hands from those Members present.

#### 7. Work programme

The Scrutiny Panels will be responsible for setting their own work programmes, subject to any requests that the Executive and Scrutiny Liaison Board or Cabinet may make to individual Panels, and in so doing they shall take into account the wishes of all members on that Panel who are not members of the largest political group(s) on the Council. The Executive and Scrutiny Liaison Board will agree which reviews / select committees are held and the priority order for them to ensure that resources are effectively used.

#### 8. Agenda Items

The Scrutiny Panels will ensure that any agenda item can be referred to the Cabinet, to other committees or to the Council as appropriate. Any member of the Scrutiny Panels shall be entitled to give notice to the Proper Officer that he/she wishes an item

relevant to the functions of the Panel to be included on the agenda for the next available meeting of that Panel. On receipt of such a request the proper officer will, subject to the approval of the Chair of the Panel, ensure that it is included on the next available agenda.

Any other non-Cabinet members of the Council who are not members of the Scrutiny Panels may give written notice to the proper officer that they wish an item to be included on the agenda of the relevant Scrutiny Panel. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the relevant Scrutiny Panel for consideration by that body.

The Scrutiny Panels shall also respond, as soon as their work programmes permit, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Panel shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Panel at the next available meeting and provide a formal, written reply to the next available meeting of the Panel on what actions, if any, it intends to take with regard to the recommendations of the Panel.

There is a requirement for papers and presentation slides at Scrutiny Panels to be circulated at least four calendar days prior to the scrutiny panel meeting (save in exceptional circumstances and supported by the Chair of the scrutiny panel), otherwise they will not be accepted for consideration at that meeting.

#### 9. Policy review and development

- (a) The role of the Scrutiny Panels in relation to the development of the Council's budget is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Scrutiny Panels may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### 10. Reports from Scrutiny Panels

- a) Once it has formed recommendations on proposals for development, the Scrutiny Panel will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary or policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- b) The Council or Cabinet shall consider the report of the Scrutiny Panel at the next available meeting of it being submitted to the proper officer. A response from the

relevant chief officer(s) shall be provided within four weeks of this date and the Council/ Cabinet shall formally respond in writing to the proper officer within five working days of receipt of that report, clearly stating which matters are agreed in principle, which matters are to be deferred and which are not agreed, with reasons stated. This matter shall then be placed on the next available agenda of the Overview and Scrutiny Panel and the relevant portfolio holder and officer shall be invited to present their response.

11. Making sure that Scrutiny reports are considered by Cabinet

- a) The agenda for Cabinet meetings shall include an item for reports referred by scrutiny. The reports of Scrutiny Panels referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of Cabinet's deliberations on a substantive item on the agenda) on the next available Cabinet agenda following the Scrutiny Panel completing its report/recommendations. If for any reason the Cabinet does not consider the overview and scrutiny report within four weeks then the matter may be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet. Similarly, if the relevant chief officer(s) does not respond to the Cabinet within four weeks in order for a reply to be formulated by cabinet, then the Scrutiny Panel may refer the matter to full Council. The proper officer will call a meeting of the full Council and invite the Leader of the Council and relevant portfolio holder to prepare a response report.
- b) Scrutiny Panels will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Panel following a consideration of possible policy/service developments, the Panel will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12. Rights of Scrutiny Panel members to documents

- a) In addition to their rights as councillors, members of Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Article 3 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny as appropriate dependent on the particular matter under consideration.

13. Members and officers giving account

- a) Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (except decisions made by the Council's regulatory committees , the Appointments Committee, the Standards and Adjudication Committee, the Audit and Governance Committee and any non-executive committee exercising quasi-judicial functions). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy: and/or
  - iii) their performance,

- and it is the duty of those persons to attend if so required.
- b) Where any member or officer is required to attend a Scrutiny Panel under this provision, the Chair of that Panel will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
  - c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Scrutiny Panel shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of two months from the date of the original request (except where any summer recess arrangements apply).

#### 14. Attendance by others

The Scrutiny Panel may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance for these is voluntary and entirely optional.

#### 15. Call-in

Call-in should only be used where really necessary and the right should not be abused. In particular it should be used where members have evidence which suggests that the Cabinet, the Portfolio Holder or the Health and Wellbeing Board did not take the decision in accordance with the principles set out in Article 4 (Decision Making).

- a) When a decision is made by the Cabinet, the Portfolio Holder, the Health and Wellbeing Board or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. The notice will be sent to all Members.
- b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless any 2 members of the Council (including co-opted members) object to it and call it in.
- c) The Chief Executive shall call-in a decision for scrutiny if so requested by any two members of the Council (including co-opted members provided the Proposal relates to their area of responsibility) and shall then notify the decision taker of the call-in. The two members "calling-in" must give written notice to the Chief Executive no later than 4.00 pm on the fifth working day after publication of the decision notice and shall specify the reason for calling the decision in.

- d) When calling-in a decision the two members shall indicate which Scrutiny meeting the matter will go to with reasons for the preference. The Chief Executive will then adjudicate on allocation to the appropriate Scrutiny meeting. If an item is called in following a Cabinet decision then this should not result in a request for a select committee or review, unless agreed with Cabinet first.
- e) A maximum period of 28 days will be set for scrutiny to hear a call-in following receipt of notice and, in any event, the call-in shall be heard at the next Scrutiny meeting in the Committee cycle. If, having considered the decision, the relevant Panel is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred back to the decision maker, they shall then reconsider within a further four weeks before adopting a final decision. Any decision can only be reconsidered once.
- f) If, following consideration of a call-in, the relevant Panel does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the relevant Panel meeting.
- g) If the matter was referred to full Council and the Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object it has no power to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where a decision was taken by the Cabinet as a whole, a meeting will be convened to reconsider within four weeks of the Council request. Where the decision was made by an individual, the individual will also reconsider within four weeks of the Council request.
- h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

#### Call-In and Urgency

- i) The call-in procedure set out above shall not apply where the decision taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the community's best interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one and the reason for this, and therefore not subject to call-in. The Leader and Deputy Leader of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence

of the Leader and/or Deputy Leader, the Head of Paid Service (Chief Executive) or his/her nominee's consent shall be required. In all cases, the Cabinet will be required to consult with a Scrutiny Chair to satisfy that person that urgency is justified. In the absence of the Chair of the relevant Scrutiny Panel a Chair of another Panel shall be consulted. Decisions taken as a matter of urgency must be reported to the next available meeting of the Cabinet, together with the reasons for urgency.

- j) Full Council may resolve to exempt a proposed Cabinet decision from call-in provided that notice of the proposed decision is included in the Forward Plan and, in any event, the exemption serves the best interests of the Council, the Borough and relevant stakeholders.
- k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## 16. The Party Whip

- a) Governmental Guidance views application of the party whip as incompatible with Overview and Scrutiny. The following, however, provides a means of safeguard where whipping does occur. 'The party whip' is taken to mean: "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner".
- b) When considering any matter in respect of which a member of a Scrutiny Panel is subject to a party whip, the member must declare the existence of the whip, and the nature of it before the commencement of the Panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17. Procedure at Scrutiny Panel meetings

- a) Scrutiny Panel meetings shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest (including whipping arrangements);
  - iii) consideration of any matter referred to the Panel for a decision in relation to call in of a decision;
  - iv) responses to any questions submitted under the 'Public Question Time at Scrutiny' facility (see Article 3, appendix 4)
  - v) consideration of any item referred to the Panel concerning monitoring of the performance of the Council;
  - vi) responses of the Cabinet to reports of the Panel.
  - vii) items for policy review agreed by the Panel.
  - viii) items to consider for policy review by the Panel.
  - ix) consideration of any valid petition relevant to the remit of that Panel.
  - x) examination of any matter relevant to the function of the Panel from the Forward Plan prior to a decision being taken.



- xi) consideration of any performance monitoring information relevant to the remit of that Panel.
  - xii) any urgent business (agreed at the discretion of the Chair).
- b) Where a Scrutiny Panel conducts investigations (e.g. with a view to policy development), the Panel may also ask people to attend to give evidence at Panel meetings to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Panel by giving evidence are treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- c) Following any investigation or review, the Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### 18. Matters within the remit of one or more Scrutiny Panel

Where a matter for consideration falls within the remit of one or more Panels, the decision as to which Panel shall deal with the matter shall be taken by the Executive and Scrutiny Liaison Board.

#### 19. Joint Board or Panel Meetings

Where a matter is of mutual interest to one or more Panels e.g. in respect of strategic, corporate or cross-cutting issues which can be more efficiently and effectively dealt with collectively, then consideration shall be given to:

- i) inviting Panel members to observe the matter being presented to the other Panel;
- ii) a joint meeting of the Panels being held;
- iii) a joint meeting of two or more Panels taking place;
- iv) the matter being dealt with by one Panel to which delegates from other Panels are invited.

Joint meetings may be called by agreement with the relevant Chairs.

Joint meetings shall be chaired by one of the existing Panel Chairs

#### 20. Forward Plan

##### THE ROLE OF SCRUTINY

- a) The Forward Plan of key decisions to be taken by this local authority shall be published (made public) on a monthly basis. All elected Members shall receive notice on or before the fifteenth of each month of key decisions to be taken by the executive (Cabinet, Portfolio Holder or Officers). The Plan shall cover the four month period ahead starting with the month following publication e.g. the plan published on 15 January shall be for the period February - May.

- b) Non-executive Members sitting on a Scrutiny Panel may ask to examine any item relevant to their remit prior to a key decision being taken. Normally, items shall be considered by the relevant Panel. Such a request may be made at a scheduled meeting of the Panel and the matter will be considered at the next scheduled meeting of that Panel provided this does not prevent the executive decision being reached at the proposed time. If no meeting of the relevant Panel is planned before a key decision needs to be taken, that Panel shall consider whether or not the issue warrants an additional meeting of the Panel taking place in sufficient time for Scrutiny to examine the item.
- c) In order to maximise the opportunity for non-executive Members to examine such matters in time, Chairs of scrutiny panels should take responsibility for reviewing the plan as soon as practicable after it is published in order to highlight any areas to be examined in detail by the panel to the proper officer. However, all scrutiny Members may, on receipt of the Forward Plan, ask the proper officer for an item to be examined at the next meeting of the relevant Panel. In such cases, the proper officer shall bring this request to the attention of the Chair of that Panel who shall determine whether or not to include this request on the next agenda of that Panel, including as a late and urgent item.
- d) Where a request for information about an item on the Forward Plan is made, the relevant Director shall supply such information as is available to that Panel prior to the matter being reported to the executive body taking that key decision. In all cases, an explanation shall be given of the key decision(s) that it is proposed the executive body take and the reasons behind this.
- e) Where the Scrutiny Panel examines an item it may:
  - i) note the information including proposed decisions of the executive and take no further action, or
  - ii) make comments or propose amendments to the draft report to Cabinet with the agreement of the directorate reporting on it, or
  - iii) make separate representations to the executive body taking the report where agreement has not been reached on the key decisions that should be taken.
- f) Where a scrutiny body makes a separate report, this shall be presented by the Chair of that body (or their nominee) to the executive decision-making body or person before any decision is reached on the matter. The outcomes of those representations shall then be given to the next available meeting of the relevant scrutiny body.

## **Appendix 2 - Protocol on Scrutiny Panel / Cabinet Member Relations**

### **1. Introduction**

- 1.1 This Protocol applies to all members of scrutiny panels, any member who may sit on a scrutiny panel and all members of the Executive (comprising the Leader and the various Cabinet Members). It provides guidance on the way in which both types of members interact to enable the authority to carry out the overview and scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny and provides guidance on role of officers who support this process.

### **2. Objectives**

- 2.1 To enable scrutiny members, officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the overview and scrutiny function, so as to maximise their personal effectiveness.
- 2.2 To establish a positive framework and the necessary procedures to enable scrutiny to work effectively.
- 2.3 To promote an ethos of mutual respect, trust and courtesy in the interrelationships between scrutiny members and Cabinet Members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.
- 2.4 To maintain a culture of holding the Executive to account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery.
- 2.5 To define and clarify the role of the Executive as an integral component of the scrutiny process.

### **3. Holding the Executive to account**

- 3.1 One of the underpinning principles of overview and scrutiny is the ability of non-executive members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive.
- 3.2 To facilitate this approach, a scrutiny panel may challenge the Executive about decisions, which it has taken either collectively, or by way of portfolio holder (Cabinet member) decisions. A scrutiny panel may also consider any relevant performance information in respect of the delivery of services. In addition, the panel may query or make recommendations in relation to decisions which the Executive is proposing to take, as set out in the Forward Plan.

- 3.3 The Executive will be required to consider any recommendations or views expressed by a scrutiny panel and to take such action it sees fit. Where any decision taken by the Executive is not in accordance with advice provided by the panel, the relevant Cabinet Member should be prepared to provide an explanation of the reasons for that decision to the panel concerned.

## **4. Powers of the scrutiny panels**

- 4.1 Article 8 of Part 2 of the Council's Constitution, sets out the relevant powers of the scrutiny panels, which include, inter alia:

- review and scrutinise the key decisions made by and performance of the Cabinet, individual portfolio holders and council officers both in relation to individual decisions and over time;
- assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- question members of the Cabinet and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- make recommendations to the Cabinet and/or appropriate Panels and/or Council arising from the outcome of the scrutiny process.

## **5. Overview and Scrutiny Panel agendas**

- 5.1 The agenda for ordinary meetings of scrutiny panels will contain an item on the Forward Plan. The purpose of this item is to provide an opportunity for members to ask questions or seek clarification about the nature of any key decisions due to be taken within the next four months and to raise with the Cabinet Member any fundamental issues concerning those proposals to ensure that all relevant views are taken into account.
- 5.2 The agenda for scrutiny panel meetings may include items referred to the panel for pre-decision scrutiny. These may be items either requested by the panel from the Forward Plan or scrutiny may have been included as a consultee on the Forward Plan. In addition, there is a requirement that scrutiny is consulted on budget and policy framework matters prior to consideration by Cabinet and full Council.
- 5.3 The agenda for ordinary meetings of scrutiny panels will also contain an item allowing panel members the opportunity to ask questions of the relevant Cabinet Member on any matter within their portfolio remit.
- 5.4 The agenda of each scrutiny panel meeting will be guided by that panel's work programme. The work programme is generally set at the beginning of each Municipal Year but is subject to amendment throughout the year as matters arise. The relevant Cabinet Member may be invited to comment on the panel's

proposed priorities within its work programme, to inform the selection process and to undertake a co-ordinating role by providing advice to the panel about any potential conflict between proposed scrutiny topics and areas of planned policy development. The Cabinet Member may also advise the panel about instances where it may be requested by the Executive to assist in policy development.

- 5.5 The agendas of scrutiny panel will normally include, at such regular intervals as the panels may determine, any relevant performance management information available. The purpose of this item is to assist members to monitor the recent performance of services within its remit against key targets and to make recommendations or to implement a more detailed scrutiny review in relation to those areas of identified weakness.

## **6. Attendance by Executive Members at scrutiny panel meetings (including 'Call-In' meetings)**

- 6.1 Cabinet Members will normally be expected to attend meetings of scrutiny panels within their portfolio remit, for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions that have been included within the Forward Plan.
- 6.2 While matters are under debate at scrutiny meetings, Cabinet members in attendance will respond to questions and provide advice on matters under discussion upon request but otherwise not to take part in any debate.
- 6.3 Cabinet Members are encouraged to avail themselves of every opportunity to gauge the views of non-Executive members on any issues falling within their remit. A close working relationship and an open exchange of views will be of particular importance to the Cabinet Member and scrutiny members, where consideration is being given to the development of the Council's budget or policy framework.
- 6.4 Cabinet Members will normally be expected to attend any meetings of scrutiny panels at which it is intended to consider a Call-In request in relation to his/her area of responsibility.
- 6.5 At meetings where call-ins are being considered, the purpose of the Cabinet Member's attendance is to explain the decision taken by Cabinet and answer questions of fact. Cabinet Members need to be careful not to be drawn into the debate, so as to avoid any possible allegations of becoming involved in the scrutiny of their own decisions which may bring them into conflict with the Code of Conduct. It is therefore important to draw the distinction between answering questions of fact and becoming involved in the panel debate into the issue in question.
- 6.6 Unless there are extenuating circumstances, the decision maker should always attend a Call-In meeting. It is accepted however that officers are often better placed to present greater detailed information that led up to the decision and this is deemed to be acceptable although it should always be the decision maker that is held to account.
- 6.7 The following procedure should take place where call-ins are being considered:
  - (i) The Member(s) who called in the decision should speak first.

- (ii) The Chairman would then invite the Cabinet Member (decision maker) to respond.
  - (iii) The Panel can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.
  - (iv) The Panel debates the issue and votes on the outcome.
- 6.8 In the event of a situation where the decision maker cannot attend a Call-In meeting, the Leader of the Council or Deputy Leader should attend in their absence. In the event of both the Leader and Deputy Leader being unavailable, they should nominate another Cabinet Member to attend and be accountable for the decision.

## **7. Ethos of the meeting**

- 7.1 All members should promote an atmosphere of openness at scrutiny panel meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between the scrutiny panel members, the Cabinet Member and other participants.
- 7.2 Scrutiny panel members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. It should however be stated that scrutiny panel members should be aware of and show an understanding of the fact that Cabinet Members may not be in a position to answer every question immediately or in detail
- 7.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of scrutiny panel members who raise questions under these headings and respond in an appropriate and professional manner.
- 7.4 Cabinet Members should normally be authorised by a panel to speak upon any item on the agenda and may at any time offer to assist the scrutiny panel by the provision of factual information or advice in relation to the matters under discussion.
- 7.5 The Chairman of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.
- 7.6 The Chairman, supported by the officers, should provide leadership and guidance to the panel on all scrutiny matters and should promote the panel's role to improve services and monitor the effectiveness of Council policies.

## **8. Select Committees and Working Groups**

- 8.1 Scrutiny may be tasked with assisting the Executive on policy development matters or it may choose to investigate matters within its work programmes in a more focussed way outside of the usual panel setting. This kind of work is usually undertaken via a select committee or working group. These are essentially task and finish groups, who will have spent time considering background information, witness evidence, and formulating their recommendations.

- 8.2 The Chairman or Vice-Chairman of the task and finish group will be invited to present the final report at a Cabinet meeting. The Cabinet can expect a report that:
- Has clear, concise recommendations;
  - Identifies potential areas for improvement; and
  - Highlights implications including financial, legal, equality, policy, of the recommendations and where possible identify solutions as appropriate.
- 8.3 The relevant Portfolio Holder(s) can assist the review in a number of ways including:
- At the outset of the review, when the task and finish group is considering the scope, methodology and witnesses to give evidence;
  - During the review when the Portfolio Holder can be invited to give evidence;
  - At the end of the review after the task and finish group has produced the first draft of the report.
- 8.4 During the review period the Chairman of the task and finish group is recommended to meet with the Portfolio Holder and Officers:
- To discuss the proposed scope, methodology and sources of evidence for the review and ascertain if the Portfolio Holder has any suggestions to make;
  - To highlight and examine areas of potential agreement or disagreement in relation to the report's findings and recommendations to ascertain if any areas of disagreement can be resolved at the draft report stage, or identify if any further work needs to be done by the task and finish group.
- 8.5 Although this dialogue is encouraged, it is recognised that scrutiny and its task and finish groups are independent of the Cabinet and as such agreement may not be possible on all the findings and conclusions in a draft report.
- 8.6 It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of an internal review, the Chairman of the task and finish group will notify the relevant Assistant Director, who will then contribute to the review in terms of supplying information and helping to identify suitable witnesses.
- 8.7 The Assistant Director will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors. The decision as to whether to incorporate any suggested amendments will remain with the task and finish group.
- 8.8 The responsibility for the implementation of scrutiny recommendations that have been approved by Cabinet will rest with the relevant Assistant Director, who will also be responsible for providing regular updates on progress to the appropriate scrutiny panel.
- 8.9 A completed scrutiny report, together with any comments provided by Officers will be forwarded to Cabinet who will consider whether or not to implement the recommendations contained within the report.
- 8.10 If the content of a report, including any recommendations, is likely to impact on any external organisation, Cabinet will have the opportunity to pass comment,

including whether or not it endorses the recommendations, before the report is passed to the external body.

## **9. Attendance by officers at scrutiny meetings**

- 9.1 Meetings of the Scrutiny Panels will be attended by the appropriate Assistant Director and Service Managers with responsibility for any agenda item under discussion. The role of the lead officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel.
- 9.2 The attendance of other relevant officers at either Scrutiny Panels, Select Committees or Working Group meetings, will be at the request of the Chairman, who will have regard to the appropriate level of seniority of attendees. In general the relevant officer should not be below the level of Service Manager.
- 9.3 An officer in receipt of a request to attend a Scrutiny meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date, he/she should notify the Chairman or lead officer as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 9.4 Officers in attendance at Scrutiny Panel meetings should be prepared to assist the Cabinet Member in the provision of information to the panel in response to any question raised.
- 9.5 Relevant Officers will normally be expected to attend any meeting of the Scrutiny Panel at which it is intended to consider a Call-In request in relation to his/her service area



## ARTICLE 9 - REGULATORY AND OTHER COMMITTEES

This Article simply refers to the Committees to be appointed by the Council to carry out its regulatory functions – principally Planning, Licensing and certain Appeals.

### **Regulatory and other Committees**

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in [Article 4 Appendix 1](#) of this Constitution to discharge the functions described in that table.

## ARTICLE 10 - THE STANDARDS AND ADJUDICATION COMMITTEE

This Article sets out provisions relating to the Council's Standards and Adjudication Committee. The purpose of the Committee is to ensure high standards of conduct by Councillors and propriety of action throughout the Council.

### 10.01 Standards and Adjudication Committee

The Council at its annual meeting will establish a Standards and Adjudication Committee.

### 10.02 Composition

- a) **Membership.** The Standards and Adjudication Committee will be composed of nine Councillors, plus no more than two non-voting co-opted members representing town and parish councils in the Borough.
- b) **Quorum.** The quorum for a meeting of the Standards and Adjudication Committee shall be four.
- a) **Substitute Members.** The rules relating to substitution of members in the Council Procedure Rules, will apply in relation to elected members of this Council. Co-opted members will not be entitled to nominate substitutes.

### 10.03 Role and Function

The Standards and Adjudication Committee will have the following roles and functions:

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

- (j) To deal with the grant of exemptions from political restriction in respect of any post holder and give directions on any post to be included in the list of politically restricted posts maintained by the authority.
- (k) To consider appeals against dismissal and grievances by employees of the Council.
- (l) To hear and determine in accordance with the appropriate conditions of service appeals against disciplinary action and against grading assessments by the Executive Director for Environment, Economy and Resources (Section 151 Officer).
- (m) To hear and determine appeals in relation to grievances required to be settled under the Council's Grievance Procedure.
- (n) To hear and determine appeals arising under the appeal arrangements relative to car allowances.
- (o) To determine student awards appeals.
- (p) To hear and determine any other internal appeal or review within the Council not falling within the delegated powers of any other Committee.
- (q) To receive and consider referrals from Full Council as to the addition, variation or revocation of any standing orders at Article 5 Appendix 1 of the Constitution.

## **10.04 Local Assessment arrangements**

### **1. Context**

These “Arrangements” set out how to make a complaint that an elected or co-opted Member of North East Lincolnshire Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.

Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or co-opted Member of a Parish or Town Council in the area against whom an allegation has been made.

### **2. The Code of Conduct**

The Council has adopted a Code of Conduct for its Members, which can be found within Part 3 of this Constitution.

Each Parish and Town Council is also required to adopt a Code of Conduct. The Parish and Town Councils within North East Lincolnshire have all adopted the Council's Code of Conduct.

### **3. Making a complaint**

Complaints should be made to the Council's Monitoring Officer. The Monitoring Officer is a Senior Officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering

the system in respect of complaints of Member misconduct and is the Council's Proper Officer for such matters.

As a matter of fairness and natural justice, a Member will usually be told who has complained about them. However, there may be exceptional circumstances where a complainant's identity should be withheld from disclosure such as where the complainant has reasonable grounds for believing they will be at risk of physical harm if their identity is disclosed or their employment may be placed at risk or there is a risk that any investigation may be impeded or interfered with. In such cases, the Monitoring Officer will refer the issue of disclosure to the Referrals Panel who, in reaching a decision on the issue, will carefully balance the public interest in ensuring that the Member complained of is aware of who has complained against them against the complainant's wish that their identity be withheld. The Council does not normally investigate anonymous complaints save where it considers the provisions in the Local Assessment Criteria on such complaints are met.

The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it. A full copy of the complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member complained of inviting their written comments within 10 working days. Thereafter, arrangements will be made for the complaint to be assessed as soon as practicable in accordance with the procedures detailed in paragraph 4.

It should be noted that complaints which allege that Members may have committed a criminal offence in breaching the 'disclosable pecuniary interest' provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Humberside Police for consideration.

#### **4. Will your complaint be investigated?**

For complaints concerning Members of Parish and Town Councils, where those Members are not also Members of North East Lincolnshire Council, ordinarily the Monitoring Officer will assess such complaints against the Local Assessment Criteria and, after consultation with the Independent Person, take a decision as to whether a formal investigation is merited.

The Monitoring Officer may, however, in his discretion refer complaints to the Referrals Panel to assess where he feels it reasonable and appropriate to do so such as where the Monitoring Officer has had prior involvement in the complaint.

For complaints concerning Members of North East Lincolnshire Council (or where the Monitoring Officer has exercised his discretion to refer a Parish and Town Council related complaint) either in their capacity as Parish or Town Council Members or as Members of the Council, the Referrals Panel will be convened to assess whether the complaint should be investigated. In considering the matter, the Referrals Panel shall consult and consider the views of the Independent Person and apply the Local Assessment Criteria.

Decisions on whether a complaint will be investigated will normally be taken within 28 days of receipt of the complaint. A formal notice of decision will be issued in each case. The decision of the Monitoring Officer or Referrals Panel is final and is not subject to a right of appeal.

Where the Monitoring Officer or the Referrals Panel requires additional information in order to come to a decision, the complainant may be contacted to provide such further information, as may the Member against whom your complaint is directed.

Where the complaint relates to a Member of a Parish or Town Council, the Monitoring Officer may also inform the Clerk of the Parish or Town Council concerned of the complaint and seek the views of the Parish or Town Council before deciding whether the complaint merits formal investigation

In appropriate cases, the Monitoring Officer or the Referrals Panel may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Council. Where the Member concerned makes a reasonable offer of local resolution but you are not willing to accept that offer, the Monitoring Officer or the Referrals Panel will take this into account in deciding whether the complaint merits formal investigation.

## **5. How is the investigation conducted?**

If the Monitoring Officer or Assessment Panel decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another Officer of the Council, an Officer of another Council or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint.

The Investigating Officer would normally, subject to any ruling on disclosure, write to the Member against whom the complaint has been made and provide him/her with a full copy of the complaint, and ask the Member to provide his/her explanation of events.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the Member concerned to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.

Having received and taken account of any comments which they may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

It should be noted that at any time during an investigation, the Investigating Officer may, following consultation with the Independent Person, refer the matter back to the Referrals Panel for re-consideration as to whether the investigation should proceed if the Investigating Officer considers that the Re-consideration Criteria are satisfied.

## **6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and consult with the Independent Person. If having done so the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant and to the Member concerned and to the Parish or Town Council on which the Member serves, notifying them that he is satisfied that no further action is required (with reasons stated), and give them both a copy of the Investigating

Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to re-consider his/her report.

## **7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and after consulting the Independent Person will consider whether Local Resolution should be attempted or the matter proceed direct to hearing before the Hearings Panel.

### **7.1 Local Resolution**

The Monitoring Officer will consult with the Independent Person and with the complainant and seek to agree what is considered to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and Adjudication Committee and the Member's Council for information but will take no further action. However, if the complainant tells the Monitoring Officer that any suggested resolution would not be adequate or the Member concerned does not accept that the matter should be resolved in such a manner, the Monitoring Officer will refer the matter for a hearing before the Hearings Panel.

### **7.2 Hearings Panel**

If the Monitoring Officer considers that Local Resolution is not appropriate or the complainant is not satisfied by the proposed resolution, or the Member concerned does not accept that the matter should be resolved in such a manner, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the failure.

In readiness for the convening of the Hearings Panel, the Monitoring Officer will conduct a written "pre-hearing process", requiring the Member concerned to give their response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing.

If, through the "pre-hearing process", the Member concerned accepts the Investigating Officer's report, they will be given the opportunity to provide a statement of mitigation which they may invite the Hearings Panel to consider in their absence. Alternatively, they may elect to attend a Hearings Panel to present their mitigation. In either case, the 'uncontested' hearing procedure will be followed.

Where, following the "pre-hearing process", the Investigating Officer's report remains in contention, the matter will be set down for a 'contested' hearing before the Hearings Panel. The 'contested' hearing procedure will be followed. In essence, at the Hearing, the Investigating Officer will

present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant, to attend and give evidence to the Hearings Panel. Unless called to do so by the Investigating Officer, the complainant does not have the right to address the Hearings Panel of their own volition. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Member may be legally represented at the Hearings Panel.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct and so dismiss the complaint. If the Hearings Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will consult the Independent Person but will then decide what action, if any, to take in respect of the matter.

#### **8. What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Panel may -

- 8.1 Write to the Member over their conduct;
- 8.2 Publish its findings in the local media in respect of the Member's conduct;
- 8.3 Report its findings to the Council or to the Parish or Town Council concerned;
- 8.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to, or recommend to the Parish or Town Council concerned, that it arrange training for the Member;
- 8.7 Recommend removal, or recommend to the Parish or Town Council concerned, removal of the Member from all outside appointments to which he/she has been appointed or nominated by the Council or the Parish or Town Council;
- 8.8 Withdraw, or recommend to the Parish or Town Council concerned, that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 8.9 Exclude, or recommend to the Parish or Town Council concerned, that it excludes the Member from the Council's Offices or other premises

with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee Meetings.

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw a Member's basic allowance or any special responsibility allowances.

## **9. What happens at the end of the Hearing?**

At the end of the Hearing, the Chair will state the decision of the Hearings Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to the complainant, to the Member and to any Parish and Town Council concerned and make such decision notice available for public inspection and report the decision to the next convenient Meeting of the Standards and Adjudication Committee.

The decision of the Hearings Panel is final and is not subject to a right of appeal.

## **10. Referrals Panel and Hearings Panel?**

The Referrals Panel and the Hearings Panel are Sub-Committees of the Council's Standards and Adjudication Committee. The Standards and Adjudication Committee has decided that each of those Panels will comprise a maximum of 3 elected Members of the Council's Standards and Adjudication Committee. Co-opted, non-voting (Parish Council) Members of the Standards and Adjudication Committee may be asked to sit on such Panels.

The Independent Person is invited to attend all Meetings of the Referrals Panel and the Hearings Panel and his/her views are sought and taken into consideration before the Monitoring Officer or Referrals Panel takes any decision on whether a complaint should be investigated. The Hearings Panel will seek the Independent Person's views on whether a Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11. Who is the Independent Person?**

The Independent Person is a person who has applied for the Post following advertisement of a vacancy for the Post and is then appointed by a positive vote from a majority of all the Members of the Council.

A person cannot be "independent" if he/she -

- 11.1 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of the Council;
- 11.2 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of a Parish or Town Council within the Council's area; or



- 11.3 Is a relative or close friend of a person defined at paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
- 11.3.1 Spouse or civil partner;
  - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 11.3.3 Grandparent of the other person;
  - 11.3.4 A lineal descendent of a grandparent of the other person;
  - 11.3.5 A parent, sibling or child of a person defined at paragraphs 11.3.1 or 11.3.2;
  - 11.3.6 A spouse or civil partner of a person defined at paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 11.3.7 Living with a person defined at paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12. Revision of these arrangements**

The Council may, by resolution, agree to amend these arrangements and has delegated to the Chair of the Referrals Panel and the Hearings Panel the right to depart from these arrangements where he/she considers it is expedient to do so in order to secure the effective and fair consideration of any matter.

For the avoidance of doubt, Members who have sat on the Referrals Panel are not precluded from sitting on a subsequent Hearings Panel called to determine the same complaint as considered by the Referrals Panel.

## **13. Appeals**

There is no right of appeal for the complainant or for the Member against a decision of the Monitoring Officer, the Assessment Panel or the Hearings Panel.

If the complainant feels that the Council has failed to deal with the complaint in accordance with these arrangements, he/she may make a complaint to the Local Government Ombudsman.

## **ARTICLE 11 - AREA COMMITTEES AND FORUMS**

The Council currently does not have an Area Committee structure.

## **ARTICLE 12 - JOINT ARRANGEMENTS**

This Article deals formally with arrangements which the Council may make with other Authorities or bodies with a view to acting jointly/together in the carrying out of any functions.

The legislation relevant to this article is Sections 2, 19 and 20 of the Local Government Act 2000.

### **12.01 Arrangements to promote well being**

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

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

### **12.02 Joint arrangements**

- a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c) The Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- d) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **12.03 Access to information**

- a) The Access to Information Rules in Article 3 of this Constitution apply.
- b) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- c) If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **12.04 Delegation to and from other local authorities**

- a) The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

- b) The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
- c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **12.05 Contracting out**

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

## ARTICLE 13 - OFFICERS

This Article explains the roles and functions of the Principal Officers of the Council.

### 13.01 Management structure

- a) General. The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- b) Chief Officers. The full Council will engage persons for the following posts, who will be designated chief officers:
  - Chief Executive
  - Executive Director Place and Resources (as Section 151 Officer)
  - Director Public Health
  - Director Children's Services
  - Director Adult Social Care
  - Director of Economy, Environment and Infrastructure
- c) **Head of Paid Service, Monitoring Officer, Chief Financial Officer and Statutory Scrutiny Officer.** The Council will designate the following statutory posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director Law and Governance	Monitoring Officer
Executive Director Place and Resources (as Section 151 Officer)	Section 151 Officer (Chief Finance Officer)
Assistant Chief Executive	Statutory Scrutiny Officer

These posts will have the functions described in [Article 12.02–12.04](#) below.

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

### 13.02 Functions of the Head of Paid Service (the Chief Executive)

- a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Executive Director Place and Resources (as Section 151 Officer) if a qualified accountant.

### 13.03 Functions of the Monitoring Officer

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with

the Head of Paid Service and Executive Director Place and Resources (as Section 151 Officer), the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- c) **Supporting the Standards and Adjudication Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Adjudication Committee.
- d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Standards and Adjudication Committee and make reports or recommendations in respect of them to the Standards and Adjudication Committee, in accordance with the Localism Act 2011.
- f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- i) **The Monitoring Officer** will maintain the register of members' interests under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and North East Lincolnshire Council's Code of Conduct and record information, gifts and hospitality notified by members and maintain a register of officer interest in contracts.
- j) **Restrictions on posts.** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### **13.04 Functions of the Executive Director Place and Resources (as Section 151 Officer)**

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Executive Director Place and Resources (as Section 151 Officer) will report to the full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs.** The Executive Director Place and Resources (as Section 151 Officer) will have responsibility for the administration of the financial affairs of the Council.
- c) **Contributing to corporate management.** The Executive Director Place and Resources (as Section 151 Officer) will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The Executive Director Place and Resources (as Section

151 Officer) in consultation with the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and officers and will support and advise councillors and officers in their respective roles.

- e) **Give financial information.** The Executive Director Place and Resources (as Section 151 Officer) will provide financial information to the media, members of the public and the community.
- f) **The exercise of the Executive Director Place and Resources (as Section 151 Officer)'s role** and responsibilities shall be in accordance with the CIPFA guidance on the role of the Section 151 Officer.

#### **13.05 Duty to provide sufficient resources to the Monitoring Officer and Executive Director Place and Resources (as Section 151 Officer).**

The Council will provide the Monitoring Officer and Executive Director Place and Resources (as Section 151 Officer) with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### **13.06 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 3 of this Constitution.

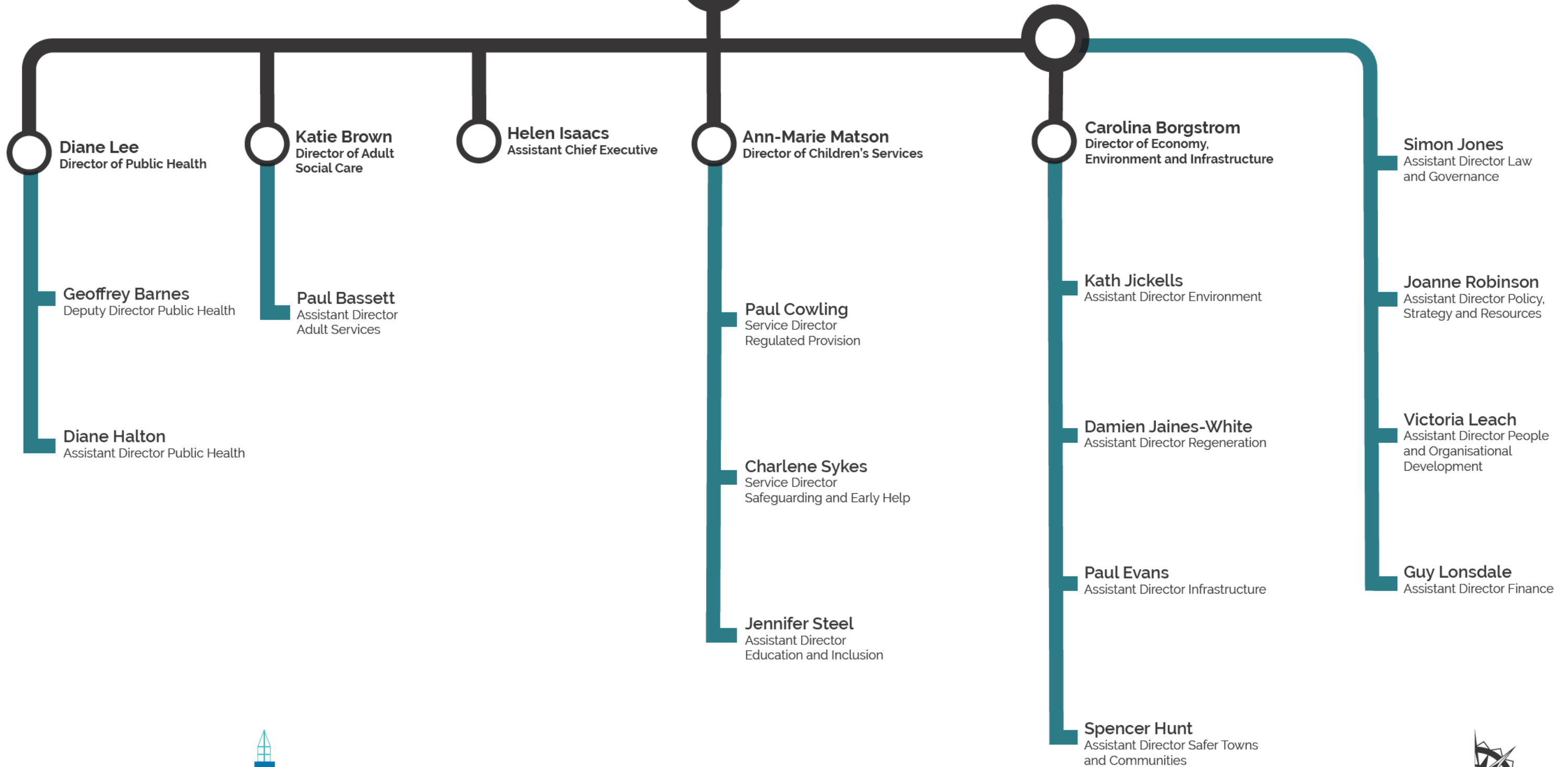
#### **13.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 3 of this Constitution.

**Rob Walsh**  
Chief Executive

**Helen Kenyon**  
ICB Place Based Director

**Sharon Wroot**  
Executive Director Place and Resources





# Organisational Functions

## People, Health and Care

### Adult Services

### Children Services

- Children's Home and Education Commissioning
- Education and Inclusion
- Performance and Quality
- Safeguarding and Early Help
- Safer and Partnerships

### Childrens Health provision

### Public Health

- Families, Mental Health and Disabilities
- Healthier Lifestyle
- Public Health Service

## Place and Resources

### Environment

- Environmental Sustainability
- Grounds Maintenance
- Bereavement Services
- Operations
- Regulatory Services

### Finance

- Accountancy
- Local Taxation and Benefits

### Housing Highways and Transport

- Home Options
- Strategic Housing

### Law and Governance

- Audit
- Coroners
- Democracy & Scrutiny
- Estates and Business Development
- Legal Services

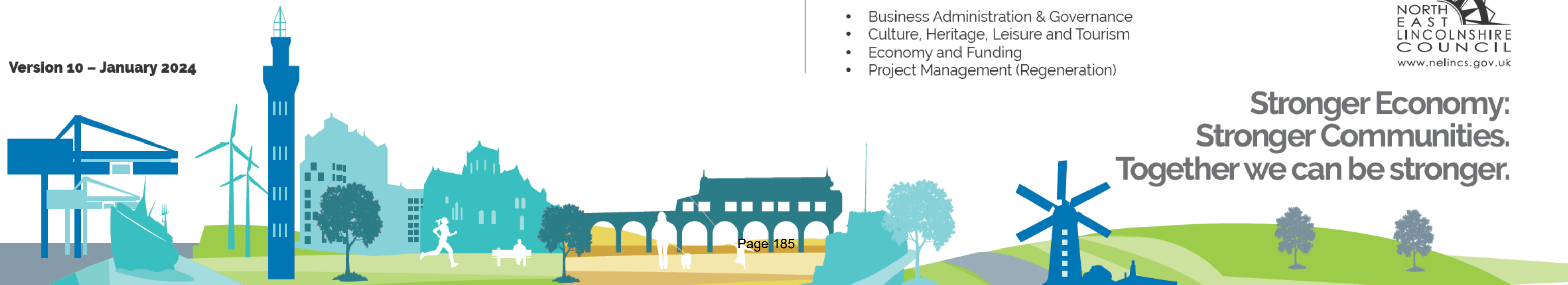
### Policy Strategy and Resources

- Business Support
- Communications and Customer
- IT and Digital
- People and Culture
- Strategy Policy and Performance

### Regeneration

- Business Administration & Governance
- Culture, Heritage, Leisure and Tourism
- Economy and Funding
- Project Management (Regeneration)

Version 10 – January 2024



## **ARTICLE 13 APPENDIX 2**

### **OFFICER EMPLOYMENT PROCEDURE RULES**

These rules set out the agreed procedures to be followed in relation to the appointment, dismissal and disciplining of the Council's Officers.

Within these Rules the term "Officer" means any employee of the Council, "Chief Officer" means a Director of the Council and for the avoidance of any doubt "Chief Officer" shall also include those officers referred to in section 2(6)(7) & (8) of the Local Government and Housing Act 1989.

#### **1. Recruitment and appointment**

- (a) Declarations
  - i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or the partner of such persons.
  - ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- (b) Seeking support for appointment
  - i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
  - iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

#### **2. Recruitment of Head of Paid Service and chief officers**

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

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

### 3. Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the Council. That committee (The Appointment s Committee) must include at least one member of the Cabinet.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

### 4. Appointment of chief officers

- (a) The Appointments Panel will also appoint chief officers. The Panel must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.
- (c) Appointments of chief officers must not be made unless the Head of Paid Service or an officer nominated by him has notified every member of the Cabinet of the name of and other relevant particulars relating to the person about to be appointed and the Leader has notified the relevant officer that the Cabinet has no objection to the appointment or any objection it has is either not material or not well founded.

### 5. Other appointments

- (a) **Officers below chief officer.** Appointment of officers below chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointments of an assistant to a political group shall be made in accordance with the wishes of that political group.

### 6. Dismissal and other Disciplinary action

- (a) Suspension. The Head of Paid Service, Monitoring officer and Executive Director for Environment, Economy and Resources (as Section 151 Officer) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) Independent Panel. The decision to dismiss a statutory officer (referred to in (a) above) must be taken by Full Council who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal and any representations from the officer concerned (as per the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015).

The independent panel must consist of at least two independent persons, who accept an invitation from the Council to sit on the panel. An independent person is someone who has been appointed by the Council in that capacity under the

members' code of conduct regime pursuant to section 28 (7) of the Localism Act 2011.

When appointing to the panel, which must be in place at least 20 days before the meeting at which the decision to dismiss will be taken, the Council must do so in the following order:

- an independent person appointed by the Council and who is an elector in the Council's area;
  - any other independent person who has been appointed by the Council; and
  - an independent person who has been appointed by another council or councils.
- (c) Councillors will not be involved in disciplinary action against or the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action. Such disciplinary action will be undertaken by the Head of Paid Service or any officer nominated by him.
- (d) Dismissal decisions relating to chief officers must not be made unless the Head of Paid Service or an officer nominated by him has notified every member of the Cabinet of the name of and other relevant particulars relating to the person about to be dismissed and the Leader has notified the relevant officer that the Cabinet has no objection to the dismissal or any objection it has is either not material or not well founded.

## **7. Dismissal**

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

## **ARTICLE 14 - FINANCE, CONTRACTS AND LEGAL MATTERS**

This Article makes reference to the Council's financial and contracts procedure rules (which are set out in full later in the document).

The relevant legislation is Sections 135, 151, 223 and 234 of the Local Government Act 1972 and Part VIII of the Local Government Finance Act 1988.

### **14.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial procedure rules set out in [Appendix 1](#) of this Article.

### **14.02 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in [Appendix 2](#) of this Article.

### **14.03 Legal proceedings**

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

### **14.04 Authentication of documents**

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

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her.

# **NORTH EAST LINCOLNSHIRE COUNCIL**

## **FINANCIAL REGULATIONS & PROCEDURE RULES**

**May 2022**

# **Section 1**

## **Financial Regulations**

# 1 Introduction

- 1.1 North East Lincolnshire Council is a local authority providing a diverse range of services to its residents. It works in partnership with parish and town councils, police, probation and health providers and a number of other organisations.
- 1.2 North East Lincolnshire Council's governance is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are followed. This document forms part of the Constitution and should be read in conjunction with it.
- 1.3 The Council must conduct its business efficiently and ensure it has sound financial management policies in place, including arrangements to monitor compliance. The Council's statutory Section 151 Officer (Executive Director for Environment, Economy and Resources (as Section 151 Officer)) is also charged with ensuring that proper financial management processes are in place.
- 1.4 The financial regulations provide clarity about the financial accountabilities of individuals. Each of the financial regulations sets out the overarching financial responsibilities which must be followed by those acting on the Council's behalf.
- 1.5 A detailed set of financial procedure rules supports the overarching financial responsibilities set out in this document. These financial procedure rules are included in Appendices A to F and **form part of the Authority's financial regulations**. Under the financial regulations, other financial instructions and guidance manuals may be issued from time to time as considered appropriate by the Executive Director for Environment, Economy and Resources (as Section 151 Officer), such guidance will have the force of financial regulations.
- 1.6 All financial decisions and decisions with financial implications must have regard to proper financial control. Any doubt as to whether a financial proposal is appropriate, or whether a financial action is correct, must be clarified in advance of the decision or action with the Executive Director for Environment, Economy and Resources (as Section 151 Officer)
- 1.7 Failure to follow financial regulations or financial instructions issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) under financial regulations may result in action under the Council's disciplinary procedures.



## 2 Status of the Financial Regulations

- 2.1 Financial Regulations provide the framework for managing the financial affairs of North East Lincolnshire Council. They apply to every councillor and officer of the Council and anyone acting on its behalf.
- 2.2 The regulations identify financial responsibilities of individuals - Cabinet Members, Council Members, Officers, the Head of Paid Service, the Monitoring Officer, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and other Directors. Cabinet Members and Directors should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions are so delegated, the officer to whom the decision has been delegated must provide sufficient information to the Cabinet Member or Director on request in order to give assurance that tasks or decisions have been performed in accordance with the Financial Regulations. Where decisions have been delegated or devolved to other responsible officers, such as school governors, references to the Director in the regulations should be read as referring to them.
- 2.3 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, and provides value for money.
- 2.4 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full Council for approval. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or to Cabinet. The Section 151 Officer must be consulted in respect of all reports to elected Members.
- 2.5 Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. Any person charged with the use or care of the Authority's resources and assets should inform him or herself of the Authority's requirements under the financial regulations. Any queries should be referred to the Director of Finance, Operations and Resources.
- 2.6 All Directors should ensure that any financial procedures/ guidelines produced by their service areas in support of financial control are fully compliant with the financial regulations. The agreement of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) should be obtained for the development of such financial procedures.
- 2.7 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for issuing advice and guidance to underpin the financial regulations that Members, officers and others acting on behalf of the authority are required to follow.
- 2.8 All employees must report to their manager, supervisor or other responsible Senior Officer any illegality, impropriety, breach of procedure or serious deficiency discovered in the following of financial procedures or financial regulations; managers must record and investigate such reports and notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Service Manager Internal Audit<sup>1</sup> where it appears that a breach has occurred.

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<sup>1</sup> Under new Public Sector Auditing Standards the role of Head of Audit and Assurance is known as the Chief Audit Executive.

- 2.9 Any proposals for changes or amendments to the financial regulations should be forwarded to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) for consideration.
- 2.10 Employees handling income and financial transactions for non-North East Lincolnshire Council accounts must adopt standards which are as high as those set out in these financial regulations in the administration of such accounts.

### **3 Financial Regulation A: Financial Management**

#### **INTRODUCTION**

- 3.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

#### **THE FULL COUNCIL**

- 3.2 The full Council is responsible for adopting the Authority's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in the Constitution. The full Council may make decisions outside the Budget and Policy Framework in accordance with section 3 of the Budget and Policy Framework Procedure Rules and part 4 of the Constitution. The full Council is also responsible for monitoring compliance with the agreed policy and related executive decisions.
- 3.3 The full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees and by the Cabinet. These delegations, and details of who has responsibility for which decisions, are set out in the Constitution.

#### **THE CABINET (EXECUTIVE)**

- 3.4 The Cabinet is responsible for submitting proposals to full Council in respect of the budget and those plans/strategies that fall within the policy framework, and for discharging executive functions in accordance with the Constitution.
- 3.5 Executive decisions can be delegated to a Committee of the Executive, an individual Executive Councillor, an Officer, or a Joint Committee.
- 3.6 The Constitution sets out clear principles of decision making to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

#### **COMMITTEES OF THE COUNCIL**

- 3.7 The role and responsibilities of other Committees (including Audit and Governance Committee, regulatory committees and scrutiny committees) are set out elsewhere in the Constitution.

## **THE STATUTORY OFFICERS**

### **Head of Paid Service (Chief Executive)**

- 3.8 The Head of Paid Service is responsible for the corporate and overall strategic management of the Authority's staff. He or she must report to, and provide information for, the Cabinet, the full Council, Overview and Scrutiny and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions.

### **Monitoring Officer**

- 3.9 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- 3.10 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers who have delegated executive responsibility.
- 3.11 The Monitoring Officer is responsible for advising all councillors and officers about who has authority to take a particular decision.
- 3.12 The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- 3.13 The Monitoring Officer (together with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- initiating a new policy or taking action outside a current policy with budget implications,
  - committing expenditure in future years to above the budget level,
  - incurring interdepartmental transfers above virement limits,
  - causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.
- 3.14 The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### **Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- 3.15 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) has statutory duties in relation to the financial administration and stewardship of the authority. These statutory responsibilities cannot be overridden or subject to direction by the Council. The statutory duties arise from:
- Local Government Act 1972 (Section 151)
  - Local Government Finance Act 1988

- Local Government Finance Act 1992
- Local Government and Housing Act 1989
- Local Government Act 2003
- Accounts and Audit Regulations 2015

3.16 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for:

- ensuring the proper administration of the Authority's financial affairs,
- determining and agreeing the accounting procedures and records for the Authority,
- setting the financial management standards and monitoring compliance with them,
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management,
- ensuring the provision of financial information,
- preparing the revenue budget (in conjunction with Directors) and capital programme.
- treasury management,
- reporting on the adequacy of reserves and the robustness of the budget estimates when the annual budget is being considered,
- ensuring the existence of a medium-term financial plan.

3.17 Section 114 of the Local Government Finance Act 1988 requires the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to inform the Cabinet and external auditor if the Authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure.
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority.
- is about to make an unlawful entry in the Authority's accounts.
- it appears to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) that the expenditure of the Authority incurred (including the expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

Section 114 of the 1988 Act also requires:

- the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to nominate a properly qualified officer to deputise should he/she be unable to perform the duties under Section 114 personally.
- the authority to provide the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

### **Directors (Senior Management Team)**

3.18 Directors are responsible for:

- ensuring that Members are advised of the financial implications of
- all proposals and that the financial implications have been agreed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) ensuring that the financial regulations are observed throughout all areas under their control,
- providing the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with such information and explanations as the Executive Director for

Environment, Economy and Resources (as Section 151 Officer) feels is necessary to meet his or her obligations under financial regulations.

- 3.19 It is the responsibility of Directors to consult with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and seek approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.

## OTHER FINANCIAL ACCOUNTABILITIES

### Virement

- 3.20 Virement between budget heads is an integral and important feature of budgetary control. The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- 3.21 Once the Council has approved its revenue and capital budget for the coming year, there will be a brief period of review that will allow virements between budgets to be made. Following that, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) will issue guidance to minimise the processing of virements during the financial year. Examples of permitted virements include:
- to recognise new external funding streams
  - to recognise the realisation of budget savings
  - transfers to/from corporate contingencies
  - transfers between revenue and capital
  - permanent transfers between service areas
  - to recognise Cabinet/Council decisions
  - material adjustments to aid budgetary control (e.g. capital re-profiling)
- 3.22 Virement (of both revenue and capital) is permitted subject to the following procedures (see A.11 - A.20):

<b>Virement Value</b>	<b>Procedure to be followed</b>
Virements up to £50,000	such virements on any one budget head (defined in A.11b) during the year may be made by the relevant Director in consultation with the Executive Director for Environment, Economy and resources (as Section 151 Officer) .
Proposed virements of between £50,000 & £350,000	such proposed virements will require the advance approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and the relevant Cabinet member for the service area.
Proposed virements in excess of £350,000	such proposed virements must be reported to Cabinet, and Cabinet approval will be required before the virement can take place.

- 3.23 In addition to the procedures outlined above, any proposed virement relating to employees' basic pay, national insurance or superannuation should comply with any staffing procedures established by the Head of People and Culture, and include approval under delegated matters where appropriate. This is in addition to the approvals required from other officers/Members outlined above.

- 3.24 With respect to the Capital Programme, approval is delegated to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in consultation with the relevant Cabinet Member to approve:
- re-phasing of capital budgets within approved budget (but across years); and
  - amendments to the capital programme in respect of revised capital contributions up to £350,000

All delegations exercised in accordance with the above would be reported to Cabinet in the quarterly monitoring reports.

- 3.25 Virements may not be broken down into smaller values in order to circumvent the procedures outlined.

### **Budget realignment**

- 3.26 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) will determine whether a change to budgets is a virement (i.e. the budget is reallocated to a purpose other than originally intended) or a re-presentation or restructure where there is no change to the purpose of the spending. From time to time, it may be considered appropriate to realign the budget for part or all of a service area, for example if there is a restructure – where the impact is significant or material. It is important that any budget realignment is transparent and that the process can be subject to proper scrutiny.

- 3.27 The virement rules set out above shall not apply to restructure or representational changes. However, the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) should be obtained before any such changes are implemented.

### **Treatment of year-end balances**

- 3.28 The Cabinet is responsible for agreeing procedures in respect of carrying forward under- and overspendings on budget headings in line with the Budget and Policy Framework.

### **Accounting policies**

- 3.29 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for setting accounting policies in accordance with statute and best practice and ensuring that they are applied consistently throughout the Council.

### **Accounting records and returns**

- 3.30 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for determining the accounting procedures and records for the Authority.

### **The Annual Statement of Accounts**

- 3.31 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with applicable accounting standards and codes of practice. The Audit Committee is responsible for approving the Annual Statement of Accounts.

### **Sound financial management**

- 3.32 The Council is responsible for ensuring its financial management is adequate and effective, and that sound systems of risk management are in place (as required by the Accounts and

Audit Regulations 2015). The Council is also responsible for ensuring that a budget monitoring system is in place, and if there is a deterioration in the Council's financial position during the year it must consider what action to take to deal with the situation (as required by the Local Government Act 2003).

### **Budget setting**

- 3.33 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) has a duty under the Local Government Act 2003 in relation to budget setting. When the Authority is deciding its annual budget and council tax level, Members and officers must take into account a report from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on the robustness of the budget and the adequacy of the authority's reserves. The Council's Priorities & Resource Planning Framework integrates service planning and budget setting processes to develop the financial strategy and to ensure that the budget setting process is priority led.

## **4 Financial Regulation B: Financial Planning**

### **INTRODUCTION**

- 4.1 The full Council is responsible for agreeing the Authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are the:
- Council Plan,
  - Budget and Medium Term Financial Plan,
  - Capital Investment Strategy and Asset Management Plan,
  - Treasury Management Strategy

### **POLICY FRAMEWORK**

- 4.2 The full Council is responsible for approving the policy framework and budget. The policy framework comprises those statutory plans and strategies set out in the Constitution.
- 4.3 The Council's and Cabinet's budget and policy responsibilities are set out in the budget and policy framework procedure rules, contained in the Council's Constitution.
- 4.4 The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council as part of the budget and policy framework.

### **BUDGETING**

#### **Budget format**

- 4.5 The general format of the budget will be proposed by the Cabinet and approved by the full Council on the advice of the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

#### **Budget preparation**

- 4.6 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for ensuring that a revenue budget is prepared on an annual basis together with a medium term financial plan looking forward a minimum of three financial years. This will be considered by the Cabinet, before submission to the full Council in accordance with the Council's Constitution. The full Council may amend the budget or ask the Cabinet to reconsider it before approving it.
- 4.7 The Cabinet may issue guidance on the general content of the budget in consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) following approval by the full Council. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) will issue guidelines on the budget to appropriate officers throughout the Council.
- 4.8 It is the responsibility of Directors to ensure that accurate budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidelines issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).



## **Budget monitoring and control**

- 4.9 Under the Local Government Act 2003 the Council has a duty to monitor its budget during the year. If, as a result of this monitoring, it appears that there has been deterioration in its financial position, the Council must take action to deal with the situation.
- 4.10 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for providing appropriate financial information and guidance to enable budgets to be monitored effectively. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) should report to Cabinet on the overall financial position of the Council on a regular basis, and at least quarterly.
- 4.11 It is the responsibility of Directors to control income and expenditure for revenue and capital within their area and to monitor performance, taking account of financial information provided by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). They should report on variances within their own areas to the Executive Director for Environment, Economy and Resources (as Section 151 Officer). They should also take any action necessary (without affecting policy) to avoid exceeding their budget allocation, in accordance with the Financial Regulations. If it becomes apparent to a Director that, due to exceptional or unforeseen circumstances, there may be difficulty in providing a service within budget, this must be communicated to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) at the earliest opportunity. In such circumstances the Director retains responsibility for the careful monitoring and control of income and expenditure, and must make every effort (without affecting policy) to minimise the impact on the Authority.

## **Resource allocation**

- 4.12 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

## **Preparation of the capital programme and prudential indicators**

- 4.13 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for ensuring that a capital programme, showing capital expenditure and how that expenditure is funded, is prepared on an annual basis for consideration by the Cabinet before submission to the full Council. The plan should cover a three to five year period and may in addition include information on capital investment strategy for up to 10 years ahead. In addition to this, the CIPFA Prudential Code for Capital Finance in Local Authorities requires that a set of prudential indicators for capital and treasury management (covering a three year period) are agreed by the Council. This CIPFA code is backed by statute in the Local Government Act 2003.
- 4.14 Directors providing information to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) for the capital programme shall ensure that for each capital scheme the full financial implications of any proposals are fully evaluated and disclosed, including phasing and delivery plans. A capital investment appraisal form must be completed, detailing both revenue and capital implications of each proposed scheme.

## **Guidelines**

- 4.15 Guidelines on budget preparation will be issued to Members and Directors by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). The guidelines will take account of:
- legal requirements,
  - the Constitution,
  - medium-term planning prospects,
  - the Council Plan,
  - available resources,
  - spending pressures,
  - efficiency and other relevant government guidelines,
  - other internal policy documents,
  - cross-cutting issues (where relevant).

## **MAINTENANCE OF RESERVES**

- 4.16 It is the responsibility of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to advise the Cabinet and/or the full Council on prudent levels of reserves for the Authority. When the Authority is deciding its annual budget and Council tax level it is required (by virtue of the Local Government Act 2003) to take into account a report from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on the adequacy of the authority's financial reserves and the robustness of the budget. The Government has a back-up power to impose a minimum level of reserves on an authority that it considers to be making inadequate provisions. The Council's reserves and balances policy, prepared by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) is subject to annual review.

## **5 Financial Regulation C: Risk Management and Control of Resources**

### **INTRODUCTION**

- 5.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. This should include the proactive participation of all those associated with planning and delivering services.

### **RISK MANAGEMENT**

- 5.2 A risk and Opportunities Policy has been approved by Cabinet. The Cabinet is responsible for reviewing the effectiveness of risk management and for ensuring that proper insurance exists where appropriate.
- 5.3 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) will be responsible for the authority's Risk and Opportunities Policy, which may be prepared by a nominated officer. The risk management policy statement will be promoted throughout the authority. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) will advise the Cabinet on proper insurance cover where appropriate.

### **INTERNAL CONTROL**

- 5.4 Internal control refers to the systems of control devised by management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- 5.5 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 5.6 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **AUDIT REQUIREMENTS**

- 5.7 The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit function.
- 5.8 Following the abolition of the Audit Commission the Authority will be responsible for appointing its own external auditors once the existing audit contract comes to an end. The responsibilities of the external auditor are derived from statute and the Code of Audit Practice prescribes the way in which external auditors must carry out their functions.
- 5.9 The Authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

### **PREVENTING FRAUD AND CORRUPTION**

- 5.10 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

## **ASSETS**

- 5.11 Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## **TREASURY MANAGEMENT AND BANKING**

- 5.12 The Authority follows the *CIPFA Code of Practice for Treasury Management in the Public Services*. The Authority will create and maintain, as the cornerstones for effective treasury management:
- A Treasury Management Policy Statement, stating the policies, objectives and approach to risk management of its treasury management activities;
  - Suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 5.13 All money in the hands of the Authority is controlled by the officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the code as the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- 5.14 In accordance with the *CIPFA Code of Practice for Treasury Management in the Public Services*, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for reporting to the Council on the treasury management policies, practices and activities. Including as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in the TMPs.
- 5.15 All Cabinet decisions on borrowing, investment or financing shall be delegated to the Executive Director for Environment, Economy and Resources (as Section 151 Officer). In relation to the authorised limits for the Council's external debt, and the operational boundary for external debt agreed by Council, any movements in borrowing limits made under delegation to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) will be reported to the Cabinet at its next meeting.
- 5.16 In accordance with the *CIPFA Code of Practice for Treasury Management in the Public Services*, the Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) who will act in accordance with the Council's policy statement and TMP's and CIPFA's Standard of Professional Practice on Treasury Management.
- 5.17 The Council has nominated the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

## **STAFFING**

- 5.18 The full Council is responsible for determining how officer support for executive and non-executive roles within the Authority will be organised.

- 5.19 The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job. The Head of Paid Service has ultimate responsibility for ensuring the Authority's staffing resource meets its needs in terms of capacity and organisation.
- 5.20 Directors are responsible for controlling total staff numbers by:
- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - the proper use of appointment procedures.

## **6 Financial Regulation D: Systems and Procedures**

### **INTRODUCTION**

- 6.1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **GENERAL**

- 6.2 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for the operation of the Authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors to the existing financial systems or the establishment of new systems must be approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) after consultation with Internal Audit. However, Directors are responsible for the proper operation of financial processes in their own departments.
- 6.3 Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- 6.4 Directors should ensure that their staff receive relevant financial training that has been approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- 6.5 Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **INCOME AND EXPENDITURE**

- 6.6 It is the responsibility of Directors to ensure the officers' scheme of delegation is complied with within his or her department. In addition, each Director should ensure that an authorised signatory list is held and regularly updated, identifying staff authorised to act on the Director's behalf in respect of payments, income collection and placing orders, together with the limits of their authority. When hard copy documentation in this regard is produced, signatures should always be made in manuscript. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **PAYMENTS TO EMPLOYEES AND MEMBERS**

- 6.7 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.
- 6.8 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for making ex-gratia payments in accordance with guidelines agreed with the Monitoring Officer.

### **TAXATION**

- 6.9 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.

- 6.10 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for maintaining the Authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

### **TRADING ACCOUNTS/BUSINESS UNITS**

- 6.11 It is the responsibility of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to advise on the establishment and operation of trading accounts and business units.

### **RETENTION OF RECORDS**

- 6.12 Each Director shall make arrangements for the retention of financial and personnel records as follows:
- financial matters relating to the payment of creditors, income or other tax matters, national insurance, pensions and debts of any nature should be retained for at least six years plus the present year,
  - all other records should be retained in accordance with the authority's document retention policy,
  - where legislation or professional guidance stipulates a longer retention period, documentation should be retained in accordance with this.
- 6.13 Requests to maintain records in non-paper based media should be made to the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- 6.14 In the case of invoices relating to auditable grant claims, these must be kept until after the grant claim has been audited, even if this exceeds six years.
- 6.15 Where documents are disposed of after the relevant retention periods have expired, any sensitive or confidential information should be destroyed by shredding.

## **7 Financial Regulation E: External Arrangements**

### **INTRODUCTION**

- 7.1 The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **PARTNERSHIPS**

- 7.2 The Cabinet is responsible for approving delegations, including frameworks for partnerships, although in certain specific instances full Council approval may be required. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 7.3 The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the schemes of delegation. Where functions are delegated, the Cabinet remains accountable for them to the full Council.
- 7.4 Where the Council is the nominated lead or accountable body for partnership arrangements, the Council's financial regulations will apply.
- 7.5 The Council's Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct that apply throughout the Authority, including those standards relating to financial conduct / administration, to partnerships.
- 7.6 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and provide value for money to the taxpayer. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised and allocated between the parties to the agreement before agreements are entered into with external bodies.
- 7.7 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. In all cases, this must include approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Monitoring Officer.

### **EXTERNAL FUNDING**

- 7.8 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

### **WORK FOR THIRD PARTIES**

- 7.9 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.



## **CONFIDENTIALITY CLAUSES**

- 7.10 All information held by or on behalf of the Council will be available to the public upon written request, unless it falls into one of the statutory exemptions set out in the Freedom of Information Act 2000. Officers must therefore ensure, when negotiating or entering into a contract on behalf of the Authority, that any confidentiality clause proposed by a third party has been approved by the Head of Legal Services.

## **Section 2**

# **Financial Procedure Rules**

# Financial Procedure Rules: Financial Management

## FINANCIAL MANAGEMENT STANDARDS

### Why is this important?

- A.1 All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### Key controls

- A.2 The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the Authority
  - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and full Council.

### Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)

- A.3 To ensure the proper administration of the financial affairs of the Authority, and to determine on behalf of the Authority the accounting records and the accounting control systems in accordance with the Accounts and Audit Regulations 2015.
- A.4 To set the financial management standards and to monitor compliance with them in accordance with the relevant codes of practice and accounting standards.
- A.5 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Authority.
- A.6 To advise on the key strategic controls necessary to secure sound financial management.
- A.7 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### Responsibilities of Chief Officers

- A.8 To promote the financial management standards set by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- A.9 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## **MANAGING EXPENDITURE**

### ***Scheme of virement***

#### **Why is this important?**

- A.10 The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

#### **Key controls**

- A.11 Key controls for the scheme of virement are:
- (a) it is administered by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) within guidelines set by the full Council. Any variation from this scheme requires the approval of the full Council.
  - (b) the overall budget is agreed by the Cabinet and approved by the full Council. Directors and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a cost centre in the revenue budget, or a project set out in the capital programme.
  - (c) virement does not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.

#### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- A.12 To prepare jointly with the Director a report to the Cabinet where revenue or capital virements in excess of £350,000 are proposed.

#### **Responsibilities of Directors**

- A.13 A Director may exercise virement on revenue budgets under his or her control for amounts up to £50,000 on any one budget head during the year in consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer). This must follow notification to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and be subject to the conditions in paragraphs A.16 to A.18 below.
- A.14 Revenue and capital virement amounts greater than £50,000 but less than £350,000 require the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and relevant Cabinet member.
- A.15 Revenue and capital virement amounts greater than £350,000, require the approval of the Cabinet, following a joint report by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and the Chief Officer, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial years. In exceptional circumstances, a virement of this value can be made

with the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in consultation with the Chief Executive and relevant Cabinet member, but must be subsequently reported to Cabinet.

- A.16 Proposed virements on employees' basic pay, national insurance or superannuation must in addition to the above comply with any staffing procedures established by Human Resources and requirements to obtain delegated matters approval where appropriate.
- A.17 Virement that is likely to impact on the level of service activity of another Chief Officer should be implemented only after agreement with the relevant Chief Officer.
- A.18 A school's governing body may transfer budget provision, above a value which will be declared annually, between heads of expenditure within the delegated school budget following notification to the Deputy Chief Executive.
- A.19 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
  - (a) the amount is used in accordance with the purposes for which it has been established, as set out in the budget-setting report to Council in advance of each financial year,
  - (b) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.
- A.20 Budget realignment is described in paragraphs 3.26 and 3.27 of the Financial Regulations. Any proposal to realign all or part of a service area budget must be notified (by the Chief Officer of the service area) in writing to the Executive Director for Environment, Economy and Resources (as Section 151 Officer). Budget realignment should usually only occur once in any financial year, and be notified to and agreed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

### ***Treatment of year-end balances***

#### **Why is this important?**

- A.21 The Authority's scheme of virement sets out the Authority's treatment of year-end balances. It is administered by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) within guidelines set by the full Council. Any variation from the scheme of virement requires the approval of the full Council.
- A.22 The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carry-forward. For the purposes of this scheme, a budget heading is a line in the revenue budget.

#### **Key controls**

- A.23 Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- A.24 To administer the scheme of carry-forward within the guidelines approved by the full Council.

- A.25 To report all overspends and underspends on service estimates carried forward to the Cabinet.

### **Responsibilities of Directors**

- A.26 Net underspends on service estimates under the control of a Chief Officer may occur. Where this is the case, options exist for the treatment of the underspend. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) will recommend to Cabinet and/or Council one of the following treatments:

- (a) where the Council's overall financial position is such that the carry forward of an underspend would create a deficit in balances, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) (in consultation with the Head of Paid Service and Cabinet Member for Finance) may recommend to Cabinet and/or Council that this should not be allowed. In making such a recommendation, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) will take into account the Council's overall financial position including balances and general reserves, and the requirements of the Reserves and Balances Policy.
- (b) where in the opinion of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) the Council's overall financial position is favourable, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) may (in consultation with the Head of Paid Service and Cabinet member for Finance) advise the Cabinet and/or Council that the carry forward of under spends by service areas may be considered.

- A.27 Schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for evaluation by the Deputy Chief Executive and the Executive Director for Environment, Economy and Resources (as Section 151 Officer). The relevant Cabinet member should then consider the plan based on the evaluation prepared by the Deputy Chief Executive and the Executive Director for Environment, Economy and Resources (as Section 151 Officer). Schools will normally be expected to agree a plan with the Deputy Chief Executive and Executive Director for Environment, Economy and Resources (as Section 151 Officer) to recover the deficit within a defined period. Further reference should be made to the Scheme for Financing Schools which covers the treatment of school balances in more detail.

### **ACCOUNTING POLICIES**

#### **Why is this important?**

- A.28 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is responsible for the preparation of the Authority's Statement of Accounts, in accordance with proper practices and relevant code of practice, for each financial year ending 31 March. In addition the Local Government Act 2003 and the Accounts and Audit Regulations 2015 set out statutory requirements governing the Authority's accounts.

#### **Key controls**

- A.29 The key controls for accounting policies are:

- (a) systems of internal control are in place that ensure that financial transactions are lawful,
- (b) suitable accounting policies are set out and applied consistently throughout the Council,

- (c) proper accounting records are maintained, and
- (d) financial statements are prepared which present a true and fair view of the financial position of the Authority and its expenditure and income.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- A.30 To select suitable accounting policies and to ensure that these are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year, and covers such items as:
- (a) separate accounts for capital and revenue transactions,
  - (b) the basis on which debtors and creditors at year end are included in the accounts,
  - (c) details on substantial provisions and reserves,
  - (d) fixed assets,
  - (e) depreciation,
  - (f) retirement benefits,
  - (g) stocks and stores,
  - (h) financial assets and liabilities,
  - (i) accounting for value added tax,
  - (j) government grants,

### **Responsibilities of Directors**

- A.31 To adhere to the accounting policies and guidelines approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

## **ACCOUNTING RECORDS AND RETURNS**

### **Why is this important?**

- A.32 Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory responsibility to prepare its annual accounts to present a true and fair view of its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources.

### **Key controls**

- A.33 The key controls for accounting records and returns are:
- (a) all Members and officers operate within the required accounting standards and timetables,
  - (b) all the Authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis,
  - (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure,
  - (d) reconciliation procedures are carried out to ensure transactions are correctly recorded,

(e) prime documents are retained in accordance with legislative and other requirements.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- A.34 To determine on behalf of the Council suitable accounting records, accounting statements and accounting control systems for the Authority. Where records are maintained outside the Finance section, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) should consult the Chief Officer concerned. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) must also ensure that the accounting control systems are observed and that the accounting records of the Council are maintained in accordance with proper practices and kept up to date.
- A.35 To arrange for the compilation of all accounts and accounting records under his or her direction.
- A.36 To comply with the following principles when allocating accounting duties:
- (a) separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them,
  - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- A.37 To make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit Regulations 2015, as amended 2021.
- A.38 To ensure that all claims for funds including grants are made by the due date.
- A.39 To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement for the Audit Committee to approve the Statement of Accounts by the dates prescribed by statute.
- A.40 To administer any arrangements for under and overspending to be carried forward to the following financial year.
- A.41 To ensure the proper retention of financial documents in accordance with the requirements set out in paragraphs 6.12 - 6.15 of the financial regulations.

### **Responsibilities of Chief Officers**

- A.42 To consult and obtain the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) before making any changes to accounting records and procedures.
- A.43 To comply with the principles outlined in paragraph A.37 when allocating accounting duties.
- A.44 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- A.45 To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).



## THE ANNUAL STATEMENT OF ACCOUNTS

### Why is this important?

- A.46 The Authority has a statutory responsibility to prepare its own accounts to present a true and fair view of its operations during the year. The Audit Committee is responsible for approving the statutory annual Statement of Accounts.

### Key controls

- A.47 The key controls for the annual Statement of Accounts are:
- (a) the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the Executive Director for Environment, Economy and Resources (as Section 151 Officer)
  - (b) the Authority is required to comply with the Accounts and Audit Regulations 2015 which set out the statutory dates for approval and publication of the annual accounts.
  - (c) the Authority's Statement of Accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting* (CIPFA/LASAAC).

### Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)

- A.48 To set out correct accounting policies and to apply them consistently throughout the Council.
- A.49 To prepare the Statement of Accounts and present this to Council by the statutory date set out in the Accounts and Audit Regulations 2015.
- A.50 To sign and date the Statement of Accounts.
- A.51 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### Responsibilities of Directors

- A.52 To comply with accounting guidance provided by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in relation to the preparation of the Council's Statement of Accounts, and to supply the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with information when required.

## **Financial Procedure Rules: Financial Planning**

### **PERFORMANCE PLANS**

#### **Why is this important?**

- B.1 Each local authority has a statutory responsibility to publish various performance plans. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. Annually the Authority publishes a Council Plan, which summarises its performance and priorities for the coming three year period. The Council Plan is a key element in the Authority's programme of engaging with the public. External audit is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and publication of the Council Plan.

#### **Key controls**

- B.2 The key controls for performance plans are to:
- (a) ensure that all relevant plans are produced and that they are consistent,
  - (b) produce plans in accordance with statutory requirements,
  - (c) meet the timetables set,
  - (d) ensure that all performance information is accurate, complete and up to date,
  - (e) provide improvement targets which are meaningful, realistic and challenging.

#### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- B.3 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- B.4 To contribute to the development of corporate and service targets and objectives and performance information.

#### **Responsibilities of Directors**

- B.7 To contribute to the development of performance plans in line with statutory requirements.
- B.8 To contribute to the development of corporate and service targets and objectives and performance information, and deliver these targets.
- B.9 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- B.10 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

## **BUDGETING**

### ***Format of the budget***

#### **Why is this important?**

- B.9 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of budget allocations and sets the level at which funds may be reallocated within budgets.

#### **Key controls**

- B.10 The key controls for the budget format are, that the format:

- (a) complies with all legal requirements,
- (b) complies with CIPFA's *Service Reporting Code of Practice*,
- (c) reflects the accountabilities of service delivery.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- B.11 To advise the Cabinet on the format of the budget that is approved by the full Council.

#### **Responsibilities of Directors**

- B.12 To comply with accounting guidance provided by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

### ***Revenue budget preparation, monitoring and control***

#### **Why is this important?**

- B.13 Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- B.14 By continuously identifying and explaining variances against budgetary targets, the Authority can identify changes in trends and resource requirements at the earliest opportunity. The Authority itself operates within an annual budget allocation, approved when setting the overall budget. To ensure that the Authority in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.
- B.15 For the purposes of budgetary control by officers, a budget will normally be the planned income and expenditure for a service area or cost centre.

#### **Key controls**

- B.16 The key controls for managing and controlling the revenue budget are:

- (a) The responsibility of the Council for budget monitoring and control, under the Local Government Act 2003, is acknowledged,
- (b) there is a nominated budget manager and budget holder for each cost centre heading,
- (c) budget holders should be responsible only for income and expenditure that they can influence, and act under the direction of their budget manager,
- (d) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities,
- (e) budget holders follow an approved certification process for all expenditure,
- (f) income and expenditure are properly recorded and accounted for,
- (g) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget,
- (h) Appropriate forms of reporting are identified and put in place.

**Responsibilities of the Executive Director for Environment, Economy and Resources  
(as Section 151 Officer)**

- B.17 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual budget allocations unless the full Council agrees otherwise,
  - (b) each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities,
  - (c) expenditure is committed only against an approved budget head,
  - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations,
  - (e) each cost centre has a single named officer, determined by the relevant budget manager (Director or senior manager), to act as the budget holder for that cost centre. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure,
  - (f) significant variances from approved budgets are investigated and reported by budget managers regularly.
- B.18 To administer the Authority's scheme of virement.
- B.19 To submit reports to the Cabinet and to the full Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.
- B.20 To prepare and submit reports on the Authority's projected income and expenditure compared with the budget on a regular basis.

## **Responsibilities of Directors**

- B.21 To maintain budgetary control within their departments, in adherence to the principles in B.17. To ensure that all income and expenditure is legal and is properly recorded and accounted for.
- B.22 To ensure that one accountable budget holder, who will act under the direction of a nominated budget manager, is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- B.23 To ensure that spending remains within the service's overall budget allocation, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- B.24 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- B.25 To prepare and submit to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) reports on the service's projected expenditure compared with its budget, and to keep the Executive Director for Environment, Economy and Resources (as Section 151 Officer) informed of any actual or likely changes which may/will have a significant impact on current or future budgets.
- B.26 To ensure prior approval by the full Council or Cabinet (in accordance with the Council's Constitution) for new proposals which:
- (a) create material financial commitments in future years,
  - (b) change existing policies, initiate new policies or cease existing policies,
  - (c) materially extend or reduce the Authority's services.

A report on new proposals should explain the full financial implications, following consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer). Unless the full Council or Cabinet has agreed otherwise, Directors must plan to contain the financial implications of such proposals within their budget allocation.

- B.27 To ensure compliance with the scheme of virement.
- B.28 To agree with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director's level of service activity.
- B.29 To ensure that the Council's standing orders with respect to contracts are complied with whenever expenditure is proposed to be incurred.

## ***Budgets and medium-term planning***

### **Why is this important?**

- B.31 The Authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated

in accordance with carefully weighed priorities. The budget is the financial expression of the Authority's plans and policies.

- B.32 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.
- B.33 Medium-term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Authority is always preparing for events in advance.

### **Key controls**

- B.34 The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure,
  - (b) budget managers (Directors and senior managers) are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered;
  - (c) budget managers nominate designated budget holders to be responsible for the day to day control of income and expenditure against a set budget for a cost centre, or group of cost centres, as directed by the budget manager,
  - (d) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken,
  - (e) under the Local Government Act 2003 there is a requirement for the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to prepare a report, for use when the authority is deciding its annual budget and council tax, on the robustness of the budget and the adequacy of the Authority's reserves. The Government has a back-up power to impose a minimum level of reserves on an authority that it considers to be making inadequate provisions.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- B.35 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government, the robustness of the budget and the adequacy of the Authority's reserves. Reports should take account of medium-term prospects, where appropriate.
- B.36 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the full Council, and after consultation with the Cabinet and Chief Officers.
- B.37 To prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- B.38 To advise on the medium-term implications of spending decisions.

- B.39 To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- B.40 To advise the full Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

### **Responsibilities of Directors**

- B.41 To prepare estimates of income and expenditure, in consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to be submitted to the Cabinet.
- B.42 To prepare budgets that are consistent with any relevant budget allocations, with the Authority's annual budget cycle and with guidelines issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). The format should be prescribed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in accordance with the full Council's general directions.
- B.43 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- B.44 In consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Cabinet and/or the Council in accordance with the budget and policy framework.
- B.45 When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process,
  - (b) legal requirements,
  - (c) policy requirements as defined by the full Council in the approved policy framework,
  - (d) service developments,
  - (e) efficiency savings, and
  - (f) the priorities of the Council plan and service plans.

### **Resource allocation**

#### **Why is this important?**

- B.46 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are properly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

#### **Key controls**

- B.47 The key controls for resource allocation are that resources are:

- (a) acquired in accordance with the law and using an approved authorisation process,
- (b) used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for,
- (c) securely held for use when required,
- (d) used with the minimum level of waste, inefficiency or loss for other reasons.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- B.48 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- B.49 To assist in the allocation of resources to budget managers.

### **Responsibilities of Directors**

- B.50 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- B.51 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

### ***Capital plans***

#### **Why is this important?**

- B.52 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. As capital expenditure can involve significant sums of money it is important that capital projects are carefully appraised and managed to ensure that the project objectives are delivered.
- B.53 The Local Government Act 2003 established a new system for capital financing based on a prudential framework. Local Authorities now have the freedom to borrow funds to finance their capital programmes, without government consent. The framework requires that local authorities ensure their plans are affordable, prudent and sustainable. Capital expenditure should form an essential part of the Council's asset management strategy and should be carefully prioritised in line with Council policy in order to maximise the benefit of scarce resources.

### **Key controls**

- B.54 The key controls for capital plans are:
  - (a) specific approval by the full Council for the programme of capital expenditure,
  - (b) expenditure on capital schemes is subject to the approval of the Council and/or Cabinet,
  - (c) the development and implementation of a Capital Investment Strategy (including a capital prioritisation methodology) and Asset Management Plan,



- (d) accountability for each proposal is accepted by a named manager,
- (e) monitoring of progress in conjunction with expenditure and comparison with approved budget. Quarterly reports of capital monitoring are required to be presented to the Cabinet.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- B.55 To prepare the Council's capital programme jointly with Directors and the Head of Paid Service and to report it to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the full Council. Approval from the Cabinet is required where a Director proposes additional unsupported borrowing not anticipated in the capital programme.
- B.56 To prepare and submit reports to the Cabinet on the capital outturn as compared with capital budget.
- B.57 To issue guidance concerning capital schemes and regulations, for example, on project appraisal techniques. The definition of 'capital expenditure' will be in accordance with standard accounting practice and government regulation.
- B.58 To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount which will be from time to time declared.

### **Responsibilities of Directors**

- B.59 To comply with guidance concerning capital schemes and controls issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- B.60 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) regardless of the source of funding of the proposed project.
- B.61 To prepare regular reports for the Executive Director for Environment, Economy and Resources (as Section 151 Officer) reviewing the capital plan provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- B.62 To ensure that adequate records are maintained for all capital contracts.
- B.63 To proceed with projects only when there is adequate provision in the capital programme and the project has been approved by Cabinet with the agreement of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) where required. The funding of proposed projects must be clearly identified together with full financial implications (both revenue and capital) and a capital investment appraisal form must be completed for every capital project, regardless of the source of funding of the project.
- B.64 To prepare and submit reports, jointly with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to the Cabinet, of any variation in contract costs greater than the approved limits.

- B.65 To prepare and submit reports, jointly with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- B.66 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and approval of the scheme through the capital programme.
- B.67 To consult with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and to seek Cabinet approval where the Director proposes to bid for funding to finance a project where expenditure has not been included in the current year's capital plan.
- B.68 To comply with standing orders in the administration of contracts.
- B.69 Where projects in the capital programme are included on the assumption of resources becoming available, no financial commitments should be entered into on these projects unless resources are confirmed as being available to the satisfaction of the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- B.70 To ensure that one accountable manager is identified for the management of each capital project, ensuring that approved funding is spent in accordance with the capital plan, and the project is delivered within the timeframes set down in the capital plan.

## **MAINTENANCE OF RESERVES**

### **Why is this important?**

- B.71 The local authority must decide the level of general reserves (balances) it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained. When an authority is deciding its annual budget and council tax level it is required to take into account a report from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on the adequacy of the authority's reserves and robustness of the budget. The Government has a backup power to impose a minimum level of reserves on an authority that it considers to be making inadequate provisions.

### **Key controls**

- B.72 To establish and maintain reserves in accordance with the Local Government Act 2003.
- B.73 It is the responsibility of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to advise the Council regarding the level of reserves that they should hold and to ensure that there are clear protocols for their establishment and use.
- B.74 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- B.75 Transfers to and from reserves require authorisation by the appropriate Director in consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- B.76 To advise the Cabinet and/or the full Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter. The Executive Director for Environment, Economy and Resources (as Section 151 Officer) is also required to prepare a report on the adequacy of the Authority's reserves for use when the Authority is deciding its annual budget and council tax level.
- B.77 To ensure that there is a clear protocol for the establishment and use of reserves.

### **Responsibilities of Directors**

- B.76 To ensure that reserves are used only for the purposes for which they were intended.

## **Financial Procedure Rules: Risk Management and Control of Resources**

### **RISK MANAGEMENT**

#### **Why is this important?**

- C.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- C.2 It is the overall responsibility of the Cabinet to approve the Authority's Risk and Opportunities Policy and to promote a culture of risk management awareness throughout the authority.

#### **Key controls**

- C.3 The key controls for risk management are:
- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Authority,
  - (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
  - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives,
  - (d) provision is made for losses that might result from the risks that remain,
  - (e) procedures are in place to investigate claims within required timescales,
  - (f) acceptable levels of risk are determined and insured against where appropriate,
  - (g) the Authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

#### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- C.4 To ensure that the Authority's Risk and Opportunities Policy Statement is prepared and promoted throughout the Authority by the nominated officer.
- C.5 To develop risk management controls in conjunction with other Chief Officers.

- C.6 To include all appropriate employees of the Authority in a suitable fidelity guarantee insurance.
- C.7 To offer insurance cover to schools (excludes academy schools).
- C.8 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

### **Responsibilities of Directors**

- C.9 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) immediately of any loss, liability or damage that may lead to a claim against the Authority, together with any information or explanation required by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) or the Authority's insurers.
- C.10 To take responsibility for risk management, having regard to advice from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) or nominated officer on behalf of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and other specialist advice (e.g. crime prevention, fire prevention, health and safety).
- C.11 To ensure that there are regular reviews of risk within his or her department, in accordance with Council policies and procedures.
- C.12 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- C.13 To consult the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and the Monitoring Officer on the terms of any indemnity that the Authority is requested to give.
- C.14 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **INTERNAL CONTROLS**

### **Why is this important?**

- C.15 The Authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- C.16 The Authority has statutory obligations and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- C.17 The Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- C.18 The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations,
- (b) reliable financial information and reporting,
- (c) compliance with laws and regulations, and
- (d) risk management.

### **Key controls**

C.19 The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively,
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities,
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems,
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Public Sector Internal Auditing Standards (April 2013) and with any other statutory obligations and regulations.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

C.20 To assist the Authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of Directors**

- C.21 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- C.22 To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and internal audit. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- C.23 To ensure staff have a clear understanding of the consequences of lack of control.

## **AUDIT REQUIREMENTS**

### ***Internal Audit***

### **Why is this important?**

C.24 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015, more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control”.

C.25 Accordingly, Internal Audit is an independent and objective appraisal function established by the Authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. Internal Audit assists management in delivering the objectives of the Council through assessing exposure to risk and recommending, where appropriate, practical improvements to the control environment. To this end, Internal Audit will have no executive responsibilities. Internal Audit’s remit, as laid out in its charter, includes:

- assessing if operations are being carried out as planned, and if objectives / goals are being achieved,
- assessing the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation or externally,
- assessing the completeness, reliability and integrity of information, both financial and operational,
- assessing the extent to which the Council’s assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud, corruption, waste, extravagance, abuse, ineffective management and poor value for money, and
- assessing the economy, efficiency and effectiveness with which resources are deployed.

### **Key controls**

C.26 The key controls for Internal Audit are:

- (a) that it is independent in its planning and operation,
- (b) the Service Manager Internal Audit has direct access to the Head of Paid Service, all levels of management and directly to elected Members, and
- (c) the internal auditors comply with the Public Sector Internal Auditing Standards, and the “Local Government Application Note Public Sector Internal Audit Standards” prepared by CIPFA

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

C.27 To ensure that internal auditors have the authority to:

- (a) access authority premises at reasonable times,
- (b) access all assets, records, documents, correspondence and control systems,

- (c) receive any information and explanation considered necessary concerning any matter under consideration,
- (d) require any employee of the Authority to account for cash, stores or any other authority asset under his or her control, and
- (e) directly access the Head of Paid Service, the Cabinet and appropriate committees, in accordance with the terms of reference agreed for Internal Audit.

Internal Audit shall also have access to all officers, buildings, information, explanations and documentation required to discharge the audit role in respect of:

- organisations to whom the Council has given grants,
- organisations with whom the Council contracts, and
- partner organisations in any scheme for which the Council has responsibility as lead or accountable body.

Such rights of access shall be written into the appropriate agreements with these organisations.

- C.28 To approve the strategic and annual audit plans prepared by the Service Manager Internal Audit, which take account of the characteristics and relative risks of the activities involved. In producing such audit plans, the Head of Audit and Assurance shall have an unrestricted range of coverage of the Council's operations; the Head of Audit and Assurance will have freedom to determine the priorities of Internal Audit in consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and other Directors.
- C.29 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- C.30 To ensure that a review of the effectiveness of Internal Audit is undertaken at least once a year.

### **Responsibilities of Directors**

- C.31 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- C.32 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- C.33 To consider and respond promptly to recommendations in audit reports.
- C.34 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- C.35 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Service Manager Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.



If a serious irregularity is confirmed, the matter shall also be reported to the Head of Paid Service, the Leader of the Council and the Assistant Chief Executive.

- C.36 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) prior to implementation.

### ***External Audit***

#### **Why is this important?**

- C.37 The authority has opted in to the Public Sector Audit Appointments Ltd national scheme to oversee the appointment of its external auditor. An appointed auditor has rights of access to all documents and information deemed necessary for audit purposes.
- C.38 The basic duties of the external auditor are defined in the Local Audit and Accountability Act 2014 and the Local Government Act 1999. Additionally, the National Audit Office has now taken on responsibility for preparing / maintaining the Code of Audit Practice which sets out the way in which the auditors carry out their functions. The Code of Audit Practice sets out the auditor's main objectives to review and report upon the:
- (a) audited body's accounts, and
  - (b) audited body's arrangements for securing economy, efficiency and effectiveness in the use of resources.
- C.39 The Authority's accounts are scrutinised by external auditors, who must be satisfied that the Statement of Accounts presents a 'true and fair view' of the financial position of the Authority and its income and expenditure for the year in question and complies with the legal requirements.

#### **Key controls**

- C.40 External auditors are appointed for a maximum contract period of five years (*Local Audit and Accountability Act 2014 s.7*). The National Audit Office prepares a Code of Audit Practice, which external auditors follow when carrying out their audits.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- C.41 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- C.42 To ensure there is effective liaison between external and internal audit.
- C.43 To work with the external auditor and advise the full Council, Cabinet and Directors on their responsibilities in relation to external audit.

## **Responsibilities of Directors**

- C.44 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- C.45 To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

### **Why is this important?**

- C.46 The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority.
- C.47 The Authority's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- C.48 The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers and partners) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud and corruption.

### **Key controls**

- C.49 The key controls regarding the prevention of financial irregularities are that:
  - (a) the Authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption,
  - (b) all Members and staff act with integrity and lead by example,
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt,
  - (d) high standards of conduct are promoted amongst Members by the Standards Committee,
  - (e) the maintenance of a register of interests in which any interests, or offers of gifts or hospitality must be recorded,
  - (f) whistle blowing procedures are in place and operate effectively,
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to
  - (h) anti-money laundering procedures are in place.

## **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- C.50 To develop and maintain an anti-fraud and anti-corruption policy.
- C.51 To develop and maintain a money laundering policy
- C.52 To maintain adequate and effective internal control arrangements.

- C.53 To ensure that all suspected irregularities are reported to the Head of Audit and Assurance; to report fraud or irregularity necessitating police involvement to the Leader, Head of Paid Service and Assistant Chief Executive.

### **Responsibilities of Directors**

- C.54 To ensure that all suspected irregularities are reported to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Head of Audit and Assurance.
- C.55 To instigate the Authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- C.56 To ensure that where financial impropriety is discovered, the Executive Director for Environment, Economy and Resources (as Section 151 Officer) is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- C.57 To maintain a departmental register of interests, gifts and hospitality, and to ensure that all staff within the department are made aware of their duty to declare interests, or offers of gifts or hospitality, which may conflict with their role as a Council employee; to disseminate and publicise the Council's anti-fraud and corruption policy and strategy to all staff within the department of the Chief Officer.

## **ASSETS**

### **Security**

#### **Why is this important?**

- C.58 The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that arrangements are in place for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

### **Key controls**

- C.59 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) resources are used only for the purposes of the Authority and are properly accounted for,
  - (b) resources are available for use when required,
  - (c) resources that are no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits,
  - (d) an asset register is maintained for the Authority, assets are recorded when they are acquired and this record is updated as changes occur with respect to the location and condition of the asset,

- (e) all staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation, and
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to the information held on them and compliance with the Authority's computer and internet security policies.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- C.60 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of an amount which will be declared from time to time. The function of the asset register is to provide the Authority with information about fixed assets so that they are:
  - safeguarded,
  - used efficiently and effectively,
  - adequately maintained.
- C.61 To receive the information required for accounting, costing and financial records from each Director, and to determine the method of valuation of stores.
- C.62 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC).

### **Responsibilities of Chief Officers**

- C.63 The appropriate Chief Officer shall maintain a property database in a form approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) for all properties, plant and machinery, and moveable assets currently owned or used by the Authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- C.64 To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Chief Officer in consultation with the Monitoring Officer and the Executive Director for Environment, Economy and Resources (as Section 151 Officer) has been established as appropriate.
- C.65 To ensure the proper security of all buildings and other assets under their control.
- C.66 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the relevant Director; any such recommendation must comply with the relevant provisions as detailed in standing orders with respect to contracts.
- C.67 To pass title deeds to the appropriate Chief Officer who is responsible for custody of all title deeds.
- C.68 To ensure that no Authority asset is subject to personal use by an employee without proper authority. The Council will adopt the ICT and Information Security Standards Policy which Directors must distribute and enforce.

- C.69 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Authority.
- C.70 To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- C.71 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- C.72 To consult the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- C.73 To ensure cash holdings on premises are kept to a minimum, and take cognisance of the Council's insurance arrangements for such holdings.
- C.74 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Internal Audit as soon as possible.
- C.75 To examine all stocks on a regular basis, at not more than twelve monthly intervals. Any slow-moving items or obsolete stocks should be identified and appropriate remedial action taken.
- C.76 To record all disposal or part exchange of assets in accordance with the Council's standing orders with respect to contracts.
- C.77 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- C.78 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

### ***Inventories***

- C.79 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery with an individual value exceeding £1,000, and for portable goods such as Laptop Computers, iPads, mobile telephones, exceeding £50.
- C.80 To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Significant variations should be brought to the attention of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Head of Audit and Assurance. Attractive and portable items, such as computers and cameras, should be identified with security markings as belonging to the Authority. Guidance on the disposal of obsolete inventory, or that which is surplus to requirements, is given in C.85.
- C.81 To make sure that property is only used in the course of the Authority's business, unless the Director concerned has given permission otherwise.

## ***Stocks and stores***

- C.82 To make arrangements for the care and custody of stocks and stores in the department.
- C.83 To ensure stocks are maintained at reasonable levels (which do not exceed normal business requirements) and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion; significant discrepancies should be brought to the attention of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Head of Audit and Assurance.
- C.84 To investigate and remove from the Authority's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of a predetermined limit which will be announced on an annual basis.
- C.85 To authorise or write off disposal of redundant stocks, equipment or inventory after consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer). First consideration should be given to transfer of the items to another department, in which case this should be clearly recorded in the records of each department. Where there is no demand for the items by other departments within the Council, the asset disposal guidelines and framework should be followed (available on the intranet). Checks should be made to ensure that item(s) are the property of the Council / School and are not hired or leased and any proposed disposal of art works or property held in trust must in the first instance be checked with Legal Services, as there may be special circumstances pertaining to such assets which must be examined on a case by case basis.
- C.86 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.
- C.87 To ensure that all stores issues, except in the case of small value materials, are supported by a requisition stating the quantity required which is signed by an authorised signatory.
- C.88 To ensure that delivery notes are obtained in respect of all goods received into store and that the goods are checked with both the delivery note and official order as regards quantity and specification compliance as soon as possible.
- C.89 To provide the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with such information as he or she requires in relation to stores for accounting, costing and financial records.

## ***Intellectual property***

### **Why is this important?**

- C.90 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- C.91 Certain activities undertaken within the Authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

## **Key controls**

- C.92 In the event that the Authority decides to become involved in the commercial exploitation of intellectual property, guidelines for this should be drafted.

## **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- C.93 To develop and disseminate good practice and guidelines on the ownership and exploitation of intellectual property, in conjunction with other relevant officers of the Council (e.g. the Monitoring Officer).

## **Responsibilities of Directors**

- C.94 To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## ***Asset disposal***

## **Why is this important?**

- C.95 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Authority.

## **Key controls**

- C.96 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction. The Asset Disposal Guidance incorporates an approved framework for the disposal of capital assets and advice on when it is appropriate to use this framework.
- C.97 Procedures protect staff involved in the disposal from the potential for accusations of personal gain.

## **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- C.98 To issue guidelines representing best practice for disposal of assets (see C.85).
- C.99 To ensure appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

## **Responsibilities of Directors**

- C.100 To seek advice from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on the disposal of surplus or obsolete materials, stores or equipment, and to follow the asset disposal guidelines prepared by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) (see C.85).
- C.101 To ensure that maximum income is received for the disposal of an asset (see C.85), and is properly banked and recorded in the accounts.

## TREASURY MANAGEMENT AND BANKING

### Why is this important?

- C.102 Significant sums pass through the Authority's books each year. Codes of practice governing the appropriate way of administering these funds have become established. These aim to provide assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.

### Key controls

- C.103 That the Authority's borrowings and investments comply with the CIPFA *Code of Practice for Treasury Management in the Public Services* and with the Authority's Treasury Policy Statement.

### Responsibilities of Executive Director for Environment, Economy and Resources (as Section 151 Officer)– treasury management and banking

- C.104 To arrange the borrowing and investments of the Authority in such a manner as to comply with the CIPFA *Code of Practice for Treasury Management in the Public Services*, the Authority's Treasury Management Policy Statement and the Annual Strategy Statement.
- C.105 In accordance with the CIPFA *Code of Practice for Treasury Management in the Public Services*, to report on a regular basis on treasury management activities.
- C.106 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and all such accounts must be in the name of the Authority.

### Responsibilities of Directors – treasury management and banking

- C.107 To follow the instructions on banking issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and to comply with the Council's Treasury Management Policy Statement; to ensure that Council cheques held within (or being transported from or to) the Director's department are securely stored, administered and controlled.

### Responsibilities of Executive Director for Environment, Economy and Resources (as Section 151 Officer)– investments and borrowing

- C.108 To ensure that all investments of money are made in the name of the Authority or in the name of nominees approved by the full Council.
- C.109 To ensure that all securities that are the property of the Authority (or its nominees) and the title deeds of all property in the Authority's ownership are held in the custody of the appropriate Chief Officer.
- C.110 To effect all borrowings in the name of the Authority.
- C.111 To act as the Authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Authority.



- C.112 To ensure that arrangements exist which provide for an officer (other than the officer who usually makes investments) to monitor investment levels, which should be periodically reviewed.
- C.113 To ensure that an adequate division of duties exists between the arranging and settling of transactions.

### **Responsibilities of Directors – investments and borrowing**

- C.114 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the full Council, following consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

### **Responsibilities of Directors – trust funds and funds held for third parties**

- C.115 To arrange for all trust funds to be held, wherever possible, in the name of the Authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) unless the deed otherwise provides.
- C.116 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and to maintain written records of all transactions.
- C.117 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)– imprest accounts**

- C.118 To provide employees of the Authority with cash or bank imprest accounts to purchase low value, urgent items on behalf of the Authority and to prescribe rules for operating these accounts. For petty cash imprests, expenditure on goods should not usually exceed £100 for any one transaction; payments may not be broken down in order to avoid this limit. For cheque accounts (see C.119), individual cheques should be signed by at least two authorised signatories, a list of whom should be provided to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and regularly updated. Cheques should never be 'pre-signed', or signed when the account payee or value of the cheque is blank.
- C.119 Where appropriate, to open an account with the Council's bankers for use by the imprest holder who shall not overdraw the account. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance shall forthwith be notified to the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- C.120 To determine the petty cash advance limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- C.121 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.
- C.122 To inform all Directors of the Council's insurance cover with regard to cash holdings.

## **Responsibilities of Directors – imprest accounts**

C.123 To ensure that employees operating an imprest account:

- obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained, to ensure that VAT may be reclaimed where appropriate,
- make adequate arrangements for the safe custody of the account, having regard to the Council's insurance cover where appropriate,
- produce upon demand by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) cash and all vouchers to the total value of the imprest amount,
- record transactions promptly,
- respect the £100 limit for petty cash payments, unless in exceptional circumstances the Director has allowed a higher value for a particular purchase,
- reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder,
- ensure a petty cash payment slip is completed for every reimbursement which is made, signed by the claimant, authorised by his or her line manager, and signed by the person making the petty cash payment (who shall be an authorised signatory for such purposes). Receipts must be obtained to back up all expenditure made and reclaimed through the petty cash account and attached to the petty cash payment slip to comply with the requirements of HM Revenue & Customs,
- provide the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with a certificate of the value of the account held at 31 March each year,
- ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made. Income should never be paid into a petty cash account, but banked separately as required by these financial regulations,
- on leaving the Authority's employment, or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) for the amount advanced to him or her, and surrender the imprest and associated records to the Director or their nominated senior representative, and
- advise the Director of any significant imbalances which cannot be reconciled; the Director should then contact the Executive Director for Environment, Economy and Resources (as Section 151 Officer) for advice.

C.124 When making expenditure on behalf of the service for reimbursement by petty cash or payment voucher, employees are reminded that:

- Use of personal credit/debit cards should be avoided where possible for paying for goods.
- Personal loyalty cards must not be used to gain points or benefits from transactions. Any loyalty cards should be held in the Authority's name. This principle applies to any purchase made by the Authority from which vouchers can be collected and exchanged for gifts.

## **STAFFING**

### **Why is this important?**

C.125 In order to provide the highest level of service, it is critical that the Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **Key controls**

C.126 The key controls for staffing are:

- (a) A clear Recruitment and Selection Policy as well as a People Leadership and Development Strategy exists, in which staffing requirements and budget allocation are matched,
- (b) procedures are in place for forecasting staffing requirements and cost,
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the Authority, and
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

C.127 To ensure that budget provision exists for all existing and new employees.

C.128 To act as an advisor to Directors on areas such as national insurance and pension contributions, as appropriate.

### **Responsibilities of Directors**

C.129 To agree an annual staffing budget.

C.130 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to appropriate revenue budget provision (including on-costs and overheads).

C.131 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

C.132 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

C.133 To ensure that the Executive Director for Environment, Economy and Resources (as Section 151 Officer) is immediately informed if the staffing budget is likely to be materially over or underspent.

C.134 To ensure that adequate employment checks are made in respect of any individuals to whom it is proposed to make an offer of employment, in line with instructions issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). This should include the obtaining of employment references, evidence of qualifications where such qualifications are a requirement of the offer of employment, identity and Disclosure and Barring Service (DBS) checks where appropriate. Such employment checks should be

performed in respect of both new employees, and (if appropriate) where existing staff are redeployed from elsewhere within the Council.

- C.135 To ensure that a record is maintained within the department of all identity cards, safe keys, building keys, equipment (including mobile telephones), and clothing belonging to the Council which have been issued to employees. Staff leaving the employ of the Council must be required to return on, or by their last working day, all such items.

## **Financial Procedure Rules: Financial Systems and Procedures**

### **GENERAL**

#### **Why is this important?**

- D.1 Service Areas have many systems and procedures relating to the control of the Authority's assets. Service Areas are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- D.2 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) has a professional responsibility to ensure that the Authority's financial systems are sound and should therefore be notified of any new developments or changes.

#### **Key controls**

- D.3 The key controls for systems and procedures are:
- (a) basic data exists to enable the Authority's objectives, targets, budgets and plans to be formulated,
  - (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis,
  - (c) early warning is provided of deviations from target, plans and budgets that require management attention, and
  - (d) operating systems and procedures are secure.

#### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- D.4 To make arrangements for the proper administration of the Authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the Authority's behalf,
  - (b) determine the accounting systems, form of accounts and supporting financial records,
  - (c) establish arrangements for audit of the Authority's financial affairs,
  - (d) approve any new financial systems to be introduced, and
  - (e) approve any changes to be made to existing financial systems.

## **Responsibilities of Directors**

- D.5 To ensure that accounting records are properly maintained and held securely.
- D.6 To ensure that vouchers and documents with financial implications are not destroyed within the document retention periods set out in paragraphs 6.12 - 6.15 of the financial regulations.
- D.7 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- D.8 To incorporate appropriate controls to ensure that, where relevant:
  - (a) all input is genuine, complete, accurate, timely and not previously processed,
  - (b) all processing is carried out in an accurate, complete and timely manner, and
  - (c) output from the system is complete, accurate and timely.
- D.9 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- D.10 To ensure there is a documented and tested disaster recovery plan/ business continuity plan to allow information system processing to resume quickly in the event of an interruption, and that this plan is shared widely with appropriate staff within the service.
- D.11 To ensure that systems are documented and staff trained in operations.
- D.12 To inform the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Internal Audit before changing any existing system or introducing new systems; details of the proposed change, anticipated benefits, an estimate of the costs involved and the proposed implementation dates should be provided. Internal Audit advice should be sought at as early a stage as possible and approval to implement such systems is to be obtained from the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in writing. Any proposed changes to ICT systems should be compatible with the ICT Strategy.
- D.13 To comply with the Council's officer delegation scheme, and to establish a schedule of authorised signatories, identifying officers authorised to act on the Director's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- D.14 To supply the schedule of authorised signatories, with specimen signatures and delegated limits, to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) together with any subsequent variations.
- D.15 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems in accordance with the computer security policy. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- D.16 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- D.17 To ensure that relevant standards and guidelines for computer systems issued by the Director are observed, and that the computer security policy is observed.

- D.18 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- D.19 To comply with copyright, design and patent legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the Authority is used on its computers,
  - (b) staff are aware of legislative provisions, and
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME AND EXPENDITURE**

### ***Income***

#### **Why is this important?**

- D.20 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Authority's cash flow and also avoids the time and cost of administering debts.

#### **Key controls**

- D.21 The key controls for income are:
- (a) all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed,
  - (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery, and
  - (c) all money received by an employee on behalf of the Authority is banked without delay (directly into the Council's bank account or given to an approved security company appointed by the Authority) and properly recorded. The responsibility for cash collection should be separated from that:
    - for identifying the amount due, and
    - for reconciling the amount due to the amount received,
  - (d) effective action is taken to pursue non-payment within defined timescales,
  - (e) formal approval for debt write-off is obtained,
  - (f) appropriate write-off action is taken within defined timescales,
  - (g) appropriate accounting adjustments are made following write-off action,
  - (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention periods specified in paragraphs 6.12 – 6.15 of the financial regulations,

- (i) money collected and deposited is reconciled to the bank account and/or general ledger system by a person who is not involved in the collection or banking process, and
- (j) all controlled stationery associated with income collection (e.g. receipt books, paying in books etc.) is held in a controlled environment.

**Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- D.22 To agree arrangements for the collection of all income due to the Authority and to approve the procedures, systems and documentation for its collection.
- D.23 To issue guidelines to departments on appropriate procedures for the order and supply of all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- D.24 To agree the write-off of bad debts up to an approved limit as detailed below:

<b>Officer</b>	<b>Authorisation Limit</b>
Budget Holder	Up to £1,000
Service Manager	Up to £5,000
Director	Up to £10,000
Section 151 Officer/Deputy S151	Up to £50,000
Cabinet Approval	Over £50,000

- D.25 To approve debts to be written off, in consultation with the relevant Chief Officer, as detailed in the officers' scheme of delegation and to adhere to the requirements of the Accounts and Audit Regulations 2015.
- D.26 To obtain the approval of the Cabinet in consultation with the relevant Chief Officer for writing off debts in excess of the approved limits set down in the officers' scheme of delegation.
- D.27 To ensure that appropriate accounting adjustments are made following write-off action.
- D.28 To issue detailed guidance to departments regarding VAT and its correct treatment.
- D.29 To examine any proposal for the introduction of, or a variation in, a scale of charges other than those agreed at national or regional level.
- D.30 To inform Chief Officers of the Council's insurance limits relating to cash holdings.
- D.31 To make or approve arrangements with the Council's bankers and to operate such bank accounts as are considered necessary. No bank accounts or similar may be opened without the consent of the Executive Director for Environment, Economy and Resources (as Section 151 Officer). The maintenance of Council bank accounts shall be in accordance with arrangements determined by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.32 To make or approve all arrangements in connection with electronic payment and collection of monies and to ensure that adequate security exists within these arrangements to prevent loss due to error or fraud.



- D.33 To ensure that all cheques and other orders for payment bear the facsimile signature of the Chief Executive or be signed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) or other officers so authorised.

### **Responsibilities of Directors**

- D.34 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it at least annually, in line with corporate policies and in consultation with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and Monitoring Officer. After this consultation, the charging policies proposed by Chief Officers should be referred to Cabinet for approval.
- D.35 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- D.36 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- D.37 To issue official receipts or to maintain other documentation for income collection. All sums shall be immediately acknowledged by the issue of an official receipt or ticket or by other means agreed with the Executive Director for Environment, Economy and Resources (as Section 151 Officer). Payments by cheque or electronic means need not be acknowledged unless requested.
- D.38 To ensure that controlled stationery is administered securely. A register should be maintained of all controlled stationery held and that which has been issued to staff. Blank/unused stationery should only be issued to staff on receipt of their signature in the register. A regular independent reconciliation of physical controlled stationery stocks to the register should be performed, by an officer within the service area who is not directly involved in the administration, or use, of such stationery.
- D.39 Ensure that all monies received through the post are identified and recorded.
- D.40 To hold securely receipts, tickets and other records of income for the appropriate period as defined in paragraphs 6.12 - 6.15 of the financial regulations.
- D.41 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling, having regard to the Council's insurance provisions for cash holdings.
- D.42 To ensure that safe keys are securely held by named officers at all times and that a register of such keyholders is maintained.
- D.43 To ensure that income is 'banked intact', that is, paid fully and promptly into the appropriate Authority bank account, or to an approved security company appointed by the Council in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account and/or general ledger system on a regular basis. Payment/banking shall be at least weekly, unless otherwise agreed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). Where amounts in hand exceed £500, or the insurance limit for cash holdings (whichever is the lesser), they shall be paid in forthwith, unless there is an agreed collection schedule arranged with the Council's approved security collection service. In these latter circumstances, Chief Officers must ensure by liaison with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) that the insurance limit on their safe is adequate to cover the value of monies received and held.

- D.44 To ensure income is not used to cash personal cheques or other payments, unless such cheques are drawn on the Council's bank account and the express authority of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) has been given to such action, or to finance expenditure.
- D.45 To supply the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to record correctly the sums due to the Authority and to ensure debtor accounts are sent out promptly. To do this, Directors should use established performance management systems to monitor recovery of income and flag up areas of concern to the Executive Director for Environment, Economy and Resources (as Section 151 Officer). Directors have a responsibility to assist the Executive Director for Environment, Economy and Resources (as Section 151 Officer) in collecting debts that they have originated in accordance with the Council's Debt Management Strategy, by providing any further information requested by the debtor, and in pursuing the matter on the Authority's behalf. Only cash holdings of an approved level (as defined by the Council's insurance arrangements available from the Executive Director for Environment, Economy and Resources (as Section 151 Officer)) can be held on the premises.
- D.46 To keep a record of every transfer of money (cash or cheque) between employees of the Authority; such a transfer should be immediately evidenced in writing. The receiving officer must sign for the transfer and the transferor must retain a copy.
- D.47 To recommend to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- D.48 To obtain the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) when writing off debts, in accordance with the provisions of the officers' scheme of delegation, and the approval of the Cabinet where required.
- D.49 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.50 To ensure that the existence of any sums advanced as change monies by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) are periodically verified by an independent officer.
- D.51 To ensure that levels of income received are compared to budgeted figures of income due on a regular basis and that differences are promptly investigated. Where a decision is made by a Chief Officer to offer services at a discount (for example, to increase demand), the 'discount' / reduced income will be borne by the service area. In making such decisions, the Chief Officer must have regard to the overall income targets set for the service area.
- D.52 To obtain the advice of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on any agreements which provide for variable income and the approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) for arrangements to pay by instalments.

- D.53 To ensure, wherever possible and practical, that income is collected in advance of a service or where this is not possible by an official invoice.
- D.54 To ensure that grant claims requiring certification in the name of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) are submitted for approval to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on a timely basis.
- D.55 To ensure that any donations made to the Council are receipted and banked in accordance with the procedures set out above, and charged against an appropriate income code in the Council's accounts.

### ***Ordering and paying for work, goods and services***

#### **Why is this important?**

- D.56 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. The Authority has a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's standing orders with respect to contracts.

#### **General**

- D.57 Every officer and member of the Authority has a responsibility to declare any links, relationships or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with the Council's codes of conduct and section 117 of the Local Government Act 1972.
- D.58 Official orders must be in a form approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). This may be paper based ordering books, or, in the case of goods procured through the electronic ordering system, an electronic order raised on that system. Official orders must be completed for all work, goods or services to be supplied to the Authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) (such as construction works, payments under contract, and purchases made using purchase cards). In the case of periodic payments or contracts, documentary evidence of the instigation of the contractual obligation and terms (e.g. duration of agreement, price charged) should be retained and invoices checked and agreed to the agreement terms prior to payment.
- D.59 Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment from the Authority shall be by BACs transmission or cheque, drawn on the Authority's bank account by the Executive Director for Environment, Economy and Resources (as Section 151 Officer). The use of direct debit shall require the prior agreement of the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.60 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Authority contracts. Staff involved in ordering or otherwise committing expenditure must ensure that there is budgetary provision before an order is placed, and that standing orders with respect to contracts are complied with.

## **Key controls**

D.61 The key controls for ordering and paying for work, goods and services are:

- (a) all goods and services are ordered only by appropriate persons, as detailed on departmental authorised signatory lists, and are correctly recorded on official order forms (subject to D.58 above),
- (b) where goods or services are purchased from outside the Authority, the Authority's standing orders with respect to contracts must be followed,
- (c) goods and services received are checked to ensure they are in accordance with the order,
- (d) payments are not made unless goods have been received by the Authority at the correct price, quantity and quality standards,
- (e) all payments are made to the correct person/body, for the correct amount and are properly recorded, regardless of the payment method,
- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the periods stated in paragraphs 6.12 – 6.15 of the financial regulations,
- (g) all expenditure, including VAT, is accurately recorded against the correct budget, and
- (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

## **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- D.62 To ensure that all the Authority's financial systems and procedures are sound and properly administered.
- D.63 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- D.64 To approve the form of official orders (both hard copy and electronic).
- D.65 To make payments from the Authority's funds on the Director's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- D.66 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- D.67 To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- D.68 To provide advice and encouragement on making payments by the most economical means.
- D.69 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

## **Responsibilities of Directors**

- D.70 To ensure that contractual terms and conditions for the supply of goods and services are in the Authority's best interests.
- D.71 To ensure that unique pre-numbered official hard copy orders, or, in the case of the electronic procurement system, official electronic orders, are used for all goods and services, other than in the case of exceptions specified in D.58. Such controlled stationery must be securely administered. Orders must be raised as soon as is practicable and fully completed, especially with regard to the price agreed for the items or services. Only in emergency situations can an order be raised after receipt of an invoice, and the order should then be clearly marked 'confirmation only'.
- D.72 To ensure that orders are only used for goods and services provided to the department; to ensure that adequate systems are in place to prevent the use of official orders by individuals to obtain goods or services for their private use.
- D.73 To ensure that only those staff authorised by him or her, as recorded on the departmental authorised signatory list, authorise orders; and to ensure that the authorised signatory list is kept up to date, includes specimen signatures and initials and identifies in each case the limits of each authorised signatory's authority. Directors should ensure that those authorised signatories committing the department to expenditure are aware of their responsibilities to be satisfied that goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained in accordance with standing orders with respect to contracts. Best value principles should underpin the Authority's approach to procurement. Value for money should always be achieved.
- D.74 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order and of sufficient quality and quantity. This check should, where possible, be carried out by a different officer to the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- D.75 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services,
  - (b) that the invoice has not previously been paid,
  - (c) that expenditure has been properly incurred and is within budget provision,
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices,
  - (e) correct accounting treatment of tax,
  - (f) that the invoice is correctly coded,
  - (g) that discounts have been taken where available, and
  - (h) that appropriate entries will be made in accounting records and stores / inventories records.
- D.76 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who approved the order, and

in every case, a different officer from the person checking a written invoice, should authorise the invoice.

- D.77 To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.78 To ensure that payments are not made on a photocopied invoice, statement or document other than the formal invoice, except where the requirements relating to faxed invoices (see below) are met. Payment should not be made on a photocopied invoice, as this may affect the Council's ability to reclaim VAT. Where the original invoice has not reached the Council for whatever reason, an official duplicate invoice (not a photocopy) should be requested from the supplier. Alternatively, it is permissible to accept a faxed invoice from a supplier, where the supplier's name and fax number are shown clearly in machine printed details on the fax receipt. Sufficient checks must be performed to ensure that the duplicate or faxed invoice has not previously been paid. The duplicate or faxed invoice must be clearly marked 'checked and not previously paid' and initialled by the officer performing this check.
- D.79 To encourage suppliers of goods and services to receive payment by the most economical means for the Authority. It is essential, however, that payments made by direct debit have the prior approval of the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.80 To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality.
- D.81 To ensure that standing orders with respect to contracts are explicitly complied with.
- D.82 To ensure that employees are aware of codes of conduct and the requirements to declare any personal or pecuniary interests.
- D.83 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Executive Director for Environment, Economy and Resources (as Section 151 Officer). This is because of the potential impact on the Authority's borrowing powers, to protect the Authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- D.84 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.85 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- D.86 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

- D.87 To ensure appropriate payment records are retained and stored for the periods outlined in paragraphs 6.12 - 6.15 of the financial regulations.
- D.88 To adhere to the requirements of the Late Payment of Commercial Debts (Interest) Act 1998. Invoices subject to prompt payment shall be passed in sufficient time to enable discounts to be claimed; where credit terms are not stated, invoices should normally be paid within 30 days.
- D.89 To ensure, that where grants can be claimed on expenditure incurred, the appropriate grant conditions are known and arrangements are in place to ensure that payments meet these conditions with regard to types of expenditure, payment dates etc.

## **Article 1 - *Payments to employees and Members***

### **Article I. Why is this important?**

- D.90 Staff costs are the largest item of expenditure for most Authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the full Council.

### **Article II. Key controls**

- D.91 The key controls for payments to employees and Members are:

(a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:

- starters
- leavers
- variations
- enhancements
- other expenses (e.g. relocation expenses)

and that payments are made on the basis of timesheets or claims,

(b) frequent reconciliation of payroll expenditure against approved budget and bank account,

(c) all appropriate payroll documents are retained and stored for the defined period detailed in paragraphs 6.12 - 6.15 of the financial regulations, and

(d) that HM Revenue & Customs regulations are complied with.

## **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- D.92 To arrange, control and secure reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- D.93 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

- D.94 To make arrangements for payment of all travel and subsistence claims.
- D.95 To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- D.96 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- D.97 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- D.98 To approve, in accordance with guidelines agreed with the Monitoring Officer, the making of ex gratia payments including the setting of limits that will apply.

### **Article III. Responsibilities of Directors**

- D.99 To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- D.100 To notify the Executive Director for Environment, Economy and Resources (as Section 151 Officer) of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.101 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees,
  - payments are only made where there is a valid entitlement,
  - conditions and contracts of employment are correctly applied, and
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- D.102 To send an up-to-date list of the names of officers authorised to sign records to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and the HR Employee Services Lead and replaced with HR Strategic Workforce Lead, together with specimen signatures.
- D.103 To ensure that payroll transactions are processed only through the Payroll System. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenue & Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- D.104 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Authority, ensuring that cost-effective use of travel arrangements is achieved. Claims submitted must provide sufficient information to allow such certification to take place. Due consideration should be given to tax implications and that the



Executive Director for Environment, Economy and Resources (as Section 151 Officer) is informed of such implications where appropriate.

- D.105 To ensure that the Executive Director for Environment, Economy and Resources (as Section 151 Officer) is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- D.106 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention periods set out in paragraphs 6.12 – 6.15 of the financial regulations.
- D.107 To ensure that receipts are provided for expenditure claimed wherever possible, as required by HM Revenue & Customs.
- D.108 To ensure that employees' travel and subsistence claims are usually submitted on a monthly basis. At the discretion of the Chief Officer, however, subsistence claims of less than 50 miles per month may be held by the employee and submitted on a quarterly basis, provided that the certifying officer is still in a position to check the claims properly. Claims over 3 months old must be certified by the Director. All claims in respect of a financial year must however be submitted no later than one month following 31 March in any year.
- D.109 To ensure that all timesheets or other pay documents are in a form prescribed or approved by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and shall be duly certified by a nominated officer.
- D.110 To maintain a personal record file for each employee within the approved establishment, containing a copy of the employee's contract of employment together with sufficient information to identify service, salary scale and current amount payable, sickness leave taken and annual leave due and taken.
- D.111 On a regular basis each Chief Officer shall be provided by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) with a list of staff currently being paid by the Authority within his or her department, and the rate at which each is currently being paid. The Chief Officer shall certify that every name on the list is a bona fide employee of the department and that the rate of payment to the employee is correct. Any discrepancies discovered should be communicated immediately to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) HR Strategic Workforce Lead and the Head of Audit and Assurance.

#### **Article IV. Responsibilities of Members**

- D.112 To submit claims for Members' travel and subsistence allowances on a monthly basis. Where claims are for values of less than £20, these may be held by the member and submitted at a future date when the aggregated claim exceeds this value. Claims in respect of a financial year must however be submitted within one month of the year end.

### **TAXATION**

#### **Article V. Why is this important?**

- D.113 Like all organisations, the Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

## **Article VI. Key controls**

D.114 The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues,
- (b) budget managers are instructed on required record keeping,
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales,
- (d) records are maintained in accordance with instructions, and
- (e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

D.115 To complete all HM Revenue & Customs returns regarding PAYE.

D.116 To complete a monthly return of VAT inputs and outputs to HM Revenue & Customs.

D.117 To provide details to HM Revenue & Customs regarding the construction industry tax deduction scheme.

D.118 To maintain up to date guidance for Authority employees on taxation issues, including VAT.

## **Article VII. Responsibilities of Directors**

D.119 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue & Customs regulations.

D.120 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

D.121 To ensure that all persons employed by the Authority are added to the Authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

D.122 To follow guidance on taxation issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).

## **TRADING ACCOUNTS AND BUSINESS UNITS**

### **Article VIII. Why is this important?**

D.123 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the corporate performance plan.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

D.124 To advise on the establishment and operation of trading accounts and business units.

## **Article IX. Responsibilities of Directors**

D.125 To consult with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

D.126 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.

D.127 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

D.128 To ensure that each business unit prepares an annual business plan.

## **Financial Procedure Rules: External Arrangements**

### **PARTNERSHIPS**

#### **Why is this important?**

- E.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Authority is working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- E.2 The Authority will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### **General**

- E.3 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk,
  - (b) the ability to access new resources,
  - (c) to provide new and better ways of delivering services,
  - (d) to forge new relationships, and
  - (e) to provide value for money to the taxpayer.
- E.4 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
  - (b) a body whose nature or status give it a right or obligation to support the project.
- E.5 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others,
  - (b) acting as a project funder or part funder,
  - (c) being the beneficiary group of the activity undertaken in a project.
- E.6 Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation,
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives,
- (c) be open about any conflict of interests that might arise,
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors,
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature,
- (f) to act wherever possible as ambassadors for the project, and
- (g) to ensure that partnership arrangements are not ultra vires.

### **Key controls**

E.7 The key controls for Authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the Authority's financial regulations and the code of practice on tenders and contracts,
- (b) to ensure that risk management processes are in place to identify and assess all known risks,
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise,
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences, and
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

E.8 To advise on effective controls that will ensure that resources are not wasted.

E.9 To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years,
- (b) risk appraisal and management,
- (c) resourcing, including taxation issues,
- (d) audit, security and control requirements, and
- (e) carry-forward arrangements.

- E.10 To ensure that the accounting arrangements are satisfactory, including determining whether pooled budgets may be considered and if so, the procedures to be followed in the administration of those pooled budgets, and to ensure that value for money is obtained for the taxpayer.

### **Responsibilities of Directors**

- E.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- E.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- E.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
- E.14 To ensure that all agreements and arrangements are properly documented, legally binding, and that rights of access to information, records and personnel are secured for Internal Audit. In particular, advice should be sought in advance from Legal Services and the Executive Director for Environment, Economy and Resources (as Section 151 Officer) regarding the form of partnership agreement and the correct Authority signatories to / procedures for such an agreement.
- E.15 To provide appropriate information to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to enable a note to be entered into the Authority's Statement of Accounts concerning material items; and to follow any instructions issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) where the Executive Director for Environment, Economy and Resources (as Section 151 Officer) determines that a pooled budget may be established.
- E.16 To ensure the legality of partnership arrangements before entering into them.
- E.17 To ensure that where the entering into a partnership requires a financial commitment from the Authority, either immediate or potential, for which budget provision is not available, or where the acceptance of external funding would lead to a financial commitment beyond the current year, the Chief Officer in conjunction with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) shall provide a written report to Council giving a full appraisal of the financial implications for the Council of the scheme both in the current year and beyond. The approval of the Cabinet must be secured before the Chief Officer commits the Authority to any partnership agreement in these circumstances, after taking advice from the Monitoring Officer.
- E.18 To be responsible and accountable for financial monitoring and evaluation of performance of each partnership entered into by the Director's applicant department.

### **EXTERNAL FUNDING**

#### **Why is this important?**

- E.19 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private sector providers. Funds from

external agencies such as the Big Lottery and central government sources provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

### **Key controls**

E.20 The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood,
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council, and
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- E.21 To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- E.22 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- E.23 To ensure that audit requirements are met.

### **Responsibilities of Directors**

- E.24 To ensure that all claims for funds are made by the due date and signed by the appropriate signatory.
- E.25 To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.
- E.26 To nominate a named responsible senior officer to be accountable for the performance and financial monitoring of each project, and to ensure that where external/grant funding is received this is recorded formally into the general ledger system.
- E.27 To ensure that written approval is obtained from the funder which clearly shows the approved allocation, the purpose of the grant and the financial period to which it relates.
- E.28 To ensure that project named responsible officers check, prior to submission of a grant claim, that all expenditure declared is eligible in accordance with the relevant funder's criteria. Should there be any uncertainty as to the purpose of such funding, the responsible officer should make such enquiries as are necessary to the funder to ensure the proper use of grant.
- E.29 To ensure that any guidance issued by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) on receipt of funds from a third party (i.e. matched funding) in grant submission is adhered to.

- E.30 To ensure that grant claim working papers are maintained in a form agreed by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- E.31 To ensure that the manner in which external funding is managed is in accordance with Council policy and instructions, standing orders with respect to contracts and financial regulations in addition to the funder's own requirements.
- E.32 To ensure that where the use of external funding for projects requires a financial commitment from the Council for which budget provision is not available, or where the acceptance of external funding would lead to a financial commitment beyond the current year, the Chief Officer in conjunction with the Executive Director for Environment, Economy and Resources (as Section 151 Officer) shall provide a written report to Cabinet giving a full appraisal of the financial implications for the Council of the scheme both in the current year and beyond. The approval of the Cabinet must be secured before the Chief Officer commits the Authority to any particular agreement. Where external funding is secured for a limited time period, any operational arrangements put in place must not assume the fall-out of grant will be replaced by mainstream funding.
- E.33 To ensure that where additional financial support is to be sought from other agencies, this is subject to the proper decision making processes of the Council, as set out in the budget and policy framework, in order to ensure that there is a clear understanding of the action to be taken and clear lines of responsibility and accountability.

## **WORK FOR THIRD PARTIES**

### **Why is this important?**

- E.34 Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

### **Key controls**

- E.35 The key controls for working with third parties are:
- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Executive Director for Environment, Economy and Resources (as Section 151 Officer)
  - (b) to ensure that contracts are drawn up using guidance provided by the Executive Director for Environment, Economy and Resources (as Section 151 Officer) and that the formal approvals process is adhered to, and
  - (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **Responsibilities of Executive Director for Environment, Economy and Resources (as Section 151 Officer)**

- E.36 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.



## **Responsibilities of Directors**

- E.37 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- E.38 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Executive Director for Environment, Economy and Resources (as Section 151 Officer).
- E.39 To ensure that appropriate insurance arrangements are made.
- E.40 To ensure that the Authority is not put at risk from any bad debts.
- E.41 To ensure that no contract is subsidised by the Authority unless specifically approved by the Council.
- E.42 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- E.43 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- E.44 To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- E.45 To ensure that all contracts are properly documented.
- E.46 To provide appropriate information to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to enable a note to be entered into the Statement of Accounts.
- E.47 To ensure the undertaking of work for third parties falls within the Council's statutory powers.

## Financial Procedure Rules: Certifying Officers Authorisation Limits

### Article X. Responsibilities

- F.1 Responsibilities are set out in the Council's Financial Regulations and Procedure Rules.
- F.2 It is the responsibility of the Executive Director for Environment, Economy and Resources (as Section 151 Officer) to issue advice, guidance and procedures.
- F.3 It is the responsibility of Directors to:
- establish a schedule of authorised signatories, identifying officers authorised to act on the Director's behalf in respect of payments, income collection and placing orders, including variations, and detailing the limits of their authority
  - supply the schedule of authorised signatories, with specimen signatures and delegated limits, to the Executive Director for Environment, Economy and Resources (as Section 151 Officer) together with any subsequent variations.
- F.4 The list of authorised signatories with their individual financial limits is maintained by Accountancy.

### Principles applying to delegated limits

#### Article XI.

- F.5 Authority limits should be set at the lowest practical level, taking account of the typical value and incidence of individual transactions.
- F.6 Individuals should be authorised to commit the Authority only in those areas where they have sufficient knowledge and responsibility to do so.

### Limits for Authorising Expenditure

- F.7 The limits for raising orders, authorising expenditure on contract and certifying invoices/payment vouchers are as follows:

Officer	Limit
Chief Executive Chief Operating Officer Section 151 Officer / Deputy Section 151 Officer	All payments exceeding £2,000,000
Directors	Payments up to £2,000,000
Heads of Service / Assistant Directors	Payments up to £500,000
Managers reporting to Heads of Service / Assistant Directors	Payments up to £150,000

Other Officers as authorised by Heads of Service	Commitments up to £10,000
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- F.8 The limits above are for guidance only, and where applicable, higher limits may be agreed for specific circumstances. These may relate to large capital projects or contract payments. Any changes to authorisation limits must be approved by the Chief Executive / Chief Operating Officer in conjunction with the Section 151 Officer / Deputy Section 151 Officer.

### **Bank Signatories**

- F.9 The Executive Director for Environment, Economy and Resources (as Section 151 Officer) maintains a list of bank/cheque signatories.
- F.10 All cheques / BACS / CHAPS payments over £25,000 require two signatures.
- F.11 Payments over £50,000 are subject to additional checking (see over £50,000 procedure note). Bank signatories are authorised to countersign all payment vouchers without limit.
- F.12 The following payments are authorised to be paid by BACS / CHAPS and are not subject to the limits detailed above:
- a) Treasury transactions (refer to Treasury Management Procedures)
  - b) HM Revenues & Customs (PAYE, National Insurance, VAT)
  - c) Business Rates
  - d) Payments to Pension Fund in respect of employee and employer contributions
  - e) Payments to local authority schools.

# **Section 3**

## **Supporting Policies**

**Links to Appropriate Policies**

- [Treasury Management Strategy](#)
- [Debt Management Strategy](#)
- [The ICT and Information Security Standards](#)
- [Recruitment and Selection Policy](#)
- [People Leadership and Development Strategy](#)
- [Risk and Opportunities Policy](#)
- [Anti Fraud and Corruption Strategy](#)
- [Reporting a Concern \(Whistleblowing\) Policy](#)
- [Anti-Money Laundering Policy](#)
- [Asset Disposal Guidance](#)
- [NELC VAT Manual](#)

# Contract Procedure Rules (CPRs)



**May 2024**

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## **INTRODUCTION**

Contract Procedure Rules (CPRs) are the framework of mandatory procurement procedures that must be followed by officers and elected members when the Council spends money on the supplies, services and works it needs to deliver services to local people. They form an integral part of the Council's Constitution.

ALL Council employees, or any authorised person undertaking a procurement, a concession or disposal exercise on behalf of the Council, must use the CPRs in conjunction with supporting guidance, or the [NELC Financial Regulations and Procedure](#) Rules as appropriate.

The following are key principles of Procurement under the public procurement regime:

1. Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.
2. No procurement shall be designed with the intention of excluding it from the scope of the regime or of artificially narrowing competition. Competition is artificially narrowed where a procurement is designed with the intention of unduly favouring or disadvantaging certain economic operators.

If the Council fails in this duty, a potential supplier may have justifiable cause for complaint. The Council may be required to pay compensation if such a complaint were upheld; in addition, a contract or framework agreement may be rendered ineffective, either in whole or in part, and civil financial penalties may be imposed on the Council. Officers and elected members also have a personal responsibility to comply with these CPRs. Our practices are scrutinised by bidders and government (The Public Procurement Review Service).

The CPRs have five main purposes:

- to help the Council obtain value for money so that, in turn, value for money services may be provided to the public;
- to comply with the law governing spending of public money and the policy on transparency regarding Council expenditure;
- to provide a legal and auditable framework for the Councils' procurement activities;
- to protect Council staff and members from undue criticism or allegation of wrong doing and
- to support the delivery of the Procurement Strategy

## **POLICY CONTEXT**

"Under the Duty of Best Value, therefore, authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. Authorities also have a statutory duty to consider social value for services above specified procurement thresholds at the pre-procurement stage. Authorities can however apply the concept of social value more widely than this and this guidance recommends that authorities consider social value for other contracts (for example below the threshold or for goods and works) where it is relevant to the subject matter of the contract and deemed to be beneficial to do so." (Best Value Statutory Guidance, 2015, Department for Communities and Local Government)

The Public Contracts Regulations reflect and reinforce the value for money (vfm) focus of the Government's procurement policy. This requires that all public procurement must be based on achieving vfm, defined as "the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought, which should be achieved through competition, unless there are compelling reasons to the contrary".

## **COMPLIANCE**

- 1.1 The procurement of every contract (including contracts awarded via a dynamic purchasing system or framework agreement) entered into by or on behalf of the Council or its Maintained Schools, regardless of value or origin of the funding, shall comply with the Public Contracts Regulations (PCR), the Health Care Services (Provider Selection Regime) Regulations 2023, all, UK legislation, the Council's Financial Regulations, Finance Standing Orders, CPRs and the procurement supporting guidance. It is the responsibility of the service area and service leads to ensure compliance with these requirements.

All Health Care Services contracts, as defined in the Health Care Services (Provider Selection Regime) Regulations 2023, must be procured in accordance with this legislation. Advice must be sought from Procurement if procuring under the Provider Selection Regime.

Academies are responsible for their own governance and scheme of finance and as such are not subject to by the Councils' constitution, nor therefore its Contract Procedure Rules, unless an academy is participating in a wider Council procurement.

Where a Council is providing commercial procurement services exclusively to another public body, the procurement law and procedure rules applicable to that body will apply.

The Localism Act 2011 provides that under the '[community right to challenge](#)', the Council must consider an expression of interest (EOI) submitted by a 'relevant body' in relation to providing or assisting in providing a service provided by or on behalf of the Council. When the Council has decided to run a procurement exercise following acceptance of an EOI, the CPRs must be followed in awarding the contract.

Where a procurement is above the relevant Public Contract Regulations CR threshold, the Social Value Act 2012 requires contracting authorities to consider how to improve the economic, social and environmental well-being of the area served by them through the procurement of services. Social value considerations must always be proportionate to the scale and nature of the contract including any consultation measures.

An audit trail for all procurements should be maintained and at Public Contracts Regulations level specific decisions and verifications must be recorded and be available throughout the procurement and after the contract has been awarded in line with Regulation 84 of the Public Contracts Regulations.

The Council has a duty to run an efficient and timely procurement under the Small Business, Enterprise and Employment Act 2015 to enable a small or medium-sized enterprise (SMEs) to access public sector contract opportunities.

The CPRs apply to all the supplies, services and works (including service concessions and works concessions contracts) procured on the Council's behalf as detailed below:

<b>CPRs APPLY:</b>	<b>CPRs DO NOT APPLY:</b>
<ul style="list-style-type: none"><li>• Where we procure from external organisations (public, private or voluntary);</li><li>• Where we nominate a sub-contractor or supplier;</li><li>• Where an external organisation is named in a Council procurement and has right to access it;</li><li>• Where a service or works concession contract is proposed<sup>1</sup>;</li></ul>	<ul style="list-style-type: none"><li>• Where requirements are sourced and delivered internally;</li><li>• Academies (unless the Council is leading a procurement which an academy is participating in);</li><li>• Where a Council acts for another non-regulated body;</li><li>• A contract with a Council-owned company which the Council's Monitoring Officer</li></ul>

## Contract Procedure Rules

<ul style="list-style-type: none"> <li>• Development agreements to which the Public Contracts Regulations apply<sup>1</sup>;</li> <li>• Maintained Schools;</li> <li>• Where a third party is procuring on the Council's behalf and where the Council is the contracting party;</li> <li>• The Councils' commercial activity where the Council is bidding for others' services and</li> <li>• The substantial modification of an existing contract unless clearly provided for in the original contract terms or with the approval of the Assistant Director Law and Governance (Monitoring Officer).</li> </ul>	<p>advises falls outside the scope of the Public Contracts Regulations</p> <ul style="list-style-type: none"> <li>• Contracts for the acquisition or disposal of land and buildings<sup>1</sup> and</li> <li>• Contracts of employment.</li> <li>• Grants where the council awards a grant to an external organisation.</li> </ul>
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Note 1: Where the acquisition or disposal of land and/or property potentially establishes a works concession contract or a development agreement, timely advice from Legal Services must be sought. This also applies where a procured contract includes lease/licence for a Council building

1.2 The following CPRs do not apply when procuring Health Care Services under the Provider Selection Regime. Procurement must be consulted before procuring any Health Care Services under the Provider Selection Regime:

CPR 2 – Procedural Thresholds

CPR 10 - Light Touch Regime

CPR 11 - Reserved Contracts

CPR 12 - Framework Agreements, Dynamic Purchasing Systems & E-Auctions (*Only the references to DPS and E-auction do not apply. For the avoidance of doubt CPR 12 still applies in relation to framework agreements*)

CPR 13 - Use of the Competitive Dialogue Procedure, The Negotiated Procedures and Innovation Partnerships

CPR 14 Concessions Contracts

CPR 18.1 Procurements Under the Public Contracts Regulations 2015

CPR 23 Supplies/Services/works Contracts £1 - £100,000

CPR 24 Supplies/Services/Works Contracts £100,000 - £214,904 (Inc VAT)

CPR 25 Works Contracts (Above Public Contracts Regulations (PCR) Thresholds for Supplies/Services and below (PCR) Threshold for Works)

CPR 26 Light Touch Regime

CPR 27 Supplies/Services/Works Contracts Above PCR Thresholds - Open and Supplies/Services/Works Contracts Above PCR Thresholds - Restricted

PCR 32 Disposal & Write-Off of Assets (Excluding Land & Property)

## Contract Procedure Rules

- 1.3 All procurement of services shall comply with the principles of the revised Best Value Statutory Guidance (March 2015) to be responsive to the benefits and needs of the voluntary and community sector organisations of all sizes.
- 1.4 No member of the Council or officer acting without proper authority shall enter, either orally or in writing, into any contract in the Council's name.
- 1.5 Where a partner organisation acts on behalf of the Council and needs to purchase or assign goods or services, any such assignment must be undertaken in line with the Contract Procedure Rules unless otherwise exempted in writing by the Assistant Director Law and Governance (Monitoring Officer).
- 1.6 Where the Council is procuring together with another council or public body, this must be done under the terms of the Joint Procurement Agreement and a Joint Project Initiation Document agreed.
- 1.7 Where the Council is procuring with any other body (such as any other Council or a Clinical Commissioning Group or other health body), so that a successful procurement is dependent on the actions or financial contributions of the body, then a legally binding agreement must be entered into with that body to secure those actions or contributions, in terms approved by the Assistant Director Law and Governance (Monitoring Officer).

## **2 PROCEDURAL THRESHOLDS**

- 2.1 It is important to ensure that the correct procedure is adopted and where there is a risk of a requirement falling above a threshold, the process for the higher threshold should be applied. Requirements valued within 10% of the Public Contract Regulations thresholds should consider following a Public Contract Regulations tender process.
- 2.2 The Public Contracts Regulations that apply will be those advised by the Cabinet Office as detailed below. The current thresholds set out below are valid from 1 January 2024:

	<b>Supplies</b>	<b>Services</b>	<b>LTR</b>	<b>Concessions</b>	<b>Works</b>
<b>Net of VAT</b>	£179,087	£179,087	£552,950	£4,477,174	£4,477,174
<b>Inclusive of VAT</b>	£214,904	£214,904	£663,540	£5,372,609	£5,372,609

- 2.3 In determining which threshold applies, the whole-life costing (including VAT) of the proposed contract or framework agreement must be considered. Purchases must not be disaggregated to avoid the requirements of the CPRs. Any option to extend a contract must also take into account whether the Public Contracts Regulations thresholds would be exceeded with the extension value included, even if the option to extend is not eventually exercised. Where the duration of the contract is unknown or uncertain, its total cost over a four-year period should be estimated and the relevant procedure then followed to award the contract, DPS or conclude the framework agreement. Where requirements include a mix of supplies, services and/ or works elements, advice should be sought from Procurement as to which threshold is applicable.
- 2.4 The whole lifecycle of a procurement should be considered in determining its whole-life cost, including the cost of maintenance, spares, upgrades, decommissioning and disposal.
- 2.5 Where it is possible to predict a number of similar requirements, we must consider the requirements as a whole and procure accordingly. The procured solution must operate based on the aggregated value of the requirements to ensure compliance and maximise value for money.
- 2.6 When calculating the estimated value of the contract to determine whether the public contract regulations apply, the contract value estimation should be inclusive of VAT (where applicable) from 1 January 2022.
- 2.7 For the purposes of advertising, the estimated contract value will continue to be provided exclusive of VAT. Similarly for contract award notices, these will continue to be published exclusive of VAT.

## 3 **PROCEDURE**

### 3.1 Key Decisions and governance requirements

The law and the Council's Constitution require Key Decisions to be transparent. Key Decision is defined, and the rules relating to Key Decisions set out, in the Constitution. For ease of reference, both are summarised in the table below.

What is considered a Key Decision?	Significant effect on communities of two or more wards or resulting in significant public interest or incurring social, economic or environmental risk where the whole-life expenditure or savings exceed £350,000 or 20% of the project cost
Action:	Notice of the proposed decision should be published by the Council 28 days clear before a Key Decision is made and a report for decision produced by the Service Area lead. Note a 5 day call-in period also applies after the decision has been taken.
When should the Portfolio Holder be consulted by the relevant director?	Decisions with a whole-life expenditure or savings £100,000 - £350,000.
Action:	Director to update Portfolio Holder
When can decisions be taken by an officer with delegated authority?	When Cabinet has delegated authority to make the decision to the officer (subject to adherence to any calling In period (5 days))  Decisions involving expenditure or savings between £100k and £350k (but not having a significant impact on 2 or more wards) have a requirement to publish an Officer Decision Record at the award stage.
Action:	An 'Officer Decision Record' should be completed and returned to Democratic Services on a timely basis at the Post Award stage

### 3.2 Options Appraisal

The options for satisfying the defined requirement must be fully assessed by conducting an "options appraisal". This analysis will apply equally to supplies, services or works. Where an option to proceed with a competitive

## Contract Procedure Rules

procurement exercise has been chosen, having obtained approval from the budget holder and, where applicable, relevant Director for the business case and budget, the flow chart '[Choice of Procedure](#)' ([CPR 21](#)), will determine the appropriate process to be used. Evidence of the options appraisal/analysis/budget holder approval must be retained.

Where the level of risk is high for a low value contract, a higher value procedure should be considered.

### **4 CONFIDENTIALITY AND CONFLICTS OF INTEREST**

- 4.1 No one shall disclose information which has been forwarded to the Council by economic operators and designated as confidential. This is subject to the Council's obligations to comply with legislation, codes of practice, regulations and local policy requirements.
- 4.2 The Councils shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of a procurement procedure so as to avoid any distortion of competition and ensure equal treatment of economic operators.
- 4.3 For the purpose of CPR 4.2, a procurement includes:
  - I. preliminary market consultations;
  - II. developing procurement documentation;
  - III. deciding on the scope or structure of the procurement;
  - IV. choice of award procedure;
  - V. selection of tenderers;
  - VI. mini competitions through frameworks and DPS'
  - VII. award of the contract; and
  - VIII. contract management.
- 4.4 For the purpose of CPR 4.2, there is a conflict of interest where an officer or other person acting on behalf of the Council has a direct or indirect financial, economic or other personal interest which might be perceived to compromise their impartiality and independence.
- 4.5 Potential involvement either directly or indirectly through a related party in an in-house or other bid, where this will be made in competition with the market, is a conflict of interest for the purpose of CPR 4.2.
- 4.6 Conflicts of interest must be proactively monitored throughout the procurement process, documented, risk assessed and where a conflict is identified, notified to the Assistant Director Law and Governance (Monitoring Officer) accordingly. Records must be available on request and will form part of the Regulation 84 report for contracts awarded under the Public Contracts Regulations and the Information Requirements under Regulation 24 for contracts awarded under the Provider Selection Regime.

### **5 IN-HOUSE PROVIDERS**

- 5.1 Where a decision to procure has been made, any in-house provider should be considered as potential providers of the required supplies, services or works, and should be invited to submit bids as part of the competitive process and subject to the same procedures.

## **6 TRADING AND SELLING SERVICES**

- 6.1 In all cases where the Council proposes to supply services to, or carry out work for external bodies with or without charging, this must be done in line with the Councils' commercial/ financial policies as appropriate and prior written advice should be obtained from the Assistant Director Law and Governance (Monitoring Officer).
- 6.2 Where a service area requires a sub-contractor or partner to support its in-house delivery, their appointment must be undertaken in line with CPRs.

## **7 LEAD SERVICES**

- 7.1 Services Areas undertaking procurement of the following supplies, services or works must be guided by the lead service indicated:

Requirement	Lead Service
Cleaning Services	Facilities Management Equans
Civil Engineering and non-building construction works	Professional Services (Highways Design) Equans
Building works, accommodation and facilities management where a work permit <b>MUST</b> be obtained	Assets Team; Professional Services (Technical Design) Equans
Energy, Fuel & Water	Procurement Equans
Financial & Leasing Services	Finance
ICT requirements / services	ICT
Legal Services	Legal Services
Leisure	Lincs Inspire Ltd
Printing Services	Print Unit
Commissioning of social or personal care services, and placement activity	Children's – Children's Services Adults – CCG
Training & Development Services	Human Resources; Learning & Development
Transport Services	Access Services Highways and Transport Equans
Vehicles	Neighbourhood Services
Waste Disposal	Neighbourhood Services
Public Health	Public Health

### **8 CORPORATE CONTRACTS**

- 8.1 Where a [Corporate Contract](#) exists for supplies, services or works, it must be used. Only in the following circumstances should a departure from the corporate contracts be considered. Advice from Procurement should be sought prior to seeking alternative solutions.
- Availability - The requirement cannot be obtained through a corporate contract;
  - Timescale - The requirement cannot be obtained in the required timescale through a corporate contract; or
  - Specification - The requirement cannot be obtained with the required specification through a corporate contract.
- 8.2 For higher value purchases through a corporate contract (£5k+) the value for money benefit of wider competition should be considered.

### **9 PRELIMINARY MARKET CONSULTATION**

- 9.1 Wherever there is:

- an inherent need for consultation;
- a review of economic, social or value for money considerations;
- consideration of social value outcomes
- a new, developing or evolving need to be met or
- a desire for a new approach to service delivery;

The project team should consider the benefits of undertaking preliminary market consultation to engage the local, third sector and commercial market in the development of scope, objectives, specification, evaluation criteria and conditions of contract.

- 9.2 A flowchart of steps to be undertaken during a preliminary market consultation is set out in [Annex 1a](#). Procurement should be engaged wherever a preliminary market consultation is being considered
- 9.3 In all preliminary market consultations, full regard should be had to the procurement and Treaty principles of equal treatment, transparency, proportionality and non-discrimination in order to ensure an effective competition can take place once the procurement has commenced.

### **10 LIGHT TOUCH REGIME**

- 10.1 The Public Contracts Regulations 2015 set out a new light-touch regime (LTR) which is a specific set of rules for certain service contracts that tend to be of lower interest to potential tenderers in other European countries. Those service contracts mainly centre around social, health and education services.
- 10.2 The LTR route for above threshold contracts includes the advertisement of the contract and publication of a contract award notice on the Find a Tender Service (FTS) and ensuring compliance with the procurement principles of transparency and equal treatment. Time limits are to be reasonable and proportionate and the procurement is to be conducted in conformance with the information provided in the FTS advertisement. To meet these obligations, the Public Contracts Regulations open or restricted procedures can be used.
- 10.3 LTR does not require a formal procedure to be followed, but the procurement principles of the must be applied and evidenced throughout the process.



10.4 For all LTR contracts valued below the threshold, use the defined processes in sections [CPR 23](#) and [CPR 24](#)

10.5 The use of LTR for over threshold contracts must be undertaken on the advice of Procurement.

## **11 RESERVED CONTRACTS**

11.1 Certain contracts can be reserved such that the competition is not available to the wider market. The list of 'qualifying organisations' which can be subject to reserved contracts is prescribed and is predominately made up of health, social care or education services. Advice must be sought from Procurement where there is an intent to reserve a contract.

## **12 FRAMEWORK AGREEMENTS, DYNAMIC PURCHASING SYSTEMS & E-AUCTIONS**

12.1 The use of framework agreements/dynamic purchasing systems (DPS) established by Central Purchasing Bodies or other contracting authorities (as defined by the Public Contracts Regulations 2015) must be on advice from Procurement and subject to exception approval under CPR 30. The framework terms and conditions must also be approved by legal services prior to accessing the framework.

12.2 A dynamic purchasing system (DPS) is a completely electronic system which may be established to purchase commonly used supplies, services or works. It must operate for a defined duration. Any DPS must be established in accordance with the requirements of the CPRs with guidance from Procurement.

12.3 In determining the relative advantages and disadvantages of establishing a DPS, framework or traditional contract model, the benefits of keeping requirements open to competition over the life of the arrangement must be evaluated.

12.4 A framework agreement or DPS must be considered or accessed where a Service Area has an on-going requirement for supplies, services or works of a similar type which, when aggregated, exceed £50,000 a year, but may be considered for lower values where considered beneficial. The framework agreement or DPS is to be established in accordance with the requirements of the CPRs with guidance from Procurement. Framework agreements or DPS does not guarantee any services to the suppliers who are admitted to the framework agreement or DPS although they are legally binding contracts. A contract and/or purchase order should be raised separately in order to engage the relevant supplier/s when calling off requirements under a framework agreement or DPS.

12.5 Service Areas must not disaggregate purchases in order to avoid the CPR requirements. Where advantageous, any purchase of greater than £5,000 should be subject to further competition. All suppliers who are a party to the framework agreement/DPS should be invited to take part in a mini-competition in accordance with the requirements stated by the framework/DPS owner (unless alternative provisions have been agreed). Wherever possible and advantageous, bundling of largely similar requirements should be undertaken to maximise economies of scale.

12.6 A framework is a closed list of providers who have been ranked following a tender exercise. The framework providers are approved for a maximum 4 year period and can be awarded contracts in line with the framework terms. No contractual commitment attaches from the creation of the framework itself.

12.7 All framework agreements must comply with the following:

- Maximum length of 4 years (unless exceptional and approved)
- Contracting authorities that access the agreement must be identified as a party to it. Estimated value must include all potential call-offs by all contracting authorities
- Contracts based on the framework must not entail substantial modifications to the terms laid down in the framework
- Contracts are formed when requirements are called-off under purchase order or a call-off contract.
- Access, terms, award criteria and procedure for call-off are as per the terms of the framework agreement and must be followed.
- A Regulation 84 report must be produced and maintained for framework agreements awarded under the Public Contracts Regulations.

## Contract Procedure Rules

- The Provider Selection Regime Information Requirements under Regulation 24 must be complied with when awarding a framework agreement under the Provider Selection Regime.

12.8 The flowchart at [Annex 1b](#), sets out the process for establishing a DPS and awarding contracts under it.

12.9 An Electronic Auction (eAuction) is a commercial tool designed to secure the best and final offer from bidders in a competitive process. Use of eAuctions is not mandatory but the benefits should be considered for procurements of requirements over £50,000.

12.10 The process for undertaking eAuctions is set out at [Annex 1e](#).

12.11 All award notices for contracts awarded under a Framework/DPS/eAuction valued over £30k (inclusive of VAT) must be advertised using Contracts Finder and added to the contracts register (this requirement excludes schools and academies).

### **13 USE OF THE COMPETITIVE DIALOGUE PROCEDURE, THE NEGOTIATED PROCEDURES AND INNOVATION PARTNERSHIPS**

13.1 The use of Competitive Dialogue is only applicable for contracts of very significant scale and where the preferred delivery option cannot be determined from preliminary market consultation.

13.2 Negotiated Procedures can only be used in limited circumstances, principally where it is not clear at the outset that the Council cannot adequately specify its requirements as they need to be developed with bidders. The advice of Procurement should be sought.

13.3 The use of Innovation Partnerships is only applicable for inherently innovative development such as core research or new technical advancement.

13.4 The use of these procedures requires approval of the Assistant Director Law and Governance, (Monitoring Officer); the application of CPRs to the procurement will be modified as required by the Public Contracts Regulations 2015 and approved by Legal Services.

### **14 CONCESSION CONTRACTS**

14.1 Concession contracts are governed by the Concession Contracts Regulations 2016. They are used where the Council engages a third party to provide a service or works, with or without a fee payable by the Council. Consideration for the service is in the form of the concessionaire being given a right to charge for the services being provided. Advice from Procurement must be sought before engaging in any procurement relating to a concession contract.

### **15 TECHNICAL STANDARDS & SPECIFICATIONS**

15.1 Where an appropriate International, European or British Standard Specification or British Standard Code of Practice is in force at the date of the procurement, every specification and contract shall state that all goods and materials used or supplied and all the workmanship shall be at least of the standard required by such Standard or Code of Practice or its equivalent.

### **16 MANAGEMENT OF DATA**

#### **16.1 Data Protection**

In situations where personal data or confidential information needs to be shared with the market and the requirements of the Data Protection Act 2018 and the General Data Protection Regulation are likely to be invoked,

the Service Area shall ensure that the Strategic Lead – Business Practice and Performance (Data Protection Officer) is consulted.

### 16.2 Open Data

All requests for quotation/invitation to tender must indicate the Council's obligation to publish commercial and other data provided by suppliers in accordance with Freedom of Information Regulations and the Local Government Transparency Code 2015 as amended.

## **17 TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 AS AMENDED 2014 (TUPE)**

- 17.1 Careful consideration needs to be given as to whether TUPE shall apply at commencement of the proposed procurement.
- 17.2 Where a proposed procurement may involve the TUPE transfer of Council officers, the advice of the Strategic People and Culture Lead and Legal Services must be obtained prior to the start of procurement.
- 17.3 Any procurement involving the TUPE transfer of Council staff must be approved by the Relevant Director on the advice of the Assistant Director Law and Governance (Monitoring Officer).
- 17.4 The application of TUPE should also be considered in respect of staff employed by existing contractor(s) when the Council is looking to re-procure the service currently provided by such contractor(s). Guidance should be sought from the Assistant Director Law and Governance (Monitoring Officer).
- 17.5 An anonymised table of TUPE information and, where relevant, pension information, must be available for release with the tender documentation, using the TUPE matrix template. Further information can be shared with interested parties on the successful completion of the appropriate non-disclosure agreement.

## **18 EXCLUSION CRITERIA AND FINANCIAL APPRAISAL**

### **18.1 Procurements Under the Public Contracts Regulations 2015**

- 18.1.1 Minimum standards of financial standing and financial appraisals are subject to the advice of the Finance Group Manager but the requirements must not exceed a turnover of twice the contract value except in duly authorised cases. Minimum standards of financial standing at the award stage should be considered for all contracts where the estimated contract value exceeds the thresholds of the Public Contracts Regulations or any relevant UK legislation and/or where other risk is identified, including where there would be a significant effect on the delivery of Council services in the event of contractor default or cessation of supply or service.
- 18.1.2 Where considered appropriate following a financial appraisal of a potential provider against the Council's minimum standards of financial standing, the potential contractor may be required to provide a Parent Company Guarantee (PCG) or a Performance Bond (Bond) in a form acceptable to the Council for the duration of the contract (including any extension period). All financial requirements should be published up front, including the possibility of a Bond or PCG. Any such PCG or Bond shall only be required where it is deemed that there is a specific ascertainable risk. Where group company financial information is assessed, a PCG will be required.
- 18.1.3 Where the estimated contract value exceeds the threshold of the Public Contracts Regulations or any relevant UK legislation or where specific risks are involved including consideration of any non-standard insurance requirements e.g clinical insurance required for public health contracts, you should refer to the Limits of Indemnity Contractors and Third Parties guidance or advice from the Insurance Manager

## Contract Procedure Rules

- 18.1.4 The national Standard Supplier Questionnaire (SSQ) template must be utilised for supplier suitability assessments. Supplier suitability can be tested using limited suitability questions. You must refer to Procurement should you consider excluding a potential tenderer.
- 18.1.5 The Council must accept submissions of the information requested in the SSQ made via the Single Procurement Documentation (SPD), and accept e-certis as a means of proof when certification is requested. It is mandatory for a potential supplier to complete Part 1 and Part 2 of the SSQ, or the SPD template, for all procurements above Public Contracts Regulations thresholds.
- 18.2 Procurements under the Provider Selection Regime**
- 18.2.1 Minimum standards of financial standing and financial appraisals are subject to the advice of the Finance Group Manager but the requirements must not exceed a turnover of twice the contract value except in duly authorised cases. Minimum standards of financial standing at the award stage should be considered for all contracts where the estimated contract value exceeds any relevant UK legislation and/or where other risk is identified, including where there would be a significant effect on the delivery of Council services in the event of contractor default or cessation of service.
- 18.2.2 Where considered appropriate following a financial appraisal of a potential provider against the Council's minimum standards of financial standing, the potential contractor may be required to provide a Parent Company Guarantee (PCG) or a Performance Bond (Bond) in a form acceptable to the Council for the duration of the contract (including any extension period). All financial requirements should be published up front, including the possibility of a Bond or PCG. Any such PCG or Bond shall only be required where it is deemed that there is a specific ascertainable risk. Where group company financial information is assessed, a PCG will be required.
- 18.2.3 Where the estimated contract value exceeds any relevant UK legislation or where specific risks are involved including consideration of any non-standard insurance requirements e.g clinical insurance required for public health contracts, you should refer to the Limits of Indemnity Contractors and Third Parties guidance or advice from the Insurance Manager
- 18.2.4 The Council must comply with the Provider Selection Regime exclusion requirements. You must refer to Procurement should you consider excluding a potential tenderer.

## **19 TENDER AND QUOTATION ERRORS**

- 19.1 Tender errors (including quotation errors) shall be dealt with in accordance with the following paragraphs of CPR 19, which shall be included in all Invitations to Tender and Requests for Quotations.
- 19.2 Compliance**  
Any Tenderer who fails to comply with the tender instructions and submission requirements set out in the Invitation to Tender may be deemed to be non-compliant and, subject to the discretion of the Council, acting reasonably, may have their tender rejected.
- 19.3 Late Tender**  
No late tender, other than system access errors, shall be considered except with the approval of the Assistant Director Law and Governance, (Monitoring Officer) on the advice of Procurement.
- 19.4 YORtender or e-Sourcing Suite Access Errors**  
Where a tenderer advises that a tender submission deadline may be or has been missed as a result of [YORtender](#) being unavailable, Procurement should obtain a system report from Merzell (EU Supply) prior to the Council exercising its discretion as to whether to accept or reject the Tender.  
When accessing the Crown Commercial Services e-Sourcing Suite a system report should be sought from the Crown Commercial Service.

### 19.5 Omissions, Ambiguities and Inconsistencies

Where there is an omission, ambiguity or inconsistency in a tender (including an arithmetical error), the Council reserves the right to contact the tenderer in writing via [YORtender](#), setting out the ambiguous or inconsistent part and the alternative interpretations of it. The tenderer will be required to identify within an appropriate time limit, via [YORtender](#), which of the interpretations are correct and confirm the appropriate amendments to the tender, provided that such requests are made in compliance with the principles of equal treatment and transparency. Where there is an omission, ambiguity or inconsistency in pricing, advice from Procurement must be sought.

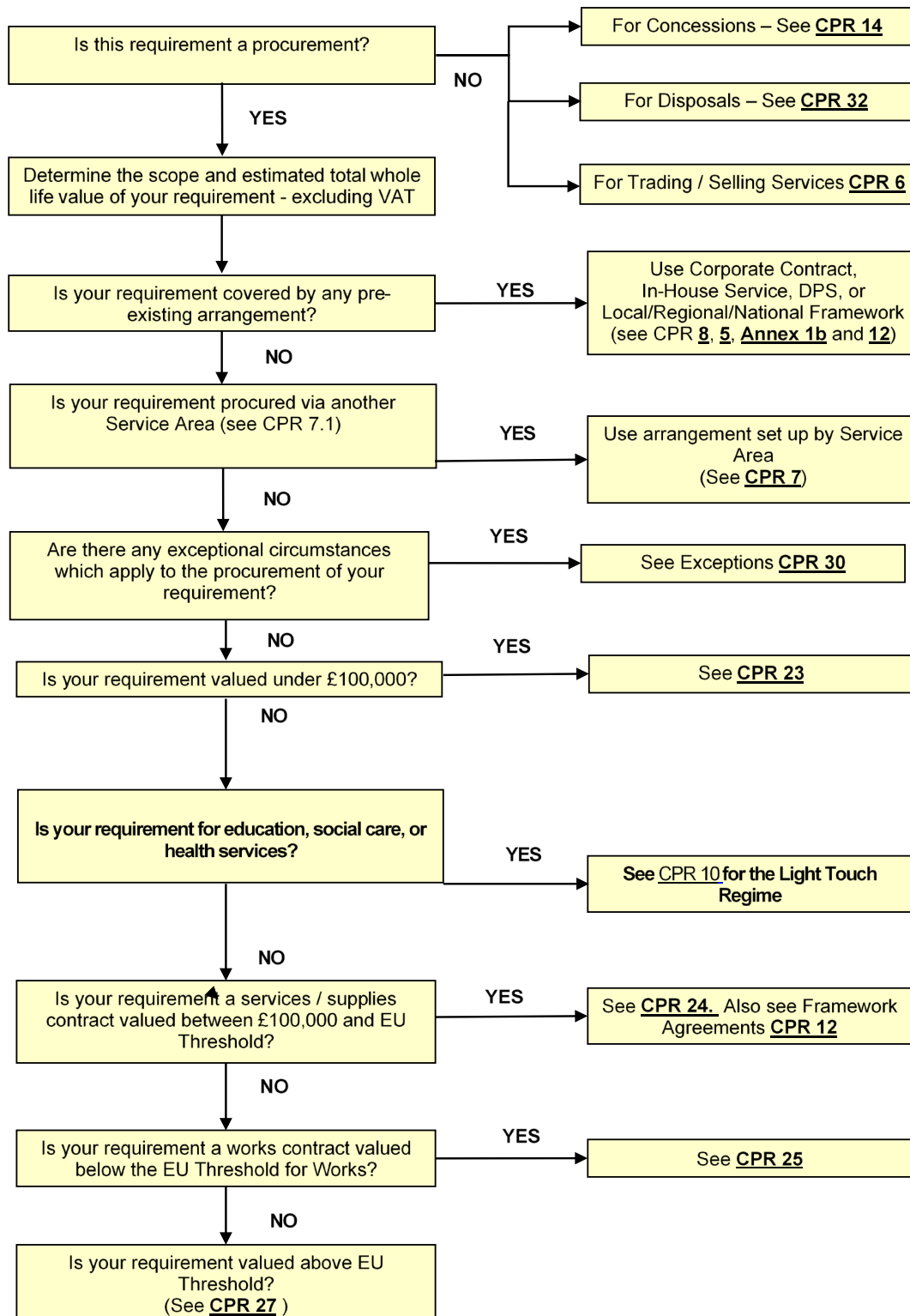
### 19.6 Abnormally low tenders

The Council is required to seek an explanation for exceptionally low tenders and may reject the tender where the explanation does not satisfy the concerns.

## **20 PRE AND POST TENDER/REQUEST FOR QUOTATION CLARIFICATION**

## Contract Procedure Rules

20.1 All clarifications by the Council or tenderers must be raised via YORtender. Guidance from Procurement is recommended in all circumstances but mandated where the issue, error, omissions or inconsistency is linked to price or potentially creates a material change.



## **21 Presentations and Interviews**

21.1 The use of presentations and/or interviews during the tender process is not permitted, except in exceptional circumstances with the written approval of the Assistant Director Law & Governance (Monitoring Officer).

## **22 Not Allocated**

## **23 SUPPLIES/SERVICES/WORKS CONTRACTS £1 - £100,000**

### **23.1a Authorisation to Proceed with Procurement**

Verify availability of budget and obtain Budget Holder approval.

Check for Conflicts of Interest – Proactively monitor and record, seeking advice where appropriate.

### **23.1b Process**

Follow Procurement's self-service guidance on the intranet.

Procurement processes under £100k recognise the need for agile and efficient business processes. Direction is provided below in line with key procurement policy principles and this may be interpreted flexibly dependent on circumstances with the exception of the mandatory principles and requirements indicated in bold below. Records of decisions made should be recorded for the audit trail particularly where there is variation from the normal process or key principles outlined below.

#### **Open, Transparent & Proportionate Process**

- Unless you are using an existing corporate or lead service contract ([CPR 7](#) & [CPR 8](#)), ordinarily you will be expected to undertake a competitive process to secure and demonstrate value for money
- If you directly award a contract to a supplier without competition, your decision may be challenged by the external market and expose the council to reputational risk; note all of the council's expenditure over £500 is published externally and open to audit and public scrutiny
- Over £5k you should ordinarily consider using YorTender to help you comply with these requirements
- **Over £30k (inclusive of VAT) it is a government requirement to publish the requirement to the national Contracts Finder portal (requirement excludes schools and academies)**
- Procurement templates exist to enable efficient and effective process and to help secure contracts on the terms which protect the council. If you choose not to use this documentation, be aware of the risk that your contract may be entered into on the supplier's terms and conditions, written to protect their interest
- Your requests of bidders should be proportionate to the value and complexity of your requirement

#### **Equal Treatment**

- Treating all potential suppliers equally and fairly is crucial for securing a successful outcome and minimising the risk of a challenge

- This is achieved by:
  - Setting the same timescales for all bidders
  - Sharing the same information with all bidders
  - Notifying all bidders of any changes to your requirements and providing them with the same timescale

### **Value for Money**

- Competitive process is ordinarily used to secure best value for money. It can assist in leveraging the best price and quality from the market and open up opportunities for alternative solutions and innovation as well as supporting small and medium sized businesses and voluntary and community organisations.
- Typically, securing 3 – 5 written quotations is an effective way of demonstrating competition and value for money
- The primary means of undertaking a competitive process is set out above
- Your evaluation of bids should be based on objective and transparent criteria and fully disclosed to bidders in advance of them submitting their bids
- The criteria should be either:
  - Lowest “compliant” price; compliant meaning ability to meet the specification in full; or (often used where requirements are well defined); or
  - Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used

### **23.c Authorisation to Award**

Obtain Budget Holder approval for the contract award.

### **23.1d Execution**

A formal purchase order shall be issued and its acceptance acknowledged by the supplier specifying the supplies, services or works and setting out prices and terms of payment (which should be the Council’s terms and conditions of purchase). The acceptance of the council’s official purchase order will form the basis of the contract between the council and supplier.

**The award of all contracts over £30k (inclusive of VAT) must be advertised on Contracts Finder (excludes schools and academies).**

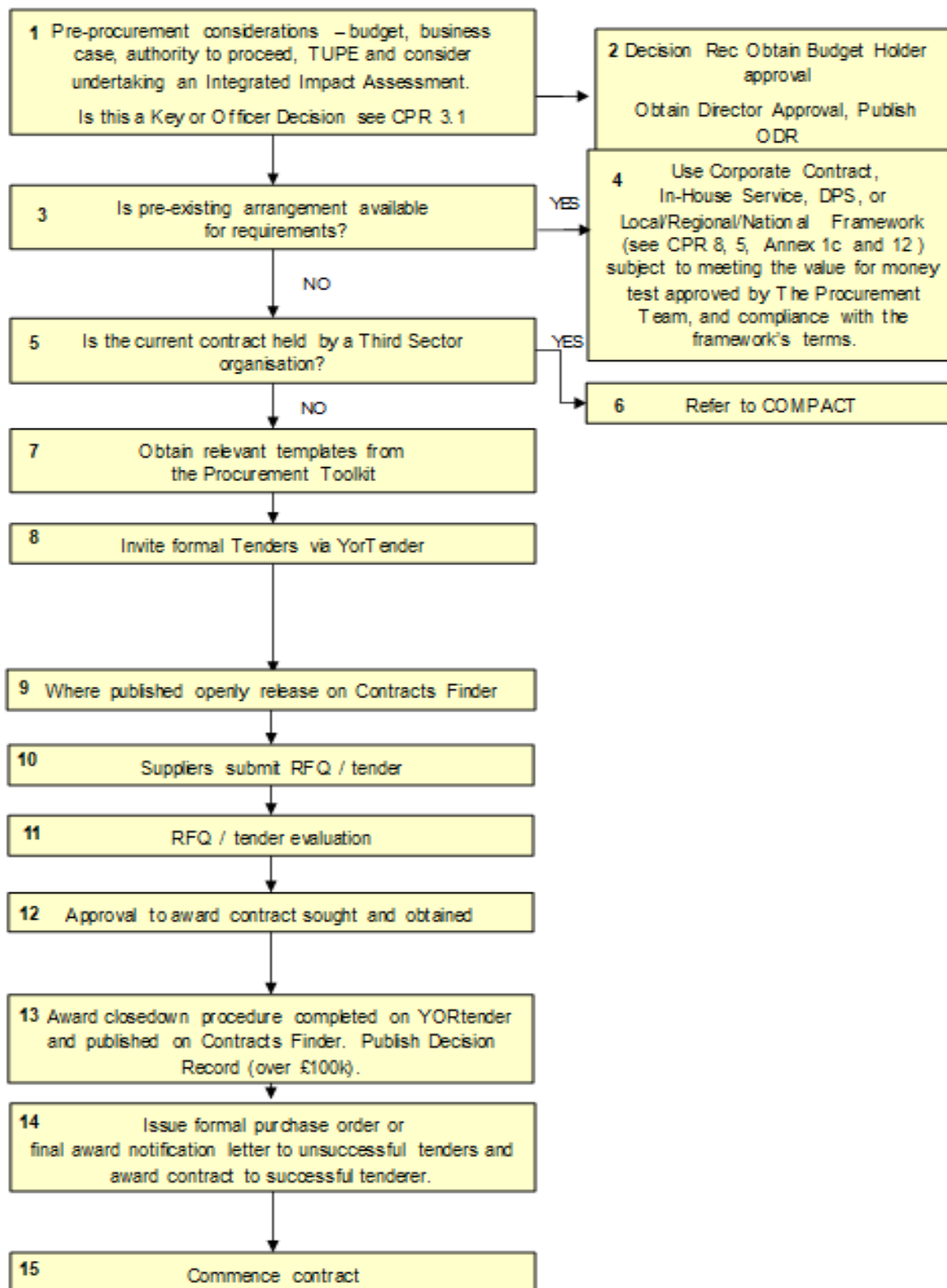
### **23.1e Records & Documentation**

The Service Area shall retain records of the transaction in accordance with the Council’s approved record management or document retention policy.

If advertised on [YORtender](#) ensure that the contract is awarded on [YORtender](#) using the button on the contracts detail page.



**24 SUPPLIES/SERVICES/WORKS CONTRACTS £100,000 - £214,904 (inc VAT)**



### 24.1a Authorisation to Proceed with Procurement

It is the Budget Holder's responsibility to ensure the availability of budget and the authority to commit to the expenditure, noting the [Key Decisions](#) and governance requirements. It is essential for the whole-life commitment to be considered (assuming all available extensions are exercised) not the annual value of the commitment when securing authority to proceed.

If following approval, the estimated cost of the contract increases, then the increase must be approved by the Budget Holder and there must be consideration as to whether a new Cabinet decision is required (if a Key Decision) prior to publishing the procurement.

Verify decision making protocols where:

- There are possible Council workforce and related [TUPE](#) implications, advice from Legal Services and People and Culture must be sought;
- There are potentially significant economic development / sustainability implications and
- There are budget or policy implications.

Full Council approval may be necessary.

Check for Conflicts of Interest and proactively monitor and record, seeking advice where appropriate.

### 24.1b Competitive Process

Adhere to the corporate governance frameworks for [project management](#) and produce a procurement timetable. Project managers should ensure that any procurement is undertaken in line with the Council's agreed project management framework, where appropriate.

Consider, in consultation with Procurement, whether the requirement needs to be procured in accordance with:

- an [Integrated / Impact Assessment](#) (where there is potential for direct impact upon citizens / officers.);
- relevant consultation requirements;
- the use of Lots to facilitate greater access to the opportunity for SMEs;
- the SME Concordat;
- the Revised Best Value Statutory Guidance (2015)
- Council Skills Pledge
- Sustainable/ethical Procurement Policy.
- [Social Value Policy](#)

An **open** formal tender procedure may be used; with tenders being invited from a minimum of four potential contractors advertising via [YORtender](#). Note that a formal tender procedure is **mandatory** for contract values above £100,000.

The use of a pre-qualification stage is prohibited below the Public Contract Regulations thresholds for supplies. A suitability assessment question may be used where essential.

Where a framework agreement or DPS is being used, any purchase should be subject to further competition following the framework rules. The evaluation criteria and the terms and conditions specified by the framework owner must be used. Wherever possible and advantageous, bundling of largely similar requirements should be undertaken to maximise economies of scale.

The project manager should establish a project team. Procurement must be contacted to determine the level of involvement required based on an assessment of identified risks.

Where “lowest compliant” is not being applied, the project manager in consultation with the project team must agree a percentage split in the award criteria based on the scope and importance of quality, risk and cost on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.

Where the project manager wishes to pursue a cost element of less than 60%, they should refer to Procurement for advice.

The process must be fully managed using [YORtender](#)

Requests to use **electronic auctions** should be referred to Procurement.

### 24.1c Advertisement

**Mandatory** – [YORtender](#) with indicative contract values published tenders which are advertised as an open advert on [YORtender](#) must also be advertised on contracts finder.

Tenders must be advertised for a minimum of 10 **working** days, but proportionately increased to its complexity.

**Optional** – Advertising of open opportunities via web-based media e.g. Twitter, and other health and voluntary sector sites subject to Procurement’s advice.

Any advertisement shall: specify the nature and purpose of the contract, outline how to submit a compliant tender, state the last date and time when tenders will be accepted and comply in all respects with the requirements of the relevant UK legislation.

### 24.1d Receiving & Opening of Tenders

Managed using [YORtender](#), kept confidential and opened by an officer of appropriate seniority, who is entirely independent and non-conflicted by the project in question.

No late tender shall be considered except with the approval of the Assistant Director Law and Governance, (Monitoring Officer) on the advice of Procurement.

### 24.1e Evaluation

Compliance means the tender should be fully capable of meeting all fitness for purpose requirements in terms of specification, price, quality, delivery, etc.

Evaluate using The Most Economically Advantageous Tender (MEAT), and ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The final evaluation score given to each tenderer must be the Moderated Score. Refer to CPR 19 for guidance on how to manage errors in tender submissions. For procurements over £100,000, MEAT criteria should be used.

Tender must state that no tenders or quotes will be considered unless received by the date and time stipulated in the documentation. No tender or quote delivered in contravention of this rule shall be accepted without the written approval of the Assistant Director Law and Governance (Monitoring Officer).

### 24.1f Post Tender Negotiation

No negotiation with the existing or potential contractors shall be carried out.

### 24.1g Authorisation to Award

Must be obtained from the relevant Director where required by the Council's Scheme of Delegation and Policy and Budget Framework, which must always be applied.

At least two tender responses must be received. If only one response is received, advice from Procurement and the written approval of the Assistant Director Law and Governance (Monitoring Officer) must be obtained prior to accepting the quotation/tender.

Without publishing, upload evaluation results and approval authorisation onto [YORtender](#) to maintain the decision making audit trail.

### 24.1h Award and Execution

#### Outcome of Tender Exercise

The acceptance of the successful tender is concluded by advising of the outcome of the tender followed by the issuing of a purchase order or formal contract.

All tenderers should be advised in writing of the outcome of the tender exercise. A debrief should only be provided to unsuccessful tenderers in exceptional circumstances and with Procurement's guidance.

#### Contract details

Every purchase order / contract as a minimum shall be in writing and specify:

- the supplies or services to be provided and/or the work(s) to be executed;
- the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;
- the time within which the contract is to be performed;
- the Council's requirements on indemnity and insurance;
- for services, an exit strategy for when the contract terminates and
- other conditions and terms as set out in the RFQ / invitation to tender.

### **Signing**

Directors are authorised to sign contracts that do not exceed £100,000 where the Assistant Director Law and Governance (Monitoring Officer) has approved the form of contract as appropriate for the type of contract concerned.

The Assistant Director Law and Governance (Monitoring Officer) is authorised to sign contracts that exceed £100,000 and unless they determine otherwise, such contracts shall be executed by way of deed, under the Common Seal of the Council.

The Assistant Director Law and Governance (Monitoring Officer) is authorised to affix the Common Seal of their respective Council to such contracts.

Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above as soon as possible.

The relevant Officer Decision Record should be completed by the Service Area and published on the Council's website as appropriate.

**Mandatory** - Without publishing, upload evaluation results and approval authorisation onto [YORtender](#) to maintain the decision making audit trail. A notification of award must be advertised on Contracts Finder, and the contracts register via [YORtender](#) for all contracts

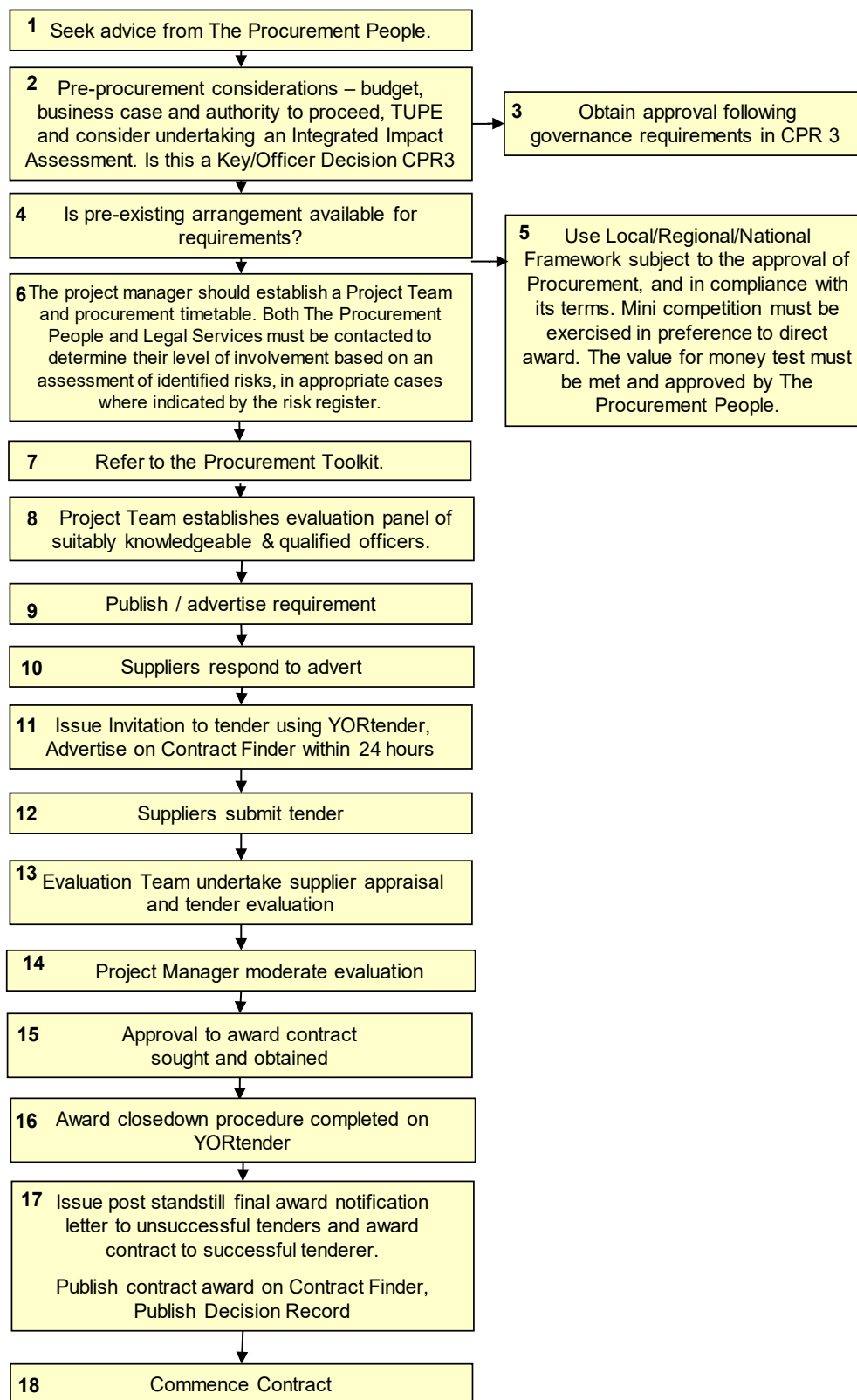
### **24.1i Records & Documentation**

The Service Area shall retain records of the procurement exercise, including the original signed copy of the contract if the value is below £100,000, in accordance with the Council's approved record management or document retention policy.

Only contracts signed under the Common Seal shall be retained the Assistant Director Law and Governance (Monitoring Officer). All other contracts shall be retained by the service area.

The contract must be awarded using the options available in the contract details module on [YORtender](#), care must be taken to ensure that the contract details are up to date.

## **25 WORKS CONTRACTS (ABOVE PUBLIC CONTRACTS REGULATIONS (PCR) THRESHOLDS FOR SUPPLIERS/SERVICES AND BELOW (PCR) THRESHOLD FOR WORKS)**



### 25.1a Authorisation to Proceed with Procurement

Please refer to Lead Services [CPR 7](#).

It is the Budget Holder's responsibility to ensure the availability of budget and the authority to commit to the expenditure, noting the [Key/Officer Decisions CPR 3](#) and governance requirements. It is essential for the whole-life commitment to be considered not the annual value of the commitment when securing authority to proceed.

If following approval, the estimated cost of the contract increases, then the increase must be approved by the Budget Holder and there must be consideration as to whether a new Cabinet decision is required (if a Key Decision) prior to publishing the procurement. Verify decision making protocols where:

- There are potentially significant economic development / sustainability implications;
- There are budget or policy implications.

Full Council approval may be necessary.

Check for Conflicts of Interest and proactively monitor and record seeking advice where appropriate

### 25.1b Competitive Process

Adhere to the corporate governance frameworks for [project management](#) and produce a procurement timetable. Project managers should ensure that any procurement is undertaken in line with the Council's agreed project management framework, where appropriate.

The suite of construction frameworks has been developed to meet the majority of the Council's Works requirements.

Determine in consultation with Procurement, whether the construction frameworks are appropriate or whether a specific procurement is necessary in accordance with:

- An [Integrated / Impact Assessment](#) (where there is potential for direct impact upon citizens / officers.);
- relevant consultation requirements;
- the use of Lots to facilitate greater access to the opportunity for SMEs;
- SME Concordat;
- Council Skills Pledge and
- Sustainable/ethical Procurement Policy.

Where a specific procurement is necessary, use a formal open tender procedure managed using [YORtender](#). Invitations to tender to comprise:

- Clear instructions for the submission and pricing of quotations;
- The Supplier Questionnaire PAS 91;
- A clear written specification;
- A Form of Tender including anti-collusion certificate;
- A Freedom of Information Declaration;
- A Pricing Schedule and
- The approved Council Terms & Conditions/a standard form of agreement e.g. NEC or JCT suite of conditions or where alternative Terms & Conditions are used, or amendments are made, seek guidance and approval from Legal Services.

## Contract Procedure Rules

Alternatively a minimum of four formal tenders may be sought using a closed process, subject to approval by Procurement.



The project manager should establish a project team. Both Procurement and Legal Services must be contacted for them to determine the level of their involvement required based on an assessment of identified risks.

Where “lowest compliant” is not being applied, the project manager in consultation with the project team must agree a percentage split in the award criteria based on the scope and importance of quality, risk and cost on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.

Where the project manager wishes to pursue a cost element of less than 60%, they should refer to Procurement for advice.

Requests to use **electronic auctions** should be referred to Procurement.

#### 25.1c Advertisement (only applicable if not using the construction frameworks)

**Mandatory** – [YORtender](#) with indicative contract values published tenders which are advertised as an open advert on [YORtender](#) must also be advertised on contracts finder.

Tenders must be advertised for a minimum of 10 **working** days, but proportionately increased to its complexity.

**Optional** –

- advertising of open opportunities via social media e.g. Twitter subject to Procurement’s advice
- one or more specialist trade or professional newspapers or journals where appropriate.

Direct marketing of the existence of the opportunity is permissible in order to include organisations that may not ordinarily see the opportunity and to ensure local / regional / national competition.

Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest or tenders for its execution; state the last date and time when expressions of interest or tenders will be accepted; and comply in all respects with the requirements of the relevant UK legislation.

#### 25.1d Receiving & Opening of Tenders

Managed using [YORtender](#), kept confidential and opened by an officer who is entirely independent and has no conflict of interest in relation to the project in question.

#### 25.1e Evaluating Tenders (only applicable if not using the construction frameworks)

Evaluate on the basis of:

- The lowest **compliant** quotation where payment is made **by** the Council; or
- The highest **compliant** quotation where payment is made **to** the Council, e.g. a concession contract.

Compliance means the tender should be fully capable of meeting all fitness for purpose requirements in terms of specification, price, quality, delivery, etc.

**Optionally** evaluate using The **Most Economically Advantageous Tender (MEAT)**, and ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The final

evaluation score given to each tenderer must be the Moderated Score. Refer to [CPR 19](#) for guidance on how to manage errors in tender submissions. The tender must state that no tenders or quotes will be considered unless received by the date and time stipulated in the documentation. No tender or quote delivered in contravention of this rule shall be accepted without the written approval of or the Assistant Director Law and Governance, (Monitoring Officer).

#### 25.1f **Post Tender Negotiation**

No negotiation with the existing or potential contractors shall be carried out.

#### 25.1g **Authorisation to Award**

Must be obtained from the relevant Director where consistent in all respects with Council's Scheme of Delegation, Policy and Budget Framework and governance requirements for [Key Decisions](#).

At least two tender responses must be received. If only one response is received, the written approval of the Assistant Director Law and Governance, (Monitoring Officer) must be obtained prior to accepting the tender.

Upload evaluation results and approval authorisation onto [YORtender](#) to provide transparency.

#### 25.1h **Award and Execution**

##### **Contract details**

Every contract as a minimum shall be in writing and specify:

- the supplies or services to be provided and/or the work(s) to be executed;
- the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;
- the time within which the contract is to be performed;
- liability, indemnity and insurance and
- other conditions and terms as set out in the invitation to tender.

**Mandatory** - Contract award to be published on Contracts Finder and the contracts register via YORTender.

## **Signing**

The Assistant Director Law and Governance (Monitoring Officer) is authorised to sign contracts that exceed £100,000 and unless they determine otherwise, such contracts shall be executed by way of deed, under the Common Seal of the Council.

The Assistant Director Law and Governance, (Monitoring Officer) is authorised to affix the Common Seal of their respective Council to such contracts.

Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above as soon as possible.

The relevant Officer Decision Record should be completed by the Service Area and published on the council's website as appropriate

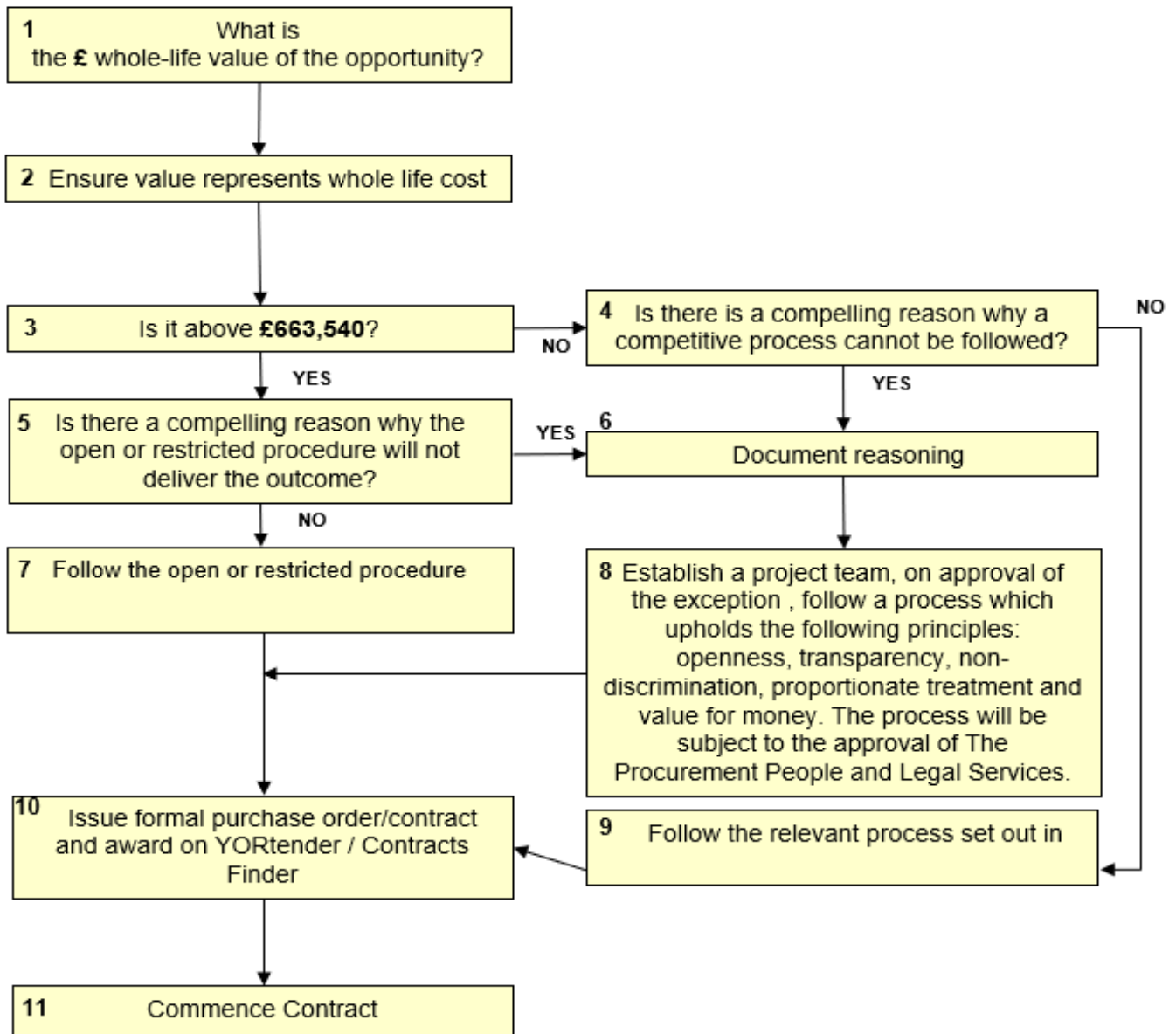
#### **25.1i Records & Documentation**

The Service Area shall retain records of the procurement exercise, in accordance with the Council's approved record management or document retention policy.

Only contracts signed under the Common Seal shall be retained the Assistant Director Law and Governance (Monitoring Officer). All other contracts shall be retained by the service area.

The contract must be awarded using the options available in the contract details module on [YORtender](#), care must be taken to ensure that the contract details are up to date.

## 26 LIGHT TOUCH REGIME

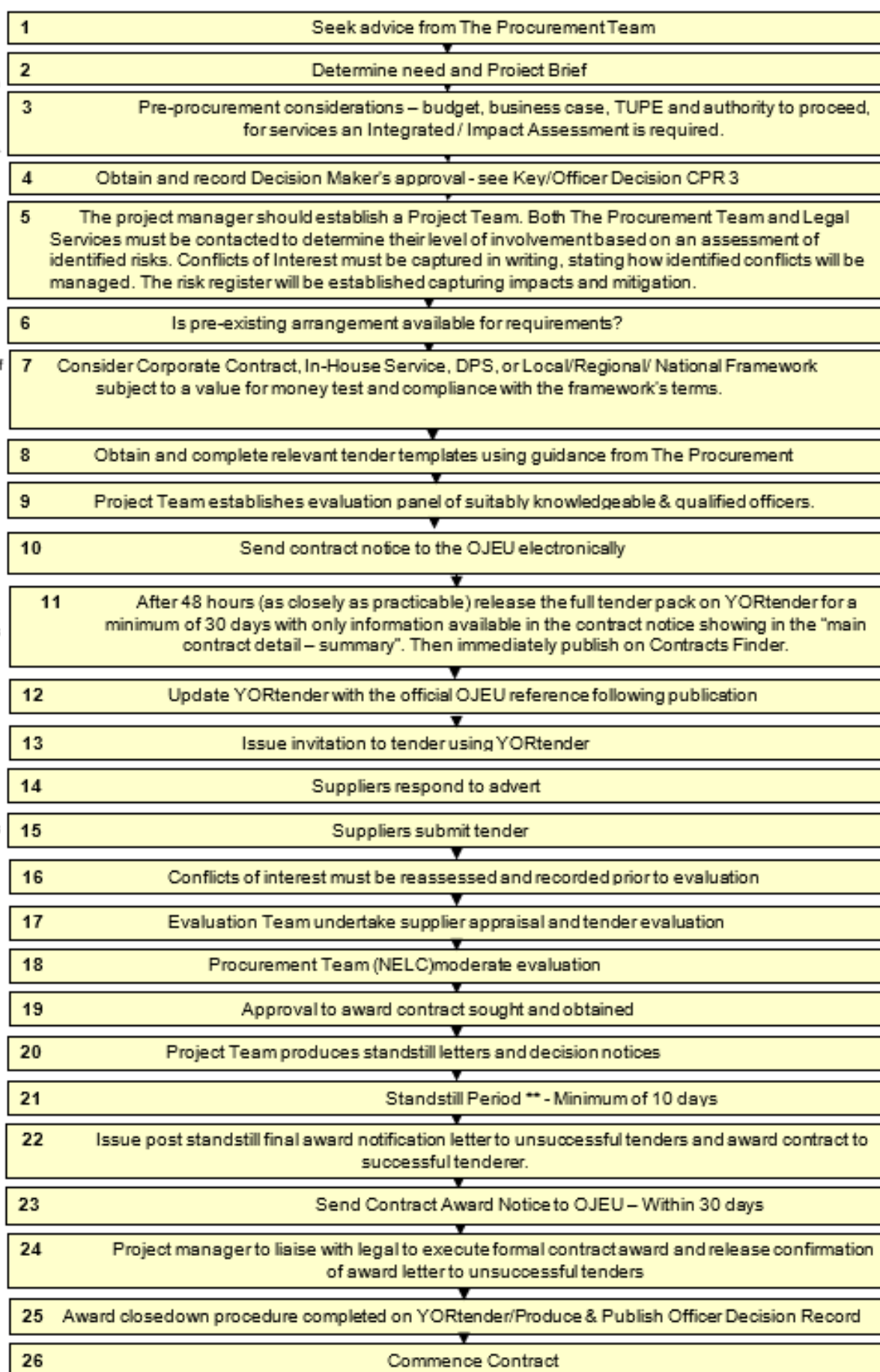


## 27 SUPPLIES/SERVICES/WORKS CONTRACTS ABOVE PCR THRESHOLDS – OPEN

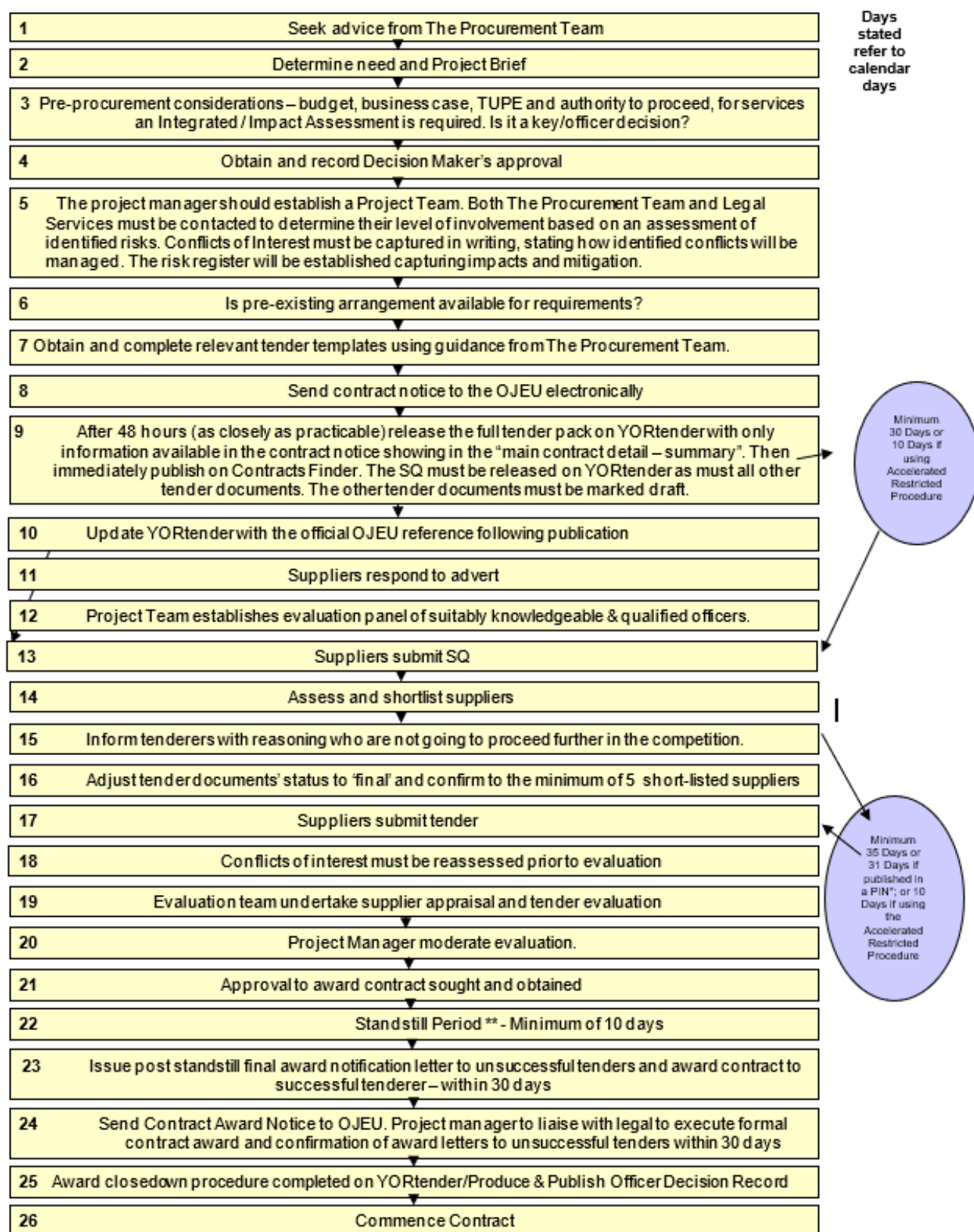
\* Minimum of 15 days if prior information notices have been issued for Supplies or Services provided the PIN appeared at least 52 days and not more than 12 months before the date of despatch of the Contract Notice.

\*\* The date should be 10 days from the notice being sent to all tenderers and candidates. In this context days include weekends and bank holidays but where the last day of the standstill period falls on a non-working day then the standstill period is extended to midnight at the end of the next working day.

Days stated refer to calendar days



## **SUPPLIES/SERVICES/WORKS CONTRACTS ABOVE PCR THRESHOLDS – RESTRICTED**



### 27.1a Authorisation to Proceed with Procurement

It is the Budget Holder's responsibility to ensure the availability of budget and the authority to commit to the expenditure, noting the [Key Decisions](#) and governance requirements. It is essential for the whole-life commitment to be considered not the annual value of the commitment when securing authority to proceed.

If following approval, the estimated cost of the contract increases, then the increase must be approved by the Budget Holder and there must be consideration as to whether a new Cabinet decision is required (if a Key Decision) prior to publishing the procurement. Verify decision making protocols where:

- There are possible Council workforce and related [TUPE](#) implications, advice from Legal Services and People and Culture must be sought;
- There are potentially significant economic development / sustainability implications and
- There are budget or policy implications.

Full Council approval may be necessary.

Written evidence of authority to proceed will be required.

Risk assessments and conflict of interest assessments with recorded corrective actions are required at this stage.

### 27.1b Competitive Process

Adhere to the corporate governance frameworks for [project management](#) and produce a procurement timetable. Project managers should ensure that any procurement is undertaken in line with the Council's agreed project management framework, where appropriate.

Consider, in consultation with Procurement, whether the requirement needs to be procured in accordance with:

- The use of Lots to facilitate greater access to the opportunity for SMEs (justification must be cited in the tender documentation in instances where lots have not been used);
- the SME Concordat;
- the Revised Best Value Statutory Guidance (2015)
- Council Skills Pledge;
- Sustainable/ethical Procurement Policy and
- [Social Value Policy](#)

For all service procurements over Public Contracts Regulations thresholds, an [Integrated / Impact Assessment](#) must be completed to comply with the Public Services (Social Value) Act 2012 and relevant consultation requirements, prior to commencement to inform the specification and evaluation criteria.

#### Public Contracts Regulations Procedure

Seek advice from Procurement and determine the Public Contracts Regulations procedure to be used.

The Council's standard approach is to use the Open Procedure. The following procedures may only be used on the advice of Procurement:

- Restricted Procedure;
- Creation of a Framework;
- Access to a Framework, subject to exception approval under [CPR 30](#)
- Dynamic Purchasing System and
- E-Auction.



The following procedures may not be used except with approval of Assistant Director Law and Governance, (Monitoring Officer) in accordance with [CPR 13](#)

- Competitive Procedure with Negotiation.
- Competitive Dialogue Procedure
- Innovation Partnership Procedure
- An accelerated procedure due to substantiated urgency

All Find a Tender Service Notices, (PINs, Contract Notices and Award Notices), must be approved and released by Procurement.

Prior Information Notices (PIN) may be used to enable preliminary market consultation; a Contract Notice must be used as the call for competition.

Where a Supplier Questionnaire is required, the national standard Supplier Questionnaire template must be used. Assessment must follow national guidance.

Use a formal tender procedure, and manage the process fully using [YORtender](#)

The invitation to tender must comprise:

- clear instructions for the submission and pricing of tenders;
- background information;
- a clear written specification;
- reply forms:
  - supplier questionnaire;
  - form of tender and non-collusion certificate;
  - freedom of information declaration;
  - pricing schedule;
  - method statements;
- Terms & Conditions provided by Legal Services.

Where a restricted procedure is used, tenders must be invited from a minimum of five potential contractors. The distinction between selection criteria used to assess tendering organisations and award criteria used to evaluate the strength of the tender proposal must be entirely separate and remain so throughout the process.

The invitation to tender must state that no tender will be considered unless it is received via YorTender and by the date and time stipulated in the tender documentation. No tender delivered in contravention of this rule shall be accepted without the written approval of the Assistant Director Law and Governance, (Monitoring Officer).

The project manager should establish a project team. Both Procurement and Legal Services must be contacted for them to determine the level of their involvement required based on an assessment of identified risks.

The project manager in consultation with the project team must agree a percentage split in the award criteria based on the scope and importance of quality, risk and cost on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.



Where the project manager wishes to pursue a cost element of less than 60%, they should refer to Procurement for advice.

#### 27.1e Advertisement

**Mandatory** Find a Tender Service contract notice approved and issued via Procurement. After publication of the Find a Tender Service notice, this information is then released on [YORtender](#) advising indicative contract values (exclusive of VAT), followed by its publication on Contracts Finder.

**Optional –**

- Advertising of open opportunities via social media e.g. Twitter, facebook, linkedin and other health and voluntary sector sites subject to Procurement's advice
- One or more specialist trade or professional newspapers or journals where appropriate.
- Direct marketing is permissible, after publication of the Find a Tender Service notice, to include organisations that may not see the opportunity to ensure local / regional / national competition.

The contract notice should be sent to the Find a Tender Service and within 48 hours, the tender should be released on YORtender, unless Find a Tender Service release it earlier, with all tender documents being made available and only information available on the contract notice showing in the “main contract details – summary” on YORtender. Having published on YORtender immediately publish on Contracts Finder, remaining consistent with the contract notice text.

Once the Find a Tender Service has published the contract notice, update YORtender with the official reference number.

Any supplementary advertisement, (e.g. trade press) of the opportunity may only be published once the Contract Notice has been published on the Find a Tender Service and must not include additional information than is available in the Contract Notice or PIN.

Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be acceptable; and comply in all respects with the requirements of the Public Contract Regulations and relevant UK legislation.

#### 27.1f Receiving & Opening of Tenders

Managed using [YORtender](#), kept confidential and opened by an officer who is entirely independent and has no conflict of interest in relation to the project in question.

#### 27.1g Evaluating Tenders

Evaluate tenders using The **Most Economically Advantageous Tender** (MEAT), and ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The final evaluation score given to each tenderer must be the Moderated Score. Refer to [CPR 19](#) for guidance on how to manage errors in tender submissions.

Conflict of interest assessments of the evaluation team are required at this stage.

Where a tenderer has been excluded from the competition at any stage mid-evaluation, the tenderer must be informed at standstill. Equally any requests for clarification from such tenders must be responded to within 15 days of the request: such letters to be approved following the standstill mechanism.

#### 27.1h Post Tender Negotiation

No negotiation with the existing or potential contractors shall be carried out.

#### 27.1i Authorisation to Award

Must be obtained from the relevant Director where consistent in all respects with the Council's Scheme of Delegation, Policy and Budget Framework and governance requirements for [Key Decisions](#).

At least two tender responses must be received. If only one response is received, the written approval of the Assistant Director Law and Governance, (Monitoring Officer) must be obtained prior to accepting the tender.

Without publishing, upload evaluation results and approval authorisation onto [YORtender](#) to maintain the decision making audit trail.

#### 27.1j Standstill Period

All tenderers, and any candidates, including those who have already received notification of their rejection (for example, at selection stage), must be advised of the preferred tenderer status in writing, using [YORtender](#). The following information must be included in the notice or pre-standstill award and decline letters:

- the name of the successful tenderer;
- the award criteria and any sub-weightings used;
- the reasons for the decision, including the characteristics and relative advantages of the successful tender;
- the reasons why the recipient did not meet the technical specification, if applicable;
- the scores of the successful tenderer and the organisation receiving the notice and
- the length of the standstill period, and anticipated end time and date.

Standstill letters must give sufficient, clear reasons, making any debrief unnecessary.

**All standstill letters must be produced in conjunction with Procurement and signed by Legal Services.**

Following this notification, a mandatory minimum 10 calendar day standstill period must be observed prior to final award. The period commences on the day following electronic issue of the pre-standstill award letters and must end on a working day. If a legal challenge is received do not award the contract and seek legal advice.

If the award is a [Key Decision](#), then

- Notice of the Key Decision should not precede issue of the standstill letters;
- It may not be implemented by final contract award until after the 2 day notice period.

#### 27.1k Execution

##### **Contract details**

Every contract as a minimum shall be in writing and specify:

- the supplies or services to be provided and/or the work(s) to be executed;

- the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;
- the time within which the contract is to be performed;
- the Council's requirements on indemnity and insurance;
- for services, an exit strategy for when the contract terminates and
- other conditions and terms as set out in the RFQ / invitation to tender.

## **Signing**

The Assistant Director Law and Governance, (Monitoring Officer) is authorised to sign contracts that exceed £100,000 and unless they determine otherwise, such contracts shall be executed by way of deed, under the Common Seal of the Council.

The Assistant Director Law and Governance (Monitoring Officer) is authorised to affix the Common Seal of their respective Council to such contracts.

Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above as soon as possible.

The relevant Officer Decision Record should be completed by the Service Area and published on the council's website as appropriate

### **27.1l Award Notice**

Contract award must be announced by means of a Contract Award Notice on the Find a Tender Service transmitted no later than 30 calendar days after the date of the post-standstill award letter, with the contract value being exclusive of VAT. This is the responsibility of Procurement. An award notice must also be placed on Contracts Finder.

### **27.1m Records & Documentation**

The Service Area shall retain records of the procurement exercise by maintaining the Regulation 84 report, in accordance with the Council's approved record management or document retention policy. The project manager will ensure this decision record is uploaded, but not published, on [YORtender](#).

Only contracts signed under the Common Seal shall be retained the Assistant Director Law and Governance, (Monitoring Officer). All other contracts shall be retained by the service area.

The contract must be awarded using the options available in the contract details module on [YORtender](#), care must be taken to ensure that the contract details are up to date.

The award recommendation award approval and Regulation 84 report must be retained.

Officer Decision Record must be produced and published as appropriate.

## **28 REPORTING OF TENDERS**

28.1 Procurement will:

- Publish details of all contracts let over £5,000 via YORtender on the Council's live Contracts Register (e-tendering system)

## **29 PREVENTION OF CORRUPTION & THE BRIBERY ACT 2010**

29.1 Requests for quotations and invitation to tenders must inform prospective tenderers of the Council's whistle blowing policy

29.2 All contracts must contain a clause to the effect that the Council will be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if:

- the contractor, his employees or agents, shall have offered or given or agreed to give to any persons any gift or consideration of any kind as an inducement or reward in any way relating to the contract or any other contract with the Council; or
- in relation to any contract with the Council, the contractor, his employees or agents, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, Section 117 of the Local Government Act 1972 and the Bribery Act 2010.

29.3 The Bribery Act 2010 has created the following new offences that can have particular relevance for the award of public contracts:

- bribing a person to induce or reward them to perform a relevant function improperly;
- requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly;
- failing to prevent bribery

<https://www.nelincs.gov.uk/council-information-partnerships/fraud-and-corruption/>

## **30 EXCEPTIONS**

30.1 Exceptions available for Health Care Services under the Provider Selection Regime are different to those identified in 30.2. Please see 30.3 for Provider Selection Regime exceptions.

30.2 With the approval of:

Under £100,000 Budget Holder

Over £100,000 The Assistant Director Law and Governance, (Monitoring Officer) there may, where permitted by the Public Contracts Regulations 2015, be exceptions to the requirements of the CPRs in the following circumstances:

- a. Where important urgent repairs are required to maintain and ensure efficient and continuous service delivery due to the breakdown, or other failure, of buildings, plant, appliances, machinery or ICT equipment or software. Where the urgent repair relates to a repairs & **maintenance item, and where the value exceeds £5,000, a retrospective request for** exception is acceptable.
- b. Where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ICT equipment or software can only be efficiently carried out and most economically supplied with regards to time, cost and speed of delivery by the original contractor or supplier (or their successors or other sole specialists).
- c. Where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier.
- d. Where an emergency situation exists as defined in the Council's Emergency Plan.
- e. When the Council is properly required to adopt other procedures by a Government body or the Council is procuring subsidised public transport services.
- f. Works orders placed with utility companies (e.g. for re-routing cables or pipework).
- g. Where there is only one potential supplier of the required supplies, services or works due to market factors and/or service exigency.
- h. Where the use of a recognised regional or national framework arrangement will provide the most cost effective procurement solution.
- i. Where contracts are extended beyond their specified term.
- j. Where exceptionally it is not expedient to undertake an open process below £100k.
- k. Where there are other exceptional circumstances.

In all instances a written request for exception, clearly documenting the reasons, must be notified in advance to the approving officer before the exception can be actioned. For over £100,000 exceptions a the standard exception form must be completed. This is available on the Intranet.

- 30.3 Exception to undertake an urgent award or modification of a health care service contract of any value must be approved by The Assistant Director Law and Governance, (Monitoring Officer). The standard exception form must be completed. This is available on the Intranet.

## **31 COMMUNITY RIGHT TO CHALLENGE**

- 31.1 The Localism Act provides relevant bodies with the right to challenge the running of local authority services where they believe they could do this differently or better.
- 31.2 Corporate guidance has been produced on the management of challenges received under the Act. An overview of the process for managing challenges is under [Annex 1c](#).

## **32 DISPOSAL & WRITE-OFF OF ASSETS (EXCLUDING LAND & PROPERTY)**

- 32.1 Disposals under £50,000 must be approved by authorised officers. Items over £50,000 will require portfolio holder consultation.
- 32.2 The process for disposal is detailed in [Annex 1d](#).

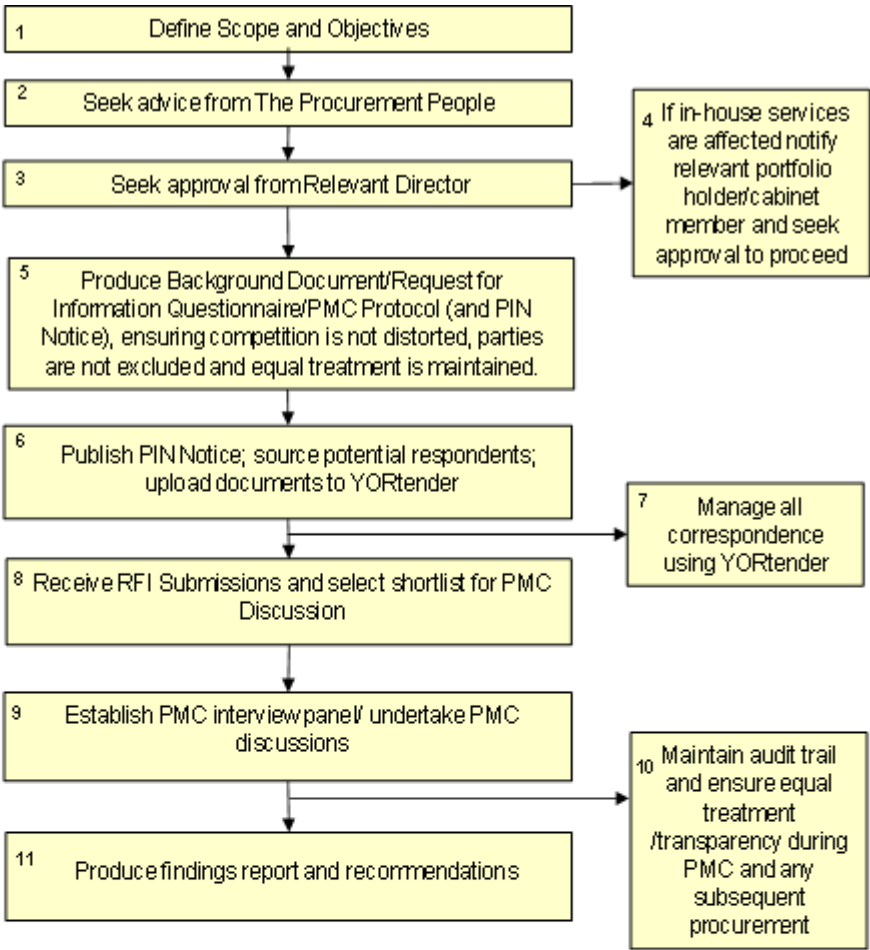
## **33 CONTRACT SIGNING & MODIFICATION**

- 33.1 Directors are authorised to sign contracts that do not exceed £100,000 where the Assistant Director Law and Governance, (Monitoring Officer) has approved the form of contract as appropriate for the type of contract concerned.
- 33.2 The Assistant Director Law and Governance (Monitoring Officer) (NELC) is authorised to sign contracts that exceed £100,000 and unless they determine otherwise, such contracts shall be executed by way of deed, under the Common Seal of the Council.
- 33.3 The Assistant Director Law and Governance, (Monitoring Officer) is authorised to affix the Common Seal of their respective Council to such contracts
- 33.4 Under limited circumstances, the Public Contract Regulations and Provider Selection Regime permit contract modifications during their term. Advice should be sought from Procurement in the first instance.
- 33.5 Changes to contracts and/or terms and conditions must be authorised by the relevant Director and substantial (i.e. material) changes to contracts and/or terms and conditions must be authorised by the relevant Director following consultation with the Assistant Director Law, Governance and (Monitoring Officer).
- 33.6 In all instances the council's standard terms and conditions must be used unless an alternative form of contract has been authorised for use by the Assistant Director Law and Governance, (Monitoring Officer).

## **34 CONTRACT MANAGEMENT**

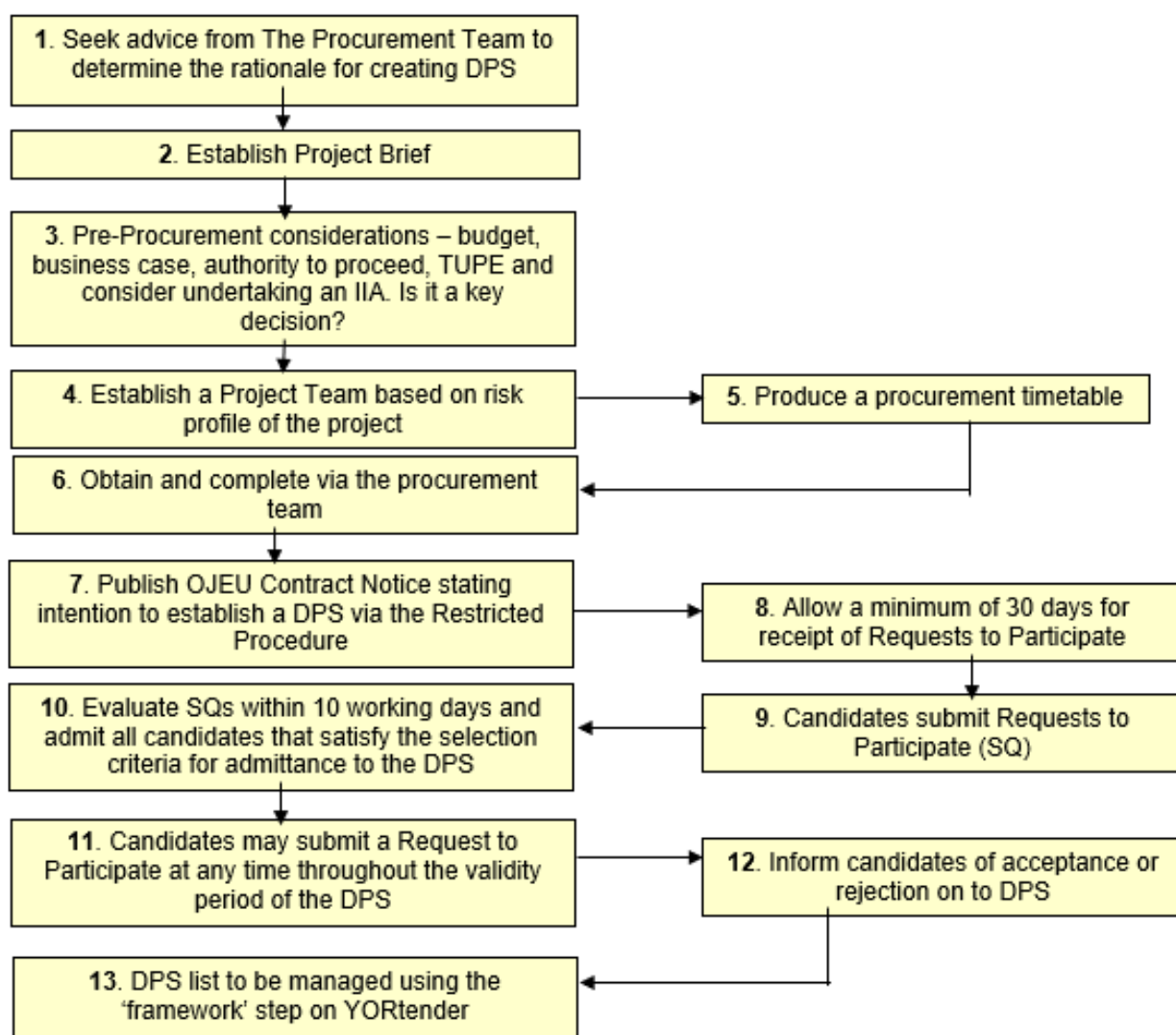
- 34.1 All contracts must be managed in compliance with the corporate contract management toolkit.

**ANNEX – 1A – PRELIMINARY MARKET CONSULTATION**

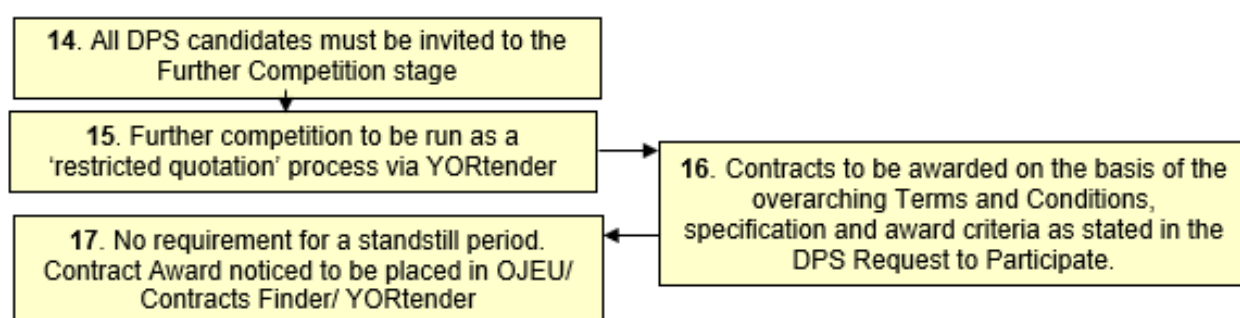


## **ANNEX 1B - DYNAMIC PURCHASING SYSTEMS**

### **Stage 1 - Establishment of DPS**

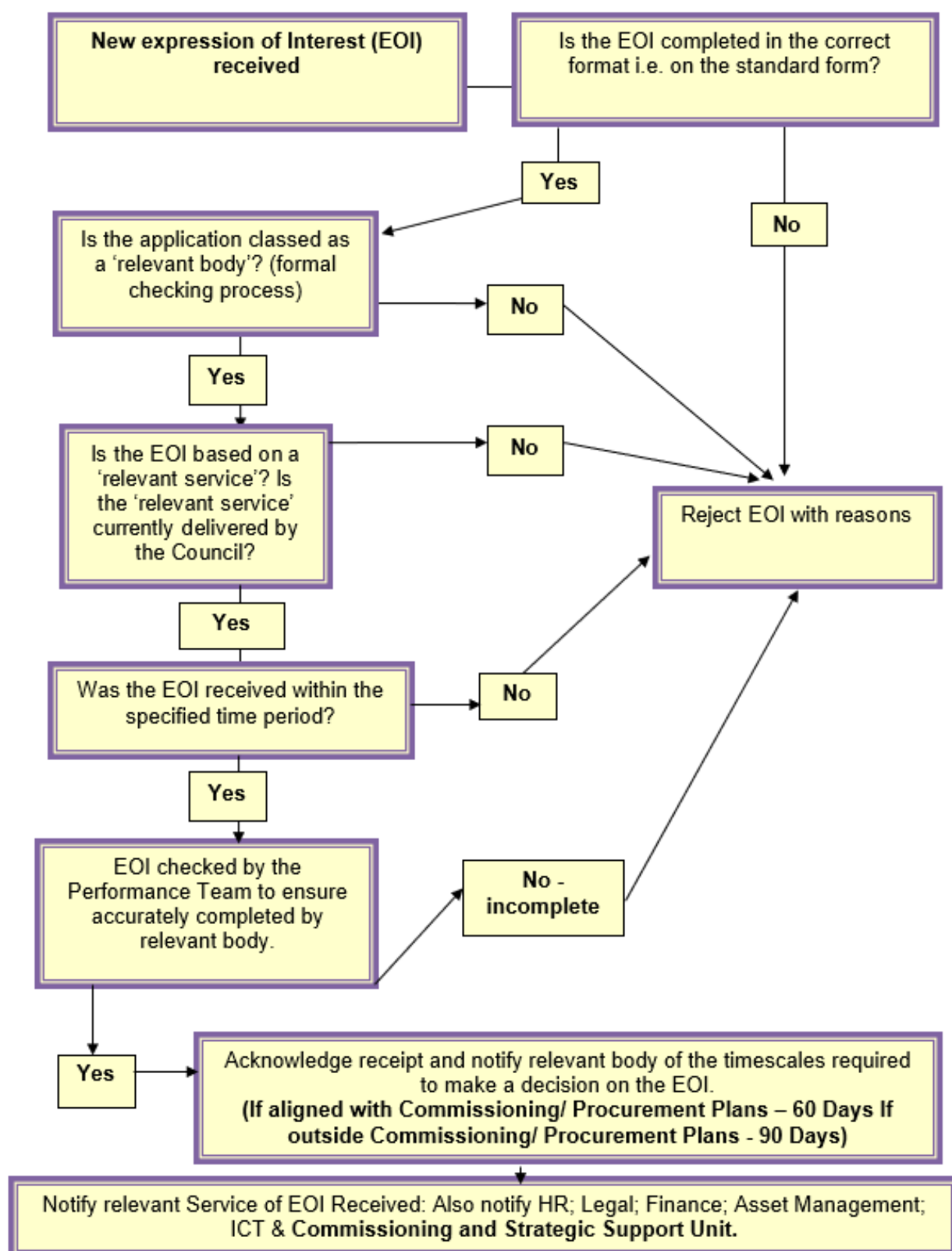


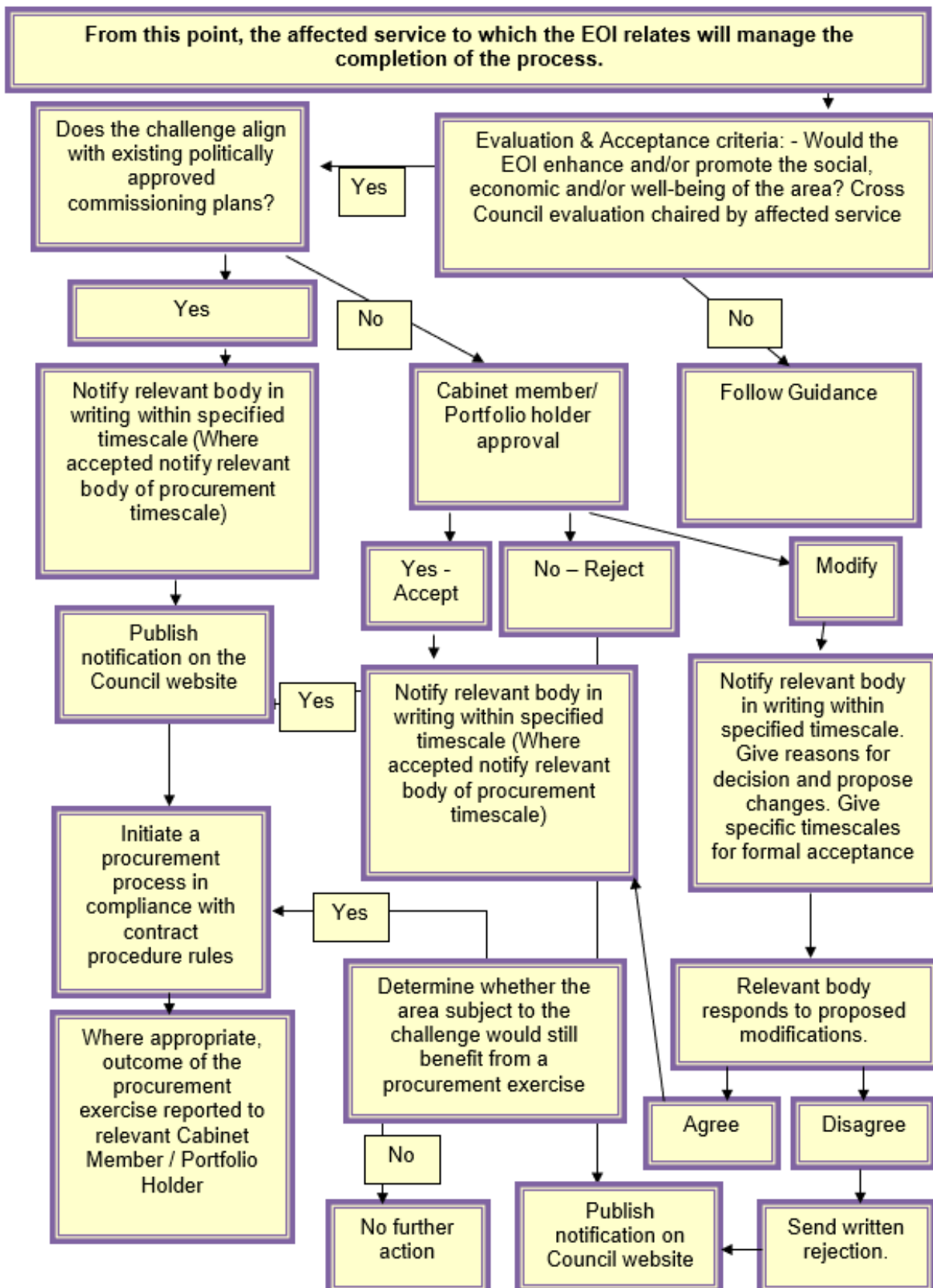
### **Stage 2 – Further Competition**



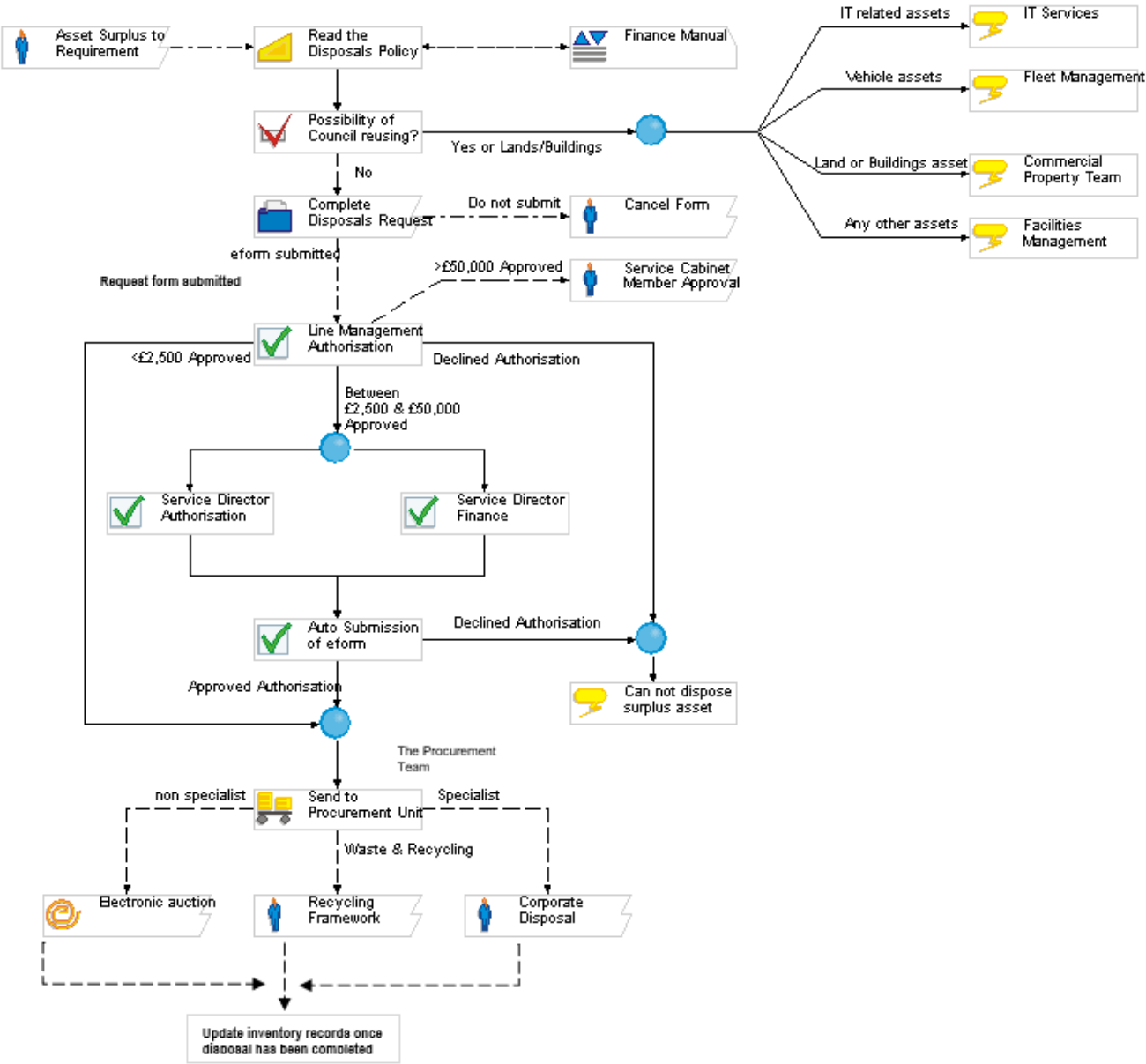


## **ANNEX 1C - COMMUNITY RIGHT TO CHALLENGE EXPRESSION OF INTEREST PROCESS MAP**

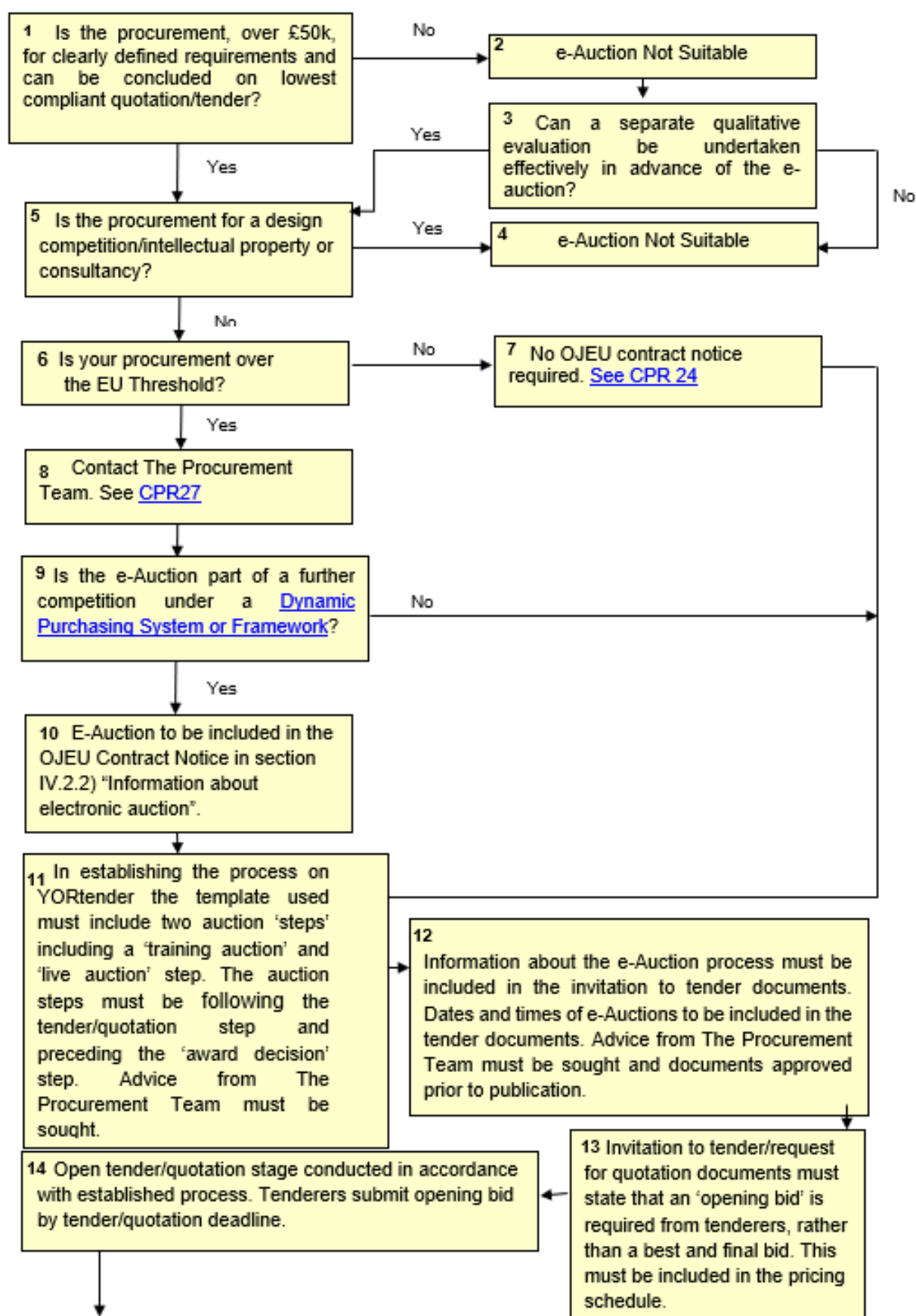


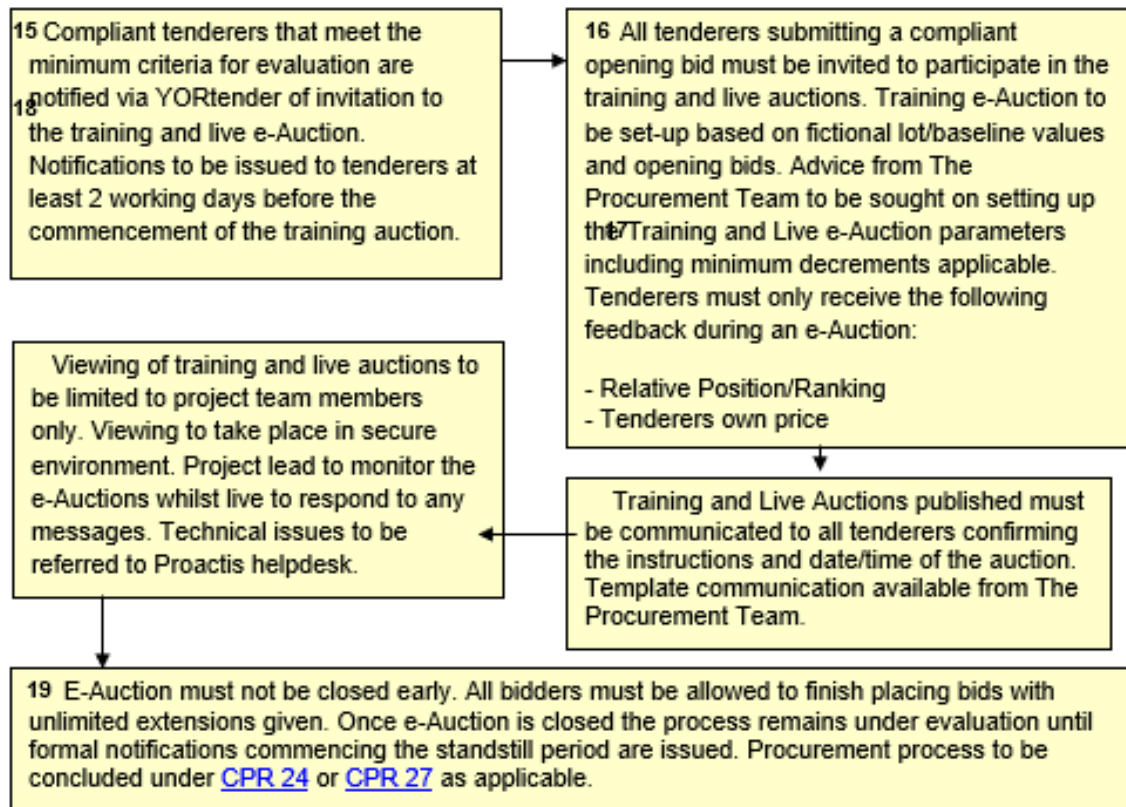


**ANNEX 1D- DISPOSAL AND WRITE OFF OF ASSETS**



## ANNEX 1E- E-AUCTION PROCESS





## **ANNEX 1F - DEFINITIONS AND GLOSSARY**

Academy	A school that is directly funded by central government and independent of local authority control
Aggregation	The identification of similar purchases made and combined aggregated requirements over a specified period of time
Appropriate Officer	Member of staff who has delegated authority to conduct procurement exercises
Regulation 84	Is Regulation 84 of the Public Contracts Regulations 2015 which sets out the decisions made throughout the procurement process which must be recorded and retained
Budget Holder	The manager with responsibility for the budget concerned and with delegated authority to award the contract
Cabinet Member	Elected member of the Council who is responsible for the Cabinet Portfolio under which the service area sits
Category Manager	Officer responsible for the development of a category plan and to oversee procurement activity within the category
Central Purchasing Bodies	A contracting authority (as defined by the Public Contracts Regulations 2015) providing centralised purchasing activities and ancillary activities
Closed Tender Process	A number of providers are selected by the Council to be invited to participate in the tender opportunity as opposed to being “open” where anyone can submit an offer.
Commissioning	The process of specifying, securing and monitoring services to meet people’s needs at a strategic level. An ongoing process, it deals with whole groups of people, which distinguishes it from the process of buying individual services.
Concessions	A Concession Contract is where the Council grants a Service Provider the right to provide a service and rather than pay the Service Provider for providing the service. The Council transfers the opportunity of the market to the Service Provider, along with the demand risk in relation to the level of the market. Revenue from fees paid by service users is kept by the Service Provider and used to meet the costs incurred in delivering the service and potentially to make a profit

Constitution	The set of legal, administrative and legislative principles by which the Council is governed, especially in relation to the rights of the people it governs.
Contract	Document setting out various particulars for the provision of supplies, services and works
Contracts Finder	A online database which enables suppliers to search for contract opportunities valued over £10,000, across the nation and sectors.
Corporate Plan	The document by which the Council sets out its priorities and objectives, and how it will achieve them
Corporate Procurement Strategy	The document by which the Council's Strategic Procurement Unit sets out its priorities and objectives, and how it will achieve them
Council	Refers to North East Lincolnshire Borough Council
CPR	Contract Procedure Rule
Director	Officer who is responsible for a Service Area or grouping of services of the Council
Disaggregation	The splitting down of requirements into lower value packages
e-Certis	e-Certis is a guide to the different documents & certificates required from companies tendering for public contracts in any EU country
Electronic auction	Price based procurement auction performed online following evaluation against non-price criteria. Usually a reverse auction where tenderers repetitively lower their prices.
Equans	Equans, NELC's Regeneration Partner
ESPD	European Single Procurement Document consists of a self-declaration as preliminary evidence of certification
EU	European Union
Framework Agreement	An overarching agreement with a supplier where prices, specifications and terms are pre-agreed, but where there is no obligation to purchase. Requirements are "called off" as and when required over a specified timeframe.

Health Care Services	As defined in The Health Care Services (Provider Selection Regime) Regulations 2023
ITT	<p>Invitation to TenderKey Decision (NELC) Definition available at - <a href="https://www.nelincs.gov.uk/councillors-and-democracy/decision-making/how-decisions-are-made/">https://www.nelincs.gov.uk/councillors-and-democracy/decision-making/how-decisions-are-made/</a></p> <p>Section 4 (Cabinet Functions) of Article 4 (Decision Making).</p>
Lowest Compliant	Of all offers, compliant with the essential criteria of the specification, this is the lowest priced offer: specification-compliance being the first factor to determine.
LTR	Light Touch Regime
Maintained School	Primary and secondary schools funded by central government via the local authority, not charging fees to students.
Mandatory & Discretionary Exclusion	Grounds to exclude tenderers from participating
MEAT	Most Economically Advantageous Tender
Moderated Score	For each criterion or response considered under an evaluation, the evaluation team <b>agrees</b> one score for the said criterion (not an average or an aggregated score across the evaluation team members)
Monitoring Officer	The Monitoring Officer ensures the lawfulness and fairness of Council decision making and serves as the guardian of the Council's Constitution and the decision-making process. Responsibilities include advising the Council on the legality of its decisions, providing guidance to councillors and officers on the Council's Constitution and its powers and assisting the Standards Committee in its role of promoting and maintaining high standards of conduct and probity within the Council.
NELC	North East Lincolnshire Council
OJEU	Official Journal of the European Union
Option Appraisal	The assessment of options in order to establish the most viable or feasible course of action
PIN	Prior Information Notice



Priorities	The areas that the Council or Procurement believes are important in order to deliver services to citizens
Procurement	The process of acquiring supplies, services and goods from third parties
Project Team	A project team should include somebody technically proficient in the subject matter and usually includes: project manager, Procurement officer, finance officer, People and Culture officer, legal officer and any other expertise required to deliver the outcome.
Procurement Toolkit	Intranet (NELC) based pack - self-service guidance and templates
Purchasing Consortia	A group of organisations joining together for the shared purpose of purchasing supplies, services or works
Relevant Bodies	A group of organisations defined in the Localism Act 2011, specifically voluntary and community organisations, charitable organisations, a group of two or more Council employees, parish and town Councils.
RFQ	Request for Quotation
Risk Management	The identification of potential risks and the arrangement of contingency plans to manage or minimise those risks
Service Area	An area of the Council that is responsible for specific service delivery
SME	Small and Medium sized Enterprises
SME Concordat	A nationally recognised procurement agreement to encourage a mixed range of suppliers to help develop and stimulate a varied and competitive marketplace
Social Value	It involves looking beyond the price of each individual contract and looking at what the collective benefit to a community is when a public body chooses to award a contract
Supplier Questionnaire	To gather information on and make assessments of the prospective bidders' credentials, before considering tenders

Threshold Level	Sets out the amount of money (or contract value) by which different procurement procedures are followed
TSO	Third Sector Organisation. A non-governmental organisation which principally reinvests its surpluses to further social, environmental or cultural objectives
TUPE	The Transfer of Undertaking (Protection of Employment) Regulations 2006 (SI No.2006/246) as amended or re-enacted from time to time
Treaty Principles	The EU procurement regime, based on the Treaty principles of transparency, non-discrimination, equal treatment and proportionality.
Value for Money	Obtaining the most economical, efficient, and effective solution
VAT	Value Added Tax
Whole Life Cost	The calculation of the estimated value of a procurement based on the total amount payable, net of VAT, as estimated by the contracting authority, including any form of option and any renewals
YORtender	Supplier Contract Management System (or equivalent e-tendering system) web portal by which the Council effectively advertises and manages quotations and tenders

## ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

This Article deals with the issue of ensuring that the Constitution is kept under review and is revised as necessary. This will be the function of the Standards and Adjudication Committee.

The relevant legislation is Sections 30 and 37 of the Local Government Act 2000.

### 15.01 Duty to monitor and review the constitution

The Standards and Adjudication Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### Protocol for monitoring and review of constitution by the Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in [Article 1](#). In undertaking this task the Monitoring Officer may:

- 1) observe meetings of different parts of the member and officer structure;
- 2) undertake an audit trail of a sample of decisions;
- 3) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- 4) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 15.02 Changes to the Constitution

- a) **Approval.** Changes to the constitution will only be approved by the full Council.
- b) **The Council** must take reasonable steps to consult with local electors and other interested persons in the area when drawing up any proposals to change from the Leader and Cabinet form of Cabinet to another type of Cabinet model

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

This Article ensures that the Articles of the Constitution may not be suspended except in limited circumstances (as shown below).

### 16.01 Suspension of the Constitution

- a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in [Article 1](#).

### 16.02 Interpretation

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

### 16.03 Publication

- a) The Monitoring Officer will take steps necessary to provide all Members of the Council with access to the Constitution, whether in hard copy or electronic format.
- b) The Monitoring Officer will ensure that copies of the Constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.