



Ashfield

DISTRICT COUNCIL CONSTITUTION

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ENGLISH

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URDU

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براہ مہربانی کسٹمر سروسز (صارفین کے لیے خدمات) سے فون نمبر (01623) 450000 پر رابطہ کریں۔

CONSTITUTION

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CONSTITUTION

PART 1 - SUMMARY AND EXPLANATION

Page No.

Summary and Explanation

1-1 - 1-4

Summary and Explanation

In this Section

The Council's Constitution
What's in the Constitution?
How the Council operates
How Decisions are made
Overview and Scrutiny
The Council's Staff
Citizen's Rights

The Council's Constitution

Ashfield District Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 14 Articles that set out the general rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of this document.

What is in the Constitution?

Article 1 of the Constitution commits the Council to provide clear leadership to the community in partnership with residents, businesses, the voluntary sector and other organisations; support the active involvement of the public in the decision-making process; take decisions efficiently and effectively; identify clearly those responsible for decision making and hold them to account; and improve the delivery of services to the community.

Articles 2 – 14 explain the rights of citizens and how the key parts of the Council operate. These are:-

Members of the Council (Article 2)

Citizens and the Council (Article 3)

The Role of the Council (Article 4)

Chairing the Council (Article 5)

The Executive (Article 6)

Overview and Scrutiny (Article 7)

Regulatory and Other Committees (Article 8)

Joint Arrangements (Article 9)

Employees (Article 10)

Decision Making (Article 11)

Finance, Contracts and Legal Matters (Article 12)

Review and Revision of the Constitution (Article 13)

Suspension, Interpretation and Publication of the Constitution (Article 14)

How the Council Operates

The Council is composed of 35 Councillors, who are elected every four years. Councillors, also known as Members, are democratically accountable to residents of their ward. Their overriding duty is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards and Personnel Appeals Committee trains and advises them on the Code of Conduct and works to maintain high standards of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public except if confidential or exempt information is being discussed. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints all other committees, including the Principal Select Committee and Regulatory Committees, approves all major strategies and policies, debates issues of local concern and determines all Constitutional issues.

How Decisions are Made

The Leader of the Council is personally responsible for the discharge of Executive Decisions and sets out within his/her scheme of delegation, the extent to which these are to be taken by him/herself, the Executive collectively (or as it is usually known, the 'Cabinet') an individual member of the Executive, a Committee of the Executive, or by an Officer. The Executive is made up of between 2 and 10 Councillors, chosen by the Leader including him/herself.

The Executive is required to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, the decision must be referred to the Council as a whole to decide.

In circumstances where a disaster or other unplanned incident threatens to take critical systems or services offline or out of action, the Chief Executive can exercise all necessary powers to ensure the continuity of operations and core council business

Overview and Scrutiny

There is a Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee, that support the work of the Executive and the Council as a whole. The Select Committees play a significant role in policy development, performance and in reviewing decisions already made.

They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Indeed, the Executive or the Council may consult with them on forthcoming decisions and the development of policy.

The Principal Select Committee also monitors executive decisions once they are made. In certain circumstances, Members can 'call-in' a decision which has been made by the Executive but not yet implemented.

The Regulatory Functions

The Council also has a series of 'regulatory' functions, such as issuing taxi licences or deciding on planning applications. These functions are carried out through a series of committees, each with specific responsibilities. These responsibilities are explained in Article 8 of the Constitution.

The Council's Employees

The Council has people working for it (called employees) to give advice, implement decisions and manage the day-to-day delivery of its services. Some employees (often described as Officers) have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Code of Practice (or "Protocol") governs the relationships between Officers and Members of the Council (set out in Part 6 of this Constitution).

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Citizens have the right to:

- Help to choose who is going to represent them on the Council by voting at local elections. To be able to vote you have to be on the electoral register. In order to register as an elector, you need to register individually by going online, www.gov.uk/register-to-vote, or by contacting the Elections Unit by email to: regelec@ashfield.gov.uk or by telephone on 01623 457321.
- Contact their local ward Councillor about any matters of concern to them. Councillor's contact details are on the Council's web site.

- Attend or access meetings of the Council, the Executive or ('the Cabinet') and Committees, except where, for example, personal or confidential matters are being discussed.
- Petition to request a referendum on a mayoral form of executive;
- Submit a petition to the Council regarding an issue of concern;
- Participate in the Council's public question time, speak at a Planning Committee meeting in regard to a particular application and on invitation, to contribute to investigations by the Select Committees;
- Find out, from the Forward Plan of Executive Decisions, what major decisions are going to be discussed by the Executive or decided by the Cabinet, an individual Executive Lead Member, or an Officer, and when this is going to happen.
- See reports and background papers, and any record of decisions made by the Council and Executive. Links to background papers are included in the Forward Plan and on the reports to Council and Cabinet and other bodies;
- File a complaint with the Council or the Ombudsman if you feel that the Council has acted inappropriately or unfairly; and
- Inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. Further information on citizens' rights can be obtained from the Council's Monitoring Officer. Please contact: democratic.services@ashfield.gov.uk if you would like to know more.

Responsible Citizenship

Citizens are expected and encouraged to work in partnership with their local Councillors and Council Officers and others for the wellbeing of their communities.

The Council both represents the interests and views of local people and is a partner with them in order to benefit our whole community. As such it will work with communities and local people to help them actively promote their own wellbeing, the wellbeing of their neighbourhoods and the District of Ashfield as a whole.

If you would like to find out more about how you can make a contribution to your local community email: locality@ashfield.gov.uk

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THE CONSTITUTION OF THE COUNCIL

PART 2 - ARTICLES OF THE CONSTITUTION

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Article 1 – The Constitution

1.01 The Council and the Community

Ashfield District Council is democratically elected by and accountable to, the people of Ashfield. The Council is established under law and has a range of legal responsibilities, which it is obliged to carry out and discretionary powers that it can choose to exercise.

1.02 The Purpose of the Constitution

The purpose of this Constitution is to set out in clear terms how the Council works and how its different parts link together. The Council's purpose is to:

1. Serve the communities and residents of Ashfield;
2. Provide good quality, value for money services;
3. Act strategically and plan for the future, working with others to bring about sustainable improvements in people's lives.

In order to achieve its purpose, the Council is:

1. Providing clear leadership to the community in partnership with citizens, businesses and other organisations;
2. Getting local people actively involved in the Council's decision making process;
3. Helping Councillors to represent their constituents more effectively;
4. Enabling decisions to be taken efficiently and effectively;
5. Ensuring that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
6. Creating a powerful and effective means of holding decision-makers to public account;
7. Ensuring that no one will review or scrutinise a decision in which they were directly involved;
8. Providing a means of improving the delivery of services to the community.

1.03 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

Article 2 – Members of the Council

2.01 Composition and Eligibility

1. **Composition.** The Council will comprise 35 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.
2. **Eligibility.** The law requires that only registered voters of the District, or those living or working there, are eligible to stand for election to serve as a Councillor on the District Council.

2.02 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years, with the most recent election having been held in May 2023. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and Functions of all Councillors

1. **Key roles.** All Councillors will:
 - (a) Collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
 - (b) Contribute to the good governance of the District as a whole and actively encourage community participation and citizen involvement in decision making;
 - (c) Enable thriving, prosperous and self-sufficient communities where people shape their own futures;
 - (d) Represent and lead their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities;
 - (e) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (f) Respond to constituents' enquiries and representations, fairly and impartially;
 - (g) Balance different interests identified within the ward and represent the ward as a whole;
 - (h) Be involved in decision-making;
 - (i) Participate in the governance and management of the Council;
 - (j) Be available to represent the Council on other bodies; and

(k) Maintain the highest standards of conduct and ethics.

2. Rights and Duties

(a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;

(b) Councillors will not make information which is confidential or exempt public without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;

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

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Parts 5 and 6 respectively of this Constitution. Complaints that Councillors have breached the Members' Code of Conduct should be referred to the Monitoring Officer by the following link:

<http://www.ashfield.gov.uk/your-council/about-the-council/councillors-and-meetings/complaint-about-a-member/>

or by contacting: democratic.services@ashfield.gov.uk, Tel: 01623 457232

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme, set out in Part 7 of this Constitution.

Article 3 – Citizens and the Council

The Council is the mechanism through which local communities govern themselves. The Council does not exercise its powers and carry out its responsibilities in isolation, but rather seeks to do this in partnership with the local communities, from which it is drawn and which it represents.

3.01 Citizens' Rights – the Petition Scheme

In order to help achieve this goal of working in partnership with local communities, Citizens have 'rights' when dealing with the Council. One of the most important of these is their right to petition or lobby the Council on specific issues. In particular:

1. 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 Executive.
2. Citizens who live, study or work in the District may submit a petition relating to issues of concern to the Council. Petitions are dealt with in accordance with the Council's Petition Scheme.

Petitions **must** include:

- A clear and concise statement covering the subject of the petition, the area to which the petition relates to, and what action the petitioners want the Council to take;
- The contact details, including the address, of the petition organiser;
- The name, address and signature of any person supporting the petition;
- The date the petition was submitted.

Exclusions

Submitted petitions that are determined by the Chief Executive to be vexatious, discriminatory, abusive, unreasonable, or otherwise inappropriate will not be accepted by the Council.

In the period immediately before an election or referendum the Council may have to deal with your petition differently – if this is the case, the Council will contact the petition organiser to explain why and discuss a revised timescale.

Petitions will not normally be considered if they are received within 6 months of another petition having already been considered by the Council on the same matter.

If the Council receives two or more petitions relating to the same issue(s) it will consider amalgamating them, but only with the approval of the petition organisers.

If the petition applies to a planning or licensing application, is a statutory petition (for example, requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply. For instance, petitions that relate to planning or licensing applications will be submitted directly to the relevant committees for them to consider.

Council Response

Depending on the number of people that have signed a petition submitted to the Council, it will be dealt with in one of the following ways:

1. If a petition submitted to the Council contains **between 10 and 199 signatures**, it will be responded to in accordance with Ashfield District Council's Compliments and Complaints Procedure;
2. If a petition submitted to the Council contains **between 200 and 749 signatures**, it will be discussed a meeting of the Council's Senior Leadership Team;
3. If a petition submitted to the Council contains **between 750 and 1,499 signatures**, it will be referred to the Principal Select Committee for consideration;
4. If a petition submitted to the Council contains **over 1,500 signatures**, it will be referred to a meeting of the Council for consideration and debate.

3.02 Rights to Information

Citizens also have the right to:

1. Attend or have access to meetings of the Council, the Cabinet and Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
2. Find out from the Forward Plan what key and exempt decisions will be taken by the Executive and when;
3. See reports and background papers, and any records of decisions made by the Council, its Committees and the Cabinet;
4. Inspect the Council's accounts and make their views known to the external auditor;
5. Register and vote;
6. Respond to consultations;
7. Inform the Council if it is not meeting standards expected or targeted.

3.03 Participation

Citizens have the right to participate in the Council's question time and contribute to reviews by Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee.

Complaints

Citizens have the right to complain to:

1. The Council itself under its complaints scheme. Please click on the following link if you would like to see the Council's complaints scheme:
<https://www.ashfield.gov.uk/your-council/contact-us/complaints/>
2. The Ombudsman after using the Council's own complaints scheme.
The link to the Local Government Ombudsman: <https://www.lgo.org.uk/>
3. The Council about an alleged breach of the Members' Code of Conduct. The link to the Members' complaints scheme is: <https://www.ashfield.gov.uk/your-council/councillors-meetings-governance/complaints-about-councillors/>

Article 4 – The Role of the Council

The Council remains the sovereign body with the final say in determining the overall Budget & Policy Framework in which we operate and in dealing with the other issues specifically reserved for Council approval as identified in this Constitution.

4.01 Meanings

Policy Framework.

The policy framework means the following plans and strategies:

- Ashfield Community Partnership;
- Plans and strategies which together comprise the Local Plan;
- Council's Corporate Plan;
- Medium Term Financial Strategy;
- Licensing Policy Statement.

Budget.

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, 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 Sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the Council

Only the Council will exercise the following functions:

1. Adopting and changing the Constitution;
2. Electing the Chairman and Vice Chairman;
3. Receiving reports from the Leader setting out the composition and responsibilities of the Executive and the current scheme of delegations;
4. Approving or adopting the policy framework, budget and any application to the Secretary of State in respect of any Housing Land Transfer;

5. Making decisions about any Executive function which is covered by the Budget and Policy Framework where the decision is wholly or partly contrary to the Budget or Policy Framework (subject to Part 16 of the Access to Information Rules (Special Urgency) or **Parts 3 and 4** of the Budget and Policy Framework Procedure Rules);
6. Agreeing and/or amending the terms of reference for Committees and Sub Committees and deciding on their composition;
7. Appointing the Leader of the Council;
8. Adopting a Code of Conduct for Members and Officers and Member/Officer protocols;
9. Making appointments to outside bodies;
10. Considering reports from the Executive and any other groups;
11. Considering any matters referred to the Council for decision;
12. Adopting a Members' Allowances Scheme under Article 2.05;
13. Appointing the Chief Executive, the Monitoring Officer and the Chief Finance Officer;
14. Keeping under review ward boundaries and deciding the Council's response to any proposals by the Boundary Committee for England which affect the District;
15. Making, amending, revoking, re-enacting or adopting bylaws and public space protection orders (Anti-Social Behaviour, Crime and Policing Act 2014) and promoting or opposing the making of local legislation or personal Bills (Section 239, Local Government Act 1972);
16. Determining motions of confidence in the Leader of the Council;
17. Carrying out functions relating to elections including appointing an Electoral Registration Officer and Returning Officer for local elections;
18. Resolving conflicts under the Budget and Policy Framework Procedure Rules;
19. Accepting delegations from another Local Authority;
20. All other matters which, by law, must be reserved to the Council, including setting the Council Tax;
21. Receiving any reports by the Monitoring Officer or the Chief Finance Officer.

4.03 Council Meetings

There are three types of Council meeting:

1. The Annual Meeting;
2. Ordinary meetings (including any meeting specifically reserved for an opposition debate);
3. Extraordinary meetings.

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

4.04 Annual State of the District

The Council may hold an Annual State of the District debate in accordance with the Rules of Procedure set out in Part 4 of this Constitution.

4.05 Responsibility for Functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

Article 5 – Chairing the Council

5.01

The Chairman of Ashfield District Council is the ‘first citizen’ or civic leader of the District. By this we mean that he or she represents the whole of our community. The Chairman is a unifying figure, who can speak on behalf of all – especially at times of great celebration or when tragedy has struck.

As part of their civic leadership role, the Chairman of the Council attends many events in the District. These involve different groups and people from all walks of life.

The Chairman is elected annually at the Annual Council meeting, along with the Vice Chairman (who will usually serve as Chairman the following year).

As well as being civic leader, the Chairman has the following responsibilities:

1. Upholding and promoting the purposes of the Constitution, and interpreting the Constitution when necessary, whose ruling and decision shall be final;
2. Presiding over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. Ensuring that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Executive or hold Committee Chairs are able to hold the Executive and Committee Chairs to account;
4. Promoting public involvement in the Council’s activities;
5. Acting as the conscience of the Council;
6. Attending such civic and ceremonial functions as the Council and he/she determines appropriate (the Council may also be represented on occasions by the Leader); and
7. Undertaking the role identified within the dispute procedure (conflict resolution).

5.02

The Chairman presides over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, which shall include the following:

1. To determine that the meeting is properly constituted and that a quorum is present;
2. To inform himself/herself as to the business and objects of the meeting;
3. To preserve order and good conduct of those present;

4. To confine discussion within the scope of the meeting and reasonable limits of time;
5. To decide whether proposed motions and amendments are in order;
6. To formulate for discussion and decision questions which have been moved for the consideration of the meeting;
7. To decide points of order and other incidental questions which require decision at the time;
8. To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon (and, if so minded, giving a casting or second vote) and declaring the result;
9. To adjourn the meeting when circumstances justify or require that course;
10. To declare the meeting closed when the business has been completed.

5.03

The Vice Chairman of the Council will, in the absence of the Chairman of the Council OR as requested by him/her (it being noted that any such requests may for a variety of reasons be made at short notice) carry out the above-mentioned tasks and responsibilities and in addition will give unequivocal support to the role and responsibilities of the office of Chairman of the Council.

Article 6 – The Executive

THE ROLE OF THE EXECUTIVE (THE ‘CABINET’)

6.01

The Council operates a Strong Leader and Cabinet form of governance as set out in the provisions of the Local Government Act 2000 (as amended). The Executive, or as it is usually known ‘the Cabinet’, will carry out all of the Council’s functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

6.02 Form and Composition

The Executive will consist of the Leader of the Council together with at least 2, but not more than 9, Councillors appointed by the Leader. Political balance rules do not apply.

6.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

1. The expiry of four years from the date of his/her election to the office of Leader of the Council or until the first Council meeting after he/she stands for re-election as a District Councillor, whichever is the sooner; or
2. He/she resigns from the office; or
3. He/she is no longer a Councillor; or
4. He/she is removed from office by resolution of the Council.

6.04 Appointment of Executive and Scheme of Delegation

The Leader determines the size of Executive and may remove them from the Executive at any time. The Leader allocates areas of responsibility (portfolios).

6.05 Executive Members

Executive Members shall hold office until:

1. They resign from office; or
2. They are no longer Councillors; or
3. They are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

6.06 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

6.07 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Executive, Committees of the Executive, Officers or joint arrangements are responsible for the exercise of particular Executive functions.

6.08 Absent Leader

The Leader will nominate a member of the Cabinet to act as Deputy Leader in his/her absence.

If for any reason the Leader is unable to act or the office of Leader is vacant, the Executive Member nominated to act as Deputy Leader must act in his/her place.

If for any reason the Leader and Deputy Leader are unable to act or their offices are vacant, then the Executive must act in the Leader's place or arrange for a member of the Executive to do so.

Article 7 – Principal Select Committee

7.01 Terms of Reference

The Council will appoint a Principal Select Committee and additional Select Committees as required. The Council has currently appointed two additional Select Committees; the Inward Focus Select Committee and Outward Focus Select Committee

Committee Scope

Principal Select Committee

In accordance with paragraph 8.02 of this constitution, to review and scrutinise individual decisions before or after implementation. To undertake such other Overview and Scrutiny functions as may be required. The Committee does not have the powers to call-in decisions of the non-executive committees.

Inward Focus Select Committee, and Outward Focus Select Committee:

To undertake such tasks as may be requested by the Council or the Executive or as agreed by the Principal Select Committee.

General Role

Within its terms of reference, the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee will:

1. Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
2. Make reports and/or recommendations to the Council and/or the Executive in connection with the discharge of any functions;
3. Consider any matter affecting the area or its inhabitants; and exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive, but not decisions of the non-executive committees;
4. Agree an annual Select Work Programme which will allow overview and scrutiny responsibilities to be exercised in an effective manner;
5. Review, scrutinise, and report on the decisions made and action taken by responsible authorities under the Crime and Disorder Act 1998 i.e. 'Ashfield Community Partnership';
6. Review, scrutinise and report on housing performance;
7. Consider petitions and Councillor Calls for Action referred to it.

7.02 Specific Functions

Policy Development and Review

The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may:

1. Assist the Council and the Executive in the development of its policy framework by in-depth analysis of policy issues;
2. Conduct research, community and other consultation in the analysis of policy issues and possible options;
3. Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
4. Question members of the Executive and/or Committees and Chief Officers or their representatives about their views on issues and proposals affecting the area;
5. Require Executive Lead Members to report on the implementation and/or progress of approved scrutiny review recommendations (within their areas of responsibility) no less than 3 months after completion of the review and agreement from the Executive; and
6. 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.

Scrutiny

The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may:

1. Review and scrutinise the decisions made by and performance of the Executive and/or Committees and Council Officers both in relation to individual decisions and over time;
2. Review and scrutinise the performance of the Council in relation to its policy objectives and targets, including crime and disorder and housing performance;
3. Question members of the Executive and/or Committees 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;
4. Make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

5. Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Principal Select Committee and local people about their activities and performance; and;
6. Question and gather evidence from any person (with their consent).

Finance

The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee will exercise overall responsibility for the finances made available to them.

Annual Report

The Principal Select Committee's Annual report to Council will report on the work undertaken by all Select Committees and make recommendations for future work programmes and amended working methods if appropriate.

Petitions

In accordance with the Council's Petition Scheme the Principal Select Committee will:

1. Receive and consider petitions submitted to the Council containing **between 750 and 1,499** signatories; and
2. Review the Council's response to petitions when a formal request to do so has been made by the petition organiser.

7.03 Proceedings of the Principal Select Committee

The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 8 – Regulatory and other Committees

8.01 Regulatory and Other Committees

The Council will appoint Committees to carry out a range of specific functions delegated to them as set out in Part 3 paragraph 1.2 of the Constitution. In summary, the Council will delegate:

1. Its planning functions to the Planning Committee;
2. Its licensing functions to the Licensing Committee and Sub-Committees (as appropriate);
3. Its employee related appeals and matters relating to the ethical framework and conduct of Members/Co-opted Members to its Standards and Personnel Appeals Committee;
4. In respect of those posts for which the Council is responsible for interviewing and appointing as outlined in the Employment Procedure Rules as set out in Part 4 of this Constitution to the Chief Officers' Employment Committee;
5. Its audit issues to the Audit Committee.

Article 9 – Joint Arrangements

9.01

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

1. Enter into arrangements or agreements with any person or body;
2. Co-operate with, facilitate or co-ordinate the activities of, any person or body; and
3. Exercise on behalf of that person or body any functions of that person or body.

The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive 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.

The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

Except as set out below, the Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:

- The joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area;
- The joint committee is between a county council and a single district council and relates to functions of the Executive of the county council. In such cases, the Executive of the county council may appoint to the joint committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.

9.02 Access to Information

1. The Access to Information Rules in Part 4 of this Constitution apply.

2. If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive (as determined by the participating authorities).
3. If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

9.03 Delegation to and from Other Local Authorities

1. The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
2. The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
2. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

9.04 Contracting Out

1. The Council and Executive may discharge functions by contracting out to another body or organisation.

The Council has contracted out the management of its leisure centres.

Article 10 – Employees

10.01 Management Structure

General.

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

Chief Officers.

The Council will engage persons for the following posts, who will be designated Chief Officers:

Chief Executive and Head of Paid Service
Executive Director of Governance
Executive Director of Place
Executive Director of Operations
Executive Director of Transformation
Corporate Resource Director

Head of Paid Service, Monitoring Officer and Chief Finance Officer

Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Executive Director of Governance	Monitoring Officer
Corporate Resource Director	Chief Finance Officer

Such posts will have functions described in Article 11.02-11.04 below:

Structure.

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing management structure and deployment of employees. A structure showing the Senior Leadership Team structure is set out at Part 8 of this Constitution.

10.02 Functions of the Head of Paid Service

1. **Discharge of Functions by the Council.** The Head of Paid Service will report to 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.
2. **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

10.03 Functions of the Monitoring Officer

1. **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, Officers and the public.
2. **Ensuring Lawfulness and Fairness of Decision Making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council, or to the Executive in relation to an Executive function, if he/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.
3. **Supporting the Standards and Personnel Appeals Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Personnel Appeals Committee.
4. **Receiving Reports.** The Monitoring Officer will receive and act on reports made by investigating officers appointed by him/her and decisions of the Hearings Sub Committee.
5. **Dealing with Complaints regarding Breaches of the Members' Code of Conduct.** The Monitoring Officer in conjunction with the Independent Person will take any action and conduct investigations into matters referred to him/her and take any action authorised by the Hearings Sub Committee.
6. **Proper Officer for Access to Information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
7. **Advising whether Executive Decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
8. **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.
9. **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

10.04 Functions of the Chief Finance Officer

1. **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or to the Executive in relation to an Executive function and the Council's external auditor if he/she considers that

any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

2. **Administration of Financial Affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
3. **Contributing to Corporate Management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
4. **Providing Advice.** The Chief Finance 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 will support and advise Councillors and Officers in their respective roles.
5. **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

10.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

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

10.06 Conduct

Officers will comply with the Code of Conduct for Employees set out in Part 9 of the Constitution and the Member/Officer Protocol set out in Part 6 of this Constitution.

10.07 Employment

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

Article 11 – Decision Making

11.01 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 Part 3 of this Constitution.

11.02 Principles of Decision Making

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

1. Proportionality (i.e. the action must be proportionate to the desired outcome);
2. Due consultation and the taking of professional advice from Officers;
3. Respect for human rights (see below for further details);
4. A presumption in favour of openness; and
5. Clarity of aims and desired outcomes.

11.03 Types of Decision

1. **Decisions reserved to Council.** Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.
2. **Key decisions**
 - (a) A key decision is one which is likely to:-
3. Result in the Council making savings or incurring expenditure exceeding £50,000 revenue or £1m capital;

or
4. Have a significant effect, either positive or negative, on communities living or working in an area comprising two or more wards or electoral divisions in the Council's area.
5. A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

11.04 Decision Making by the Council

Subject to Article 11.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.05 Decision Making by the Executive

Subject to Article 11.08 (Decision Making by Council Bodies Acting as Tribunals), the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.06 Decision Making by the Principal Select Committee

The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 11.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

11.08 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 Article 6 of the European Convention on Human Rights.

Article 12 – Finance, Contracts and Legal Matters

12.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

12.02 Contracts

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

12.03 Legal Proceedings

The Executive Director of Governance 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 Executive Director of Governance considers that such action is necessary to protect the Council's interests.

12.04 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 Executive Director of Governance 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.

Any contract with a value exceeding £50,000 entered into on behalf of the Council in the course of the discharge of Executive functions shall be made in writing. Such contracts must be entered into in accordance with the Contract Procedure Rules contained in Part 4 of this Constitution.

12.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Executive Director of Governance. 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 Executive Director of Governance should be sealed. The affixing of the Common Seal will be attested by the Chairman or Vice Chairman of the Council and the Chief Executive or some other person authorised by the Chief Executive.

Article 13 – Review and Revision of the Constitution

13.01 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

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 Council with those in other comparable local authorities, or national examples of best practice.

13.02 Changes to the Constitution

1. **Approval.** Substantive changes to the Constitution will only be approved by the Council after due consideration of any proposals (subject to the Council first taking advice from the Standards and Personnel Appeals Committee if it feels that such would be appropriate).

The Monitoring Officer may make such minor alterations or changes to reflect in year decisions (for example changes to job titles and structures or by reason of changes to legislation) as he/she deems necessary.

2. **Change from a Leader and Cabinet Form of Executive to Alternative Arrangements, or Vice Versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 14 – Suspension, Interpretation and Publication of the Constitution

14.01 Suspension of the Constitution

Whilst the Articles of the Constitution may not be suspended to ensure certainty and stability to the fundamental aspects of the Council's governance, there is provision for rules of procedure to be suspended provided the effect is consistent with the purposes of the Constitution. The Rules and Procedures of this Constitution may be suspended by the Council or other decision-making body to the extent permitted within the provisions and the law.

14.02 Interpretation

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

14.03 Publication

1. The Monitoring Officer will provide electronically a copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
2. The Monitoring Officer will ensure that the Constitution is available for inspection on the Council's website and that copies can be purchased by members of the local press and the public on payment of a reasonable fee to be determined by the Monitoring Officer.
3. The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

CONSTITUTION

PART 3 - RESPONSIBILITY FOR FUNCTIONS

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Responsibility for Functions

The Local Authorities (Functions and Responsibilities) (England) Regulation 2000 (as amended or replaced) specify which Local Authority Functions are not to be the responsibility of the Executive Functions which may be the responsibility of the Executive (Local Choice Functions) and those Functions that are partly the responsibility of the Executive and partly the Council.

1.1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The following table sets out who is responsible for the following local choice functions.

Function	Decision making body	Membership	Delegation of functions
Dealing with any functions under new Local Acts/Legislation	Council	35	Function to remain with Council
Existing powers Notts. County Council Acts 1951 and 1985	Executive	10	All powers unless the powers relate to quasi-judicial committees.
Environmental Protection Issues	Executive and all other Committees	10	<ol style="list-style-type: none"> 1. The discharge of any function relating to contaminated land. 2. The discharge of any function relating to the control of pollution or the management of air quality. 3. The service of any abatement notice in respect of a statutory nuisance, Environmental Protection Act 1990. 4. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.
Appointment of individuals to outside office/body	Council and all other Committees	35	<ol style="list-style-type: none"> 5. The inspection of the Authority's area to detect any statutory nuisance or investigation of any complaint as to the existence of a statutory nuisance, Environmental Protection Act 1990. Function to remain with Council

<p>The hearing of appeals against any decision made by or on behalf of the Council shall not be an Executive function. Appeals against decisions of Officers in respect of functions which are the responsibility of the quasi-judicial committees shall be heard by the respective committees, except where statutes provide otherwise.</p>	<p>Dependent on Decision Maker</p>		
<p>The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.</p>	<p>Executive</p>	<p>10</p>	
<p>The obtaining of information under Section 330 Town and Country Planning Act 1990 as to interests in land.</p>	<p>Executive</p>	<p>10</p>	
<p>The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976</p>	<p>Executive</p>	<p>10</p>	

Charities	Reserved to Council	35	<p>Reserved to Council</p> <ol style="list-style-type: none"> 1. Approval of land transactions – disposals including sales/leases save as set out below and excluding licences and short hiring arrangements. 2. Membership of the Charities Committee. 3. Constitutional/Governance issues and changes. 4. Mortgages. 5. Decisions to dissolve a Charity. 6. Receive an Annual Report from the Charities Committee including accounts relating to the Trusts. 7. Approval of the Annual Report and Accounts for the Registered Charities. 8. Making of Byelaws. 9. Fundraising save as set out below in terms of grant funding applications but including acceptance of successful grant funding bids. 10. Scheme of Delegation to Officers. 11. Development of Trust Assets (such as new buildings or refurbishments or alterations).
			<p>Delegated to Charities Committee</p>
	Delegated to Charities Committee		<ol style="list-style-type: none"> 12. Day to day management and administration of the Charities including repairs and maintenance of Trust land and buildings. 13. Approval of the surrender and/or assignment of a Lease. 14. Receiving reports and requests from Advisory Groups.
			<ol style="list-style-type: none"> 15. Approval of Rules and Regulations and Legal Agreements relating to User Groups. 16. Delegation of specific management and administration issues to Officers as relevant. 17. Fiscal arrangements.
			<ol style="list-style-type: none"> 18. To approve grant funding applications in principle. 19. Making recommendations to Council in respect of any of the functions retained by the Council.

			<p>Delegated to the Executive Director of Governance</p> <p>20. Grant, renewal and variation of licences, wayleave agreements and short term hiring agreements.</p> <p>21. Emergency repairs/maintenance of Trust land and buildings.</p> <p>22. Day to day expenditure.</p> <p>23. To finalise and sign grant funding applications following approval in principle to such applications by the Charities Committee.</p>
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1.2 RESPONSIBILITY FOR COUNCIL FUNCTIONS AND SCHEME OF DELEGATIONS

- a) The Council has resolved to delegate all Council functions, which are not specifically reserved to Council, to the Committees described in this Scheme of Delegation.
- b) The Council has resolved to delegate all Council functions which are not specifically reserved to Council, and which the law allows to be delegated, to the officers described in this Scheme of Delegation.
- c) The Chief Executive determines and maintains a record of Chief Officer responsibilities as defined in Article 11.
- d) Any Chief Officer with delegated powers may delegate other officers to act in their own name.

Such delegation must be in writing. A copy must be provided to the officer being given the delegation, the original must be retained by the person delegating and a copy provided to Democratic Services to keep on the central register.

An officer acting under delegated authority takes the decision in their own name and professional capacity on behalf of the Chief Officer who delegated the power.

The Chief Officer retains accountability for ensuring that the decisions being taken are being taken properly.

- e) It is the responsibility of the Chief Executive (Proper Officer) to enact the wishes of the Groups of the Council in appointing members to committees based on the established political proportionality. This is in accordance with the Local Government and Housing Act 1989, the Local Government Act 2000, the relevant Statutory Regulations, and the Council’s Constitution.

Any changes to committee membership must be notified to Democratic Services by the relevant Group Leader no later than 5pm **7 clear working days** before the meeting of the committee with altered membership.

Changes to committee membership will be announced by the appropriate Chairman at the next meeting of the committee with altered membership.

f) Ad hoc delegations Council.

By resolution of the Council, delegations to ad hoc Committees, Sub-Committees, Officers or joint arrangements will be effective notwithstanding that the delegation is not set out in this Part.

The following table sets out and mirrors the table in Schedule 1 of the Functions Regulations (as amended) and the Functions that are not to be the responsibility of the Executive. It sets out to whom they have been delegated or whether they are retained by Council.

Committee		Nature of Function	Delegation of Function
Planning Committee	A.	Functions relating to town and country planning and development control	Officer Delegation
	1- 4	Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (no 2) (England) 2005	
	5	Power to determine application for planning permission.	Chief Executive or Assistant Director - Planning
	6	Power to determine applications to develop land without compliance with conditions previously attached.	Chief Executive or Assistant Director - Planning
	7	Power to grant planning permission for development already carried out.	Chief Executive or Assistant Director - Planning
	8	Power to decline to determine application for planning permission.	Chief Executive or Assistant Director - Planning
	9	Duties relating to the making of determinations of planning applications.	Chief Executive or Assistant Director - Planning

	10	Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Chief Executive or Assistant Director - Planning
	11	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Chief Executive or Assistant Director - Planning
	12	Power to enter into agreement regulating development or use of land.	Chief Executive or Assistant Director - Planning
	13	Power to issue a certificate of existing or proposed lawful use or development.	Chief Executive or Assistant Director - - Planning
	14	Power to serve a completion notice.	Chief Executive or Assistant Director - Planning
	15	Power to grant consent for the display of advertisements.	Chief Executive or Assistant Director - Planning
	16	Power to authorise entry onto land.	Chief Executive or Assistant Director - Planning
	17	Power to require the discontinuance of a use of land.	Chief Executive or Assistant Director - Planning
	18	Power to serve a planning contravention notice, breach of condition notice or stop notice.	Chief Executive or Executive Director of Place
	18a	Power to issue a temporary stop notice.	Chief Executive or Executive Director of Place
	19	Power to issue an enforcement notice.	Chief Executive or Executive Director of Place
	20	Power to apply for an injunction restraining a breach of planning control.	Chief Executive or Assistant Director - Planning

	21	Power to determine applications for hazardous substances consent, and related powers.	Chief Executive or Assistant Director - Planning
	22	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.	Chief Executive or Assistant Director - Planning
	23	Power to require proper maintenance of land.	Chief Executive or Assistant Director - Planning
	24	Power to determine application for listed building consent, and related powers.	Chief Executive or Assistant Director - Planning
	25	Power to determine applications for conservation area consent.	Chief Executive or Assistant Director - Planning
	26	Duties relating to applications for listed building consent and conservation area consent.	Chief Executive or Assistant Director - Planning
	27	Power to serve a building preservation notice, and related powers.	Chief Executive or Assistant Director - Planning
	28	Power to issue enforcement notice in relation to demolition of [listed] ⁹ building in conservation area.	Chief Executive or Assistant Director - Planning
	29	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Chief Executive or Assistant Director - Planning
	30	Power to apply for an injunction in relation to a listed building.	Chief Executive or Assistant Director - Planning

	31	Power to execute urgent works.	Chief Executive or Assistant Director - Planning
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Licensing Committee	B.	Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	
	1	Power to issue licences authorising the use of land as a caravan site ("site licences").	Chief Executive or Executive Director of Place
	2	Power to license the use of moveable dwellings and camping sites.	Chief Executive or Executive Director of Place
	3	Power to license hackney carriages and private hire vehicles.	Chief Executive or Executive Director of Place or Executive Director of Governance
	4	Power to license drivers of hackney carriages and private hire vehicles.	Chief Executive or Executive Director of Place or Executive Director of Governance
	5	Power to license operators of hackney carriages and private hire vehicles.	Chief Executive or Executive Director of Place or Executive Director of Governance
	6	Power to register pool promoters.	Chief Executive or Executive Director of Place
	7	Power to grant track betting licences.	Chief Executive or Executive Director of Place
	8	Power to license inter-track betting schemes.	Chief Executive or Executive Director of Place
	9	Power to grant permits in respect of premises with amusement machines.	Chief Executive or Executive Director of Place
	10	Power to register societies wishing to promote lotteries.	Chief Executive or Executive Director of Place
	11	Power to grant permits in respect of premises where amusements with prizes are provided.	Chief Executive or Executive Director of Place

	12	Power to issue Premises Licences and Club Premises Certificates relating to the sale / supply of alcohol, provision of regulated entertainments, and the provision of late night refreshment.	Chief Executive or Executive Director of Place
	12a	Functions relating to licensing.	Chief Executive or Executive Director of Place
	12aa	Duty to comply with requirement to provide information to Gambling Commission.	Chief Executive or Executive Director of Place
	12ab	Functions relating to exchange of information.	Chief Executive or Executive Director of Place
	12ac	Functions relating to occasional use notices.	Chief Executive or Executive Director of Place
	12b	Power to resolve not to issue a casino premises licence	Chief Executive or Executive Director of Place
	12c	Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Chief Executive or Executive Director of Place
	12ca	Power to make order dis-applying <u>section 279</u> or <u>282(1)</u> of the 2005 Act in relation to specified premises.	Chief Executive or Executive Director of Place
	12d	Power to institute criminal proceedings	Chief Executive or Executive Director of Place
	12e	Power to exchange information	Chief Executive or Executive Director of Place
	12f	Functions relating to the determination of fees for premises licences.	Chief Executive or Executive Director of Place
	12g	Functions relating to the registration and regulation of small society lotteries.	Chief Executive or Executive Director of Place
	13	Power to license sex shops, sex cinemas, and sexual entertainment venues.	Chief Executive or Executive Director of Place
	14	Power to license performances of hypnotism.	Chief Executive or Executive Director of Place

	15	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Chief Executive or Executive Director of Place or Assistant Director - Planning
	16	Power to license pleasure boats and pleasure vessels.	Chief Executive or Executive Director of Place
	17	Power to register door staff. – only applies to London Boroughs	Chief Executive or Executive Director of Place
	18	Power to license market and street trading.	Chief Executive or Executive Director of Place
	19	Power to license night cafes and take-away food shops. – only applies to London Boroughs	N/A
	20	Duty to keep list of persons entitled to sell non-medicinal poisons.	Chief Executive or Executive Director of Place
	21	Power to license dealers in game and the killing and selling of game.	Chief Executive or Executive Director of Place
	22	Power of register and license premises for the preparation of food.	Chief Executive or Executive Director of Place
	23	Power to license scrap metal dealers.	Chief Executive or Executive Director of Place
	24	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	Chief Executive
	25	Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Chief Executive
	26	Power to issue fire certificates.	Chief Executive
	27	Power to license the breeding of dogs, the sale of pets, the hiring of horses, the boarding of cats and dogs, the exhibition of animals	Chief Executive or Executive Director of Place or Assistant

			Director - Planning
	28	Power to license zoos.	Chief Executive or Executive Director of Place or Assistant Director - Planning
	29	Power to license dangerous wild animals.	Chief Executive or Executive Director of Place or Assistant Director - Planning
	30	Power to license the employment of children.	Chief Executive or Executive Director of Place
	31	Power to approve premises for the solemnisation of marriages.	Chief Executive or Executive Director of Place
	32	Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to.	Chief Executive or Executive Director of Place
	32a	(a) an exchange of lands effected by an order under <u>section 19(3)</u> of, or <u>paragraph 6(4) of Schedule 3</u> to, the <u>Acquisition of Land Act 1981 (c. 67)</u> or	Chief Executive or Executive Director of Place
	32b	(b) an order under <u>section 147</u> of the <u>Inclosure Act 1845 (c. 8 & 9 Vict. c. 118)</u> .	Chief Executive or Executive Director of Place
	33	Power to register variation of rights of common.	Chief Executive or Executive Director of Place
	34	Power to license persons to collect for charitable and other causes.	Chief Executive or Executive Director of Place
	35	Power to grant consent for the operation of a loudspeaker.	Chief Executive or Executive Director of Place
	36	Power to grant a street works licence.	Chief Executive or Executive Director of Place

	37	Power to license agencies for the supply of nurses.	Chief Executive or Executive Director of Place
	38	Power to issue licences for the movement of pigs.	Chief Executive or Executive Director of Place
	39	Power to license the sale of pigs.	Chief Executive or Executive Director of Place
	40	Power to license collecting centres for the movement of pigs.	Chief Executive or Executive Director of Place
	41	Power to issue a licence to move cattle from a market.	Chief Executive or Executive Director of Place
	42	Power to authorise erection of stiles etc. on footpaths or bridleways.	Chief Executive or Executive Director of Place
	43	Power to dispense with obligation to erect hoarding or fence.	Chief Executive or Executive Director of Place
	44	Power to sanction use of parts of buildings for storage of celluloid.	Chief Executive or Executive Director of Place
	45	Power to approve meat product premises.	Chief Executive or Executive Director of Place
	46	Power to approve premises for the production of minced meat or meat preparations.	Chief Executive or Executive Director of Place
	47	Power to approve dairy establishments.	Chief Executive or Executive Director of Place
	48	Power to approve egg product establishments.	Chief Executive or Executive Director of Place
	49	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Chief Executive or Executive Director of Place
	50	Power to approve fish products premises.	Chief Executive or Executive Director of Place

	51	Power to approve dispatch or purification centres.	Chief Executive or Executive Director of Place
	52	Power to register fishing vessels on board which shrimps or molluscs are cooked.	Chief Executive or Executive Director of Place
	53	Power to approve factory vessels and fishery product establishments.	Chief Executive or Executive Director of Place
	54	Power to register auction and wholesale markets.	Chief Executive or Executive Director of Place
	55	Duty to keep register of food business premises.	Chief Executive or Executive Director of Place
	56	Power to register food business premises.	Chief Executive or Executive Director of Place
	57	Power to issue near beer licence. – only applies to London Boroughs	N/A
	58	Power to register premises or stalls for the sale of goods by way of competitive bidding. – only applies to London Boroughs	N/A
	59	Functions relating to the registration of common land and town or village greens.	Chief Executive or Executive Director of Place
	60.	Power to issue (Temporary) Pavement Licences (Business & Planning Act 2020)	Chief Executive or Executive Director of Place
Licensing Committee	C.	Functions relating to health and safety at work	
		Functions under any of the “relevant statutory provisions” within the meaning of <u>Part I</u> (health, safety and welfare in connection with work, and control of dangerous substances) of the <u>Health and Safety at Work etc. Act 1974</u> , to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.	Chief Executive
No Delegation	D.	Functions relating to elections	

	1	Duty to appoint an electoral registration officer.	No Delegation
	2	Power to assign officers in relation to requisitions of the registration officer.	Executive Director of Governance
	3	Functions in relation to parishes and parish councils.	Executive Director of Governance
	4	Power to dissolve small parish councils.	No Delegation
	5	Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	No Delegation
	6	Duty to appoint returning officer for local government elections.	No Delegation
	7	Duty to provide assistance at European Parliamentary elections.	Executive Director of Governance
	8	Duty to divide constituency into polling districts.	Executive Director of Governance
	9	Power to divide electoral divisions into polling districts at local government elections.	Executive Director of Governance
	10	Powers in respect of holding of elections.	Executive Director of Governance
	11	Power to pay expenses properly incurred by electoral registration officers.	Executive Director of Governance
	12	Power to fill vacancies in the event of insufficient nominations.	Executive Director of Governance
	13	Duty to declare vacancy in office in certain cases.	Executive Director of Governance
	14	Duty to give public notice of a casual vacancy.	Executive Director of Governance
	15	Power to make temporary appointments to parish councils.	Executive Director of Governance
	16	Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (no 2) (England) 2005	

	17	Power to submit proposals to the Secretary of State for an order under <u>section 10</u> (pilot schemes for local elections in England and Wales) of the <u>Representation of the People Act 2000</u> .	Executive Director of Governance
	18	Duty to consult on change of scheme for elections.	Executive Director of Governance
	19	Duties relating to publicity.	Executive Director of Governance
	20	Duties relating to notice to Electoral Commission.	Executive Director of Governance
	21	Power to alter years of ordinary elections of parish councillors.	No Delegation
	22	Functions relating to change of name of electoral area.	No Delegation
No Delegation	E.	Functions relating to name and status of areas and individuals	
	1	Power to change the name of a county, district or London borough.	No Delegation
	2	Power to change the name of a parish.	No Delegation
	3	Power to confer title of honorary alderman or to admit to be an honorary freeman.	No Delegation
	4	Power to petition for a charter to confer borough status.	No Delegation
No Delegation	EB.	Functions relating to community governance	
	1	Duties relating to community governance reviews.	Chief Executive
	2	Functions relating to community governance petitions.	Chief Executive
	3	Functions relating to terms of reference of review.	Chief Executive
	4	Power to undertake a community governance review.	Chief Executive
	5	Functions relating to making of recommendations.	Chief Executive
	6	Duties when undertaking review.	Chief Executive
	7	Duty to publicise outcome of review.	Chief Executive
	8	Duty to send two copies of order to Secretary of State and Electoral Commission.	Chief Executive

	9	Power to make agreements about incidental matters.	Chief Executive
No Delegation	F.	Power to make, amend, revoke, re-enact or enforce byelaws.	No Delegation
Licensing Committee	FA.	Functions relating to smoke-free premises, etc	
	1	Duty to enforce Chapter 1 and regulations made under it.	Chief Executive or Executive Director of Place
	2	Power to authorise officers.	Chief Executive or Executive Director of Place
	3	Functions relating to fixed penalty notices.	Chief Executive or Executive Director of Place
	4	Power to transfer enforcement functions to another enforcement authority.	Chief Executive or Executive Director of Place
No Delegation	G.	Power to promote or oppose local or personal Bills.	No Delegation
No Delegation	H.	Functions relating to pensions etc.	
	1	Functions relating to local government pensions, etc.	Chief Executive
	2	Functions under the Fire-fighters' Pension Scheme relating to pensions, etc as respects persons employed by fire and rescue authorities pursuant to <u>section 1</u> of the <u>Fire and Rescue Services Act 2004</u> ⁸⁴	Chief Executive
Planning Committee	I.	Miscellaneous functions	
		Part I: functions relating to public rights of way	
	1	Power to create footpath [, bridleway or restricted byway] ⁸⁷ by agreement.	Chief Executive or Executive Director of Place
	2	Power to create footpaths [, bridleways and restricted byways] ⁸⁷ .	Chief Executive or Executive Director of Place

	3	Duty to keep register of information with respect to maps, statements and declarations.	Chief Executive or Executive Director of Place
	4	Power to stop up footpaths [bridleways and restricted byways] ⁸⁷ .	Chief Executive or Executive Director of Place
	5	Power to determine application for public path extinguishment order.	Chief Executive or Executive Director of Place
	6	Power to make a rail crossing extinguishment order.	Chief Executive or Executive Director of Place
	7	Power to make a special extinguishment order.	Chief Executive or Executive Director of Place
	8	Power to divert footpaths, [bridleways and restricted byways]	Chief Executive or Executive Director of Place
	9	Power to make a public path diversion order.	Chief Executive or Executive Director of Place
	10	Power to make a rail crossing diversion order.	Chief Executive or Executive Director of Place
	11	Power to make a special diversion order.	Chief Executive or Executive Director of Place
	12	Power to require applicant for order to enter into agreement.	Chief Executive or Executive Director of Place
	13	Power to make an SSSI diversion order.	Chief Executive or Executive Director of Place
	14	Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the <u>Highways Act 1980</u> .	Chief Executive or Executive Director of Place
	15	Power to decline to determine certain applications.	Chief Executive or Executive Director of Place
	16	Duty to assert and protect the rights of the public to use and enjoyment of highways.	Chief Executive or Executive Director of Place

	17	Duty to serve notice of proposed action in relation to obstruction.	Chief Executive or Executive Director of Place
	18	Power to apply for variation of order under <u>section 130B</u> of the <u>Highways Act 1980</u> .	Chief Executive or Executive Director of Place
	19	Power to authorise temporary disturbance of surface of footpath [, bridleway or restricted byway] ⁸⁷ .	Chief Executive or Executive Director of Place
	20	Power temporarily to divert footpath [, bridleway or restricted byway] ⁸⁷ .	Chief Executive or Executive Director of Place
	21	Functions relating to the making good of damage and the removal of obstructions.	Chief Executive or Executive Director of Place
	22	Powers relating to the removal of things so deposited on highways as to be a nuisance.	Chief Executive or Executive Director of Place
	23	Power to extinguish certain public rights of way.	Chief Executive or Executive Director of Place
	24	Duty to keep definitive map and statement under review.	Chief Executive or Executive Director of Place
	25	Power to include modifications in other orders.	Chief Executive or Executive Director of Place
	26	Duty to keep register of prescribed information with respect to applications under <u>section 53(5)</u> of the <u>Wildlife and Countryside Act 1981</u> .	Chief Executive or Executive Director of Place
	27	Removed by the Restricted Byways (Application and Consequential Amendments of Provisions) Regulations 2006	Chief Executive or Executive Director of Place
	28	Power to prepare map and statement by way of consolidation of definitive map and statement.	Chief Executive or Executive Director of Place
	29	Power to designate footpath as cycle track.	Chief Executive or Executive Director of Place
	30	Power to extinguish public right of way over land acquired for clearance.	Chief Executive or Executive Director of Place

	31	Power to authorise stopping-up or diversion of footpath [, bridleway or restricted byway] ⁸⁷ .	Chief Executive or Executive Director of Place
	32	Power to extinguish public rights of way over land held for planning purposes.	Chief Executive or Executive Director of Place
	33	Power to enter into agreements with respect to means of access.	Chief Executive or Executive Director of Place
	34	Power to provide access in absence of agreement.	Chief Executive or Executive Director of Place
		Part II: other miscellaneous functions	
Licensing Committee	35	Functions relating to sea fisheries.	No Delegation
No Delegation	36	Power to make standing orders.	No Delegation
No Delegation	37	Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Chief Executive or Relevant Chief Officers
No Delegation	38	Power to make standing orders as to contracts.	No Delegation
No Delegation	39	Duty to make arrangements for proper administration of financial affairs etc.	No Delegation
No Delegation	40	Power to appoint officers for particular purposes (appointment of "proper officers").	Chief Executive
Planning Committee	41	Power to make limestone pavement order.	Chief Executive or Executive Director of Place
Licensing Committee	42	Power to make closing order with respect to premises licensed under the Licensing Act 2003.	Chief Executive or Executive Director of Place
Chief Officer Employment Committee	43	Duty to designate officer as the head of the authority's paid service, and to provide staff, etc (For recommendation to Council).	No Delegation
Chief Officer Employment Committee	44	Duty to designate officer as the monitoring officer, and to provide staff, etc.	No Delegation

No Delegation	44a	Duty to provide staff, etc to person nominated by monitoring officer.	Chief Executive
Principal Select Committee	44b	Powers relating to overview and scrutiny committees (voting rights of co-opted members).	No Delegation
Audit Committee	45	Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be)	No Delegation
Planning Committee	46	Powers relating to the protection of important hedgerows.	Chief Executive or Executive Director of Place
Planning Committee	47	Powers relating to the preservation of trees.	Chief Executive or Executive Director of Place
Planning Committee	47.1	Powers relating to complaints about high hedges.	Chief Executive or Executive Director of Place
No Delegation	48	Power to make payments or provide other benefits in cases of maladministration etc.	Chief Executive
Licensing Committee	49	Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	No Delegation
Charities Committee	50	Power to exercise delegations relating to the formation of and management of charitable trust arrangements in the District	Executive Director of Governance
Licensing Committee	51	Power to apply for an enforcement order against unlawful works on common land.	Chief Executive or Executive Director of Place
Licensing Committee	52	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Chief Executive or Executive Director of Place
Licensing Committee	53	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Chief Executive or Executive Director of Place

ADDITIONAL DELEGATIONS – COUNCIL SCHEME OF DELEGATION

To the Chief Executive (or designated Officer) of Mansfield District Council, Bassetlaw District Council, Newark & Sherwood District Council, Broxtowe Borough Council, Gedling Borough Council, Nottingham City Council, Rushcliffe Borough Council and Bolsover District Council, the power to undertake the following functions on behalf of Ashfield District Council:

Licensing Committee		Powers relating to enforcement action in respect of hackney carriage vehicles/private hire vehicles and drivers licensed to Ashfield District Council under the Town Police Clauses Act 1847 Sections 40,45,47,48,52,58,59,60,62 and 64 Local Government (Miscellaneous Provisions) Act 1976 Part II Sections 46,48,50 53, 54,56,60,64,71 and 73	Chief Executive (or designated Officer)
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1.3 FUNCTIONS WHICH ARE THE RESPONSIBILITY OF COUNCIL UNDER ARTICLE 4

	Those required by law to be adopted by the Council: Plans and Strategies	Reference
<u>1</u>	Ashfield Community Partnership Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998 (c.37)
<u>2</u>	Plans and Strategies which together comprise the Local Plan	
<u>3</u>	Licensing Policy Statement	Section 349 of the Gambling 2005 Act
	Those non statutory plans and strategies:	
<u>1</u>	Council's Corporate Plan	
<u>2</u>	Medium Term Financial Strategy	
	Function	Circumstances
<u>1</u>	The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy of a description referred to in Regulation 2000 4(1)(b) or Schedule 3	The authority determines that the decision whether the plan or strategy should be adopted or approved should be taken by them
<u>2</u>	The determination of any matter in the discharge of a function which:	The individual or body by whom (by virtue of Sections 14 to 17 of the Local Government Act 2000 or provision made

	<p>(a) is the responsibility of the Executive; and</p> <p>(b) is concerned with the authority's budget, or their borrowing or capital expenditure</p>	<p>under Section 18 or 20 of that Act) the determination is to be made –</p> <p>a) Is minded to determine the matter contrary to, or not wholly in accordance with –</p> <p>(i) The authority's budget; or</p> <p>(ii) The plan or strategy for the time being approved by the authority in relation to their borrowing or capital expenditure; and</p> <p>b) Is not authorised by the authority's Executive arrangements, financial regulations, standing orders or other rules or procedures to make a determination in those terms.</p>
<u>3</u>	<p>The determination of any matter in the discharge of a function:</p> <p>a) Which is the responsibility of the Executive; and</p> <p>b) In relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the authority</p>	<p>The individual or body by whom (by virtue of Sections 14 to 17 of the Local Government Act 2000 or provision made under Section 18 or 20 of that Act) the determination is to be made, is minded to determine the matter in terms contrary to the plan, or as the case may be, the strategy adopted or approved by the authority</p>

1.4 TRAINING PRE-REQUISITE

It is Council policy that before sitting and taking part in meetings of the following Committees that Members must have received appropriate training:

- a) Planning Committee;
- b) Licensing Committee and Sub-Committees;
- c) Standards and Personnel Appeals Committee and Sub-Committees
- d) Chief Officers' Employment Committee and Sub-Committees.

1.5 FUNCTIONS WHICH ARE THE RESPONSIBILITY OF THE EXECUTIVE BY STATUTE

Section 13 of the Local Government Act 2000 makes the Executive responsible for every function other than those required or allowed by the law to be the responsibility of the Council.

In accordance with 8.9E of the Local Government Act 2000 (as amended) it is the responsibility of the Leader of the Council to discharge Executive Functions,

or arrange for their discharge by the Executive or another member of the Executive, by a Committee of the Executive or by an Officer.

1.6 EXECUTIVE FUNCTIONS – SCHEME OF DELEGATIONS

As Leader of Ashfield District Council, under the powers and duties invested in me by the Local Government Act 2000, I make this following Scheme of Delegations.

1 January 2024

.....
Councillor Jason Zadrozny
Leader of Ashfield District Council

1. All functions of the Council are executive functions except those reserved by law or by the constitution to the Council or to Council Committees.

Leader of the Council

2. The Leader is personally responsible for the discharge of all Executive Functions and may take any decision in relation to any such function, whilst recognising the specific and/or statutory responsibilities placed on individual Executive Lead Members.

Functions Reserved to the Leader

1. Appointment of Cabinet and Deputy Leader
2. Determination of Scheme of Delegations

Cabinet

3. The Leader delegates all Executive Functions to the Cabinet who collectively may take any decision in relation to any such function – subject only to the reservations set out in paragraph 5. Cabinet Members may also determine that a matter is one which should be decided by the Leader him/herself and/or Cabinet.

4.

Functions Reserved to the Cabinet Collectively (Financial Procedure Rule (FPR) or Contract Procedure Rule (CPR) reference shown in brackets)

- (i) Proposing the Budget and Policy Framework and Capital Programme to the Council and discharging Executive Functions in accordance with the Budget and Policy Framework agreed by Council. (FPR A4)
- (ii) Approving the Risk Management Policy Statement and Strategy and reviewing the effectiveness of Risk Management arrangements. (FPR C2)
- (iii) Approval to the carry forward of underspends in excess of £15,000. (FPR A25)

- (iv) in-year budget re-allocations up to £100k. Reference FPR B4.
- (v) Reallocation of capital budgets which do not exceed the overall capital programme. FPR B9.
- (vi) Receiving reports from the Chief Finance Officer on insurance cover, as appropriate. (FPR C37)
- (vii) Receiving regular reports on the Treasury Management policies and practices. (FPR C30)
- (viii) Authorising write-off amounts in excess of £10,000. (FPR D29(c))
- (ix) Approval of Code of Procedures relating to Disposal of Land and Buildings and Progress in respect of Disposals.

Cabinet Members

5. Subject to 2 above, the Leader delegates all Executive Functions which fall within the portfolio of each Cabinet Member to that Cabinet Member who may take any decision in relation to those functions as set out below, subject to:
- (i) the reservations in the lists above and;
 - (ii) the Leader's directions in respect of controversial, high profile and/or financially significant decisions.

Functions Delegated to Cabinet Members

The Cabinet will consist of:

The Leader and nine other Cabinet Members.

Role of Leader

- To provide the Council's overall cohesive corporate and strategic direction, budget strategy and policy development.
- To develop and promote the reputation and interests of the Council locally and nationally.
- To nominate Deputy Leader(s) to act in his/her absence. In the event the Leader has not nominated/is unable to nominate the Deputy Leader, the Deputy Leader for Community Safety and Crime Reduction will be deemed to be so nominated to act.

Role of Deputy(s) and Cabinet Members

- To be responsible for the following in their areas of activity:

- To lead in the preparation, review, development and implementation of strategies and plans.
- To lead the achievement of value for money in the delivery of services and the Council's objectives.
- To develop and maintain effective consultation with non-executive Councillors, the community and public and private sector partner organisations.
- To assist in the community planning process.
- To be the spokesperson for the relevant portfolio.

Cabinet Member and Title	Detailed Delegation
<p>LEADER OF THE COUNCIL</p> <p>Councillor Jason Zadrozny</p>	<ul style="list-style-type: none"> • Corporate Strategy and Performance • Strategic Partnerships • Corporate Risk Management • Corporate Communications • Website Content and Social Media
<p>DEPUTY LEADER</p> <p>Executive Lead Member for Parks and Environmental Services</p> <p>Councillor Helen-Ann Smith</p>	<ul style="list-style-type: none"> • To deputise for the Leader • Streets • Parks and Open Spaces • Waste Management • Recycling • Fleet Transport • Cemeteries
<p>DEPUTY LEADER</p> <p>Executive Lead Member for Strategic Housing and Climate Change</p> <p>Councillor Thomas Hollis</p>	<ul style="list-style-type: none"> • To deputise for the Leader • Housing Strategy • Housing Development • Housing Options • Disabled Facilities Grants • Environmental Health Services • Licensing • Building Control • Empty and Dilapidated Properties • Private Sector Enforcement • Climate Change
<p>Executive Lead Member for Governance</p> <p>Councillor Vicki Heslop</p>	<ul style="list-style-type: none"> • Legal Services • Scrutiny and Democratic Services • Electoral Services • Internal Audit • HR and Payroll

	<ul style="list-style-type: none"> • Health and Safety • Emergency Planning and Business Continuity
<p>Executive Lead Member for Finance, Revenues and Benefits</p> <p>Councillor Rachel Madden</p>	<ul style="list-style-type: none"> • Financial Strategy – including Medium Term Financial Strategy • Treasury Management • Capital Strategy and Programme • Revenues and Benefits • Commercial Property • Financial Governance • Strategic Procurement • Towns Fund – Automated Distribution and Manufacturing Centre (ADMC)
<p>Executive Lead Member for Social Housing and Assets</p> <p>Councillor Andrew Meakin</p>	<ul style="list-style-type: none"> • Social Housing Regulation • HRA Business Plan • Tenancy Support, Management and Engagement • Housing Repairs • Maintenance of Non-Domestic Assets • Housing Capital Investment • Aids and Adaptations
<p>Executive Lead Member for Leisure, Health and Wellbeing</p> <p>Councillor Christopher Huskinson</p>	<ul style="list-style-type: none"> • Strategic Leisure (including outdoor sports provision) • Health and Wellbeing • Arts, Heritage, Tourism and Culture • Corporate Events
<p>Executive Lead Member for Community Safety and Crime Reduction</p> <p>Councillor John Wilmott</p>	<ul style="list-style-type: none"> • Community Safety Partnership • Anti-Social Behaviour • Community Protection • Safeguarding Vulnerable Adults and Children • CCTV • Community Cohesion • Combating Modern Slavery and Human Trafficking

<p>Executive Lead Member for Growth, Regeneration and Local Planning</p> <p>Councillor Matthew Relf</p>	<ul style="list-style-type: none"> • Discover Ashfield Board • Regeneration and Economic Growth • Business Support • Town Centres • Markets • Car Park Strategy • Strategic Planning – Local Plan • Development Advice & Management
<p>Executive Lead Member for Customer and Digital Experience</p> <p>Councillor Samantha Deakin</p>	<ul style="list-style-type: none"> • Customer Experience • Digital Services Transformation ICT and IT Strategy, Security, Operations and Website Platform

Cabinet Committees

6.

No Cabinet committees are established.

Joint Arrangements

7.

Mansfield and District Crematorium Joint Committee

8. Functions Delegated to Officers

Chief Executive

The Leader delegates, subject to the reservations in the list at paragraphs 2 to 7 above, all Executive Functions to the Chief Executive.

Chief Officers

Chief Officers are delegated authority to take any decision in relation to the functions within their area of service responsibility. The Chief Executive (in consultation with the Leader as appropriate) will determine the service responsibilities of each Chief Officer and the extent to which their delegations shall be exercised. Such delegations and service responsibilities will be in writing.

Any Chief Officer with delegated powers may delegate other officers to act in their own name.

Such delegation must be in writing. A copy must be provided to the officer being given the delegation, the original must be retained by the person delegating and a copy provided to Democratic Services to keep on the central register.

An officer acting under delegated authority takes the decision in their own name and professional capacity on behalf of the Chief Officer who delegated the power.

The Chief Officer retains accountability for ensuring that the decisions being taken are being taken properly.

Current service responsibilities of each Chief Officer are:

Executive Director of Governance

- Electoral Registration and Elections
- Democratic Services
- Scrutiny
- Legal Services
- Internal Audit (via Central Midlands Audit Partnership)
- Corporate Health and Safety (including Business Continuity & Emergency Planning)
- HR and Payroll (Shared Service)

Executive Director of Place

- Community Safety
- Environmental Health (including Licensing)
- Planning and Building Control
- Regeneration and Business/Skills
- Leisure (including Leisure Centres)
- Arts, Heritage, Tourism and Culture
- Health and Wellbeing
- Communities (including Community Engagement and Events)
- Town Centres and Markets
- Private Sector Enforcement
- Lettings and Strategic Housing
- Homelessness and Housing Options
- Disabled Facilities Grants

Executive Director of Operations

- Tenancy and Supported Housing
- Housing Operations
- Asset Management
- Climate Change Strategy
- Aids and Adaptations

- Social Housing Development
- Housing Regulation
- Waste and Environment
- Transport Services

Executive Director of Transformation

- ICT and ICT Security
- Corporate Communications (including website)
- Corporate Finance
- Revenues and Benefits
- Organisational Development
- Policy and Performance
- Customer Experience

Corporate Resource Director

- Commercial Property
- Procurement
- Anti-Fraud and Data-Matching

Monitoring Officer

9. The Executive Director of Governance is the Monitoring Officer for the purposes of Section 5 of the Local Government and Housing Act 1989, the Local Government Act 2000 and accompanying regulations (as amended) and the Locality Act 2011 (as amended).
10. The Executive Director of Governance is required to advise, and to report as appropriate, on issues of legality, decision making procedure, maladministration, standards of conduct and probity and compliance with the budget and policy framework, and generally to exercise the functions of the Council's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989, the Local Government Act 2000 and accompanying regulations.

Data Protection Officer (DPO)

11. The Executive Director of Governance (Monitoring Officer) is designated as the Council's Statutory Data Protection Officer (DPO). The role of the DPO is to monitor internal compliance, inform and advise on data protection obligations, provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the Supervisory Authority. The DPO is a key role in the organisation's data protection governance structure and helps improve accountability.

Chief Finance Officer

12. The Corporate Resource Director is the Chief Financial Officer with responsibility for the administration of the Council's financial affairs for the purpose of Section 6 of the Local Government and Housing Act 1989 and Section 151 of the Local Government Act 1972.

Social Housing Regulation

13. The Executive Director of Operations is the designated officer responsible for the Housing Regulatory Consumer Standards and related duties and as may be prescribed by the Social Housing (Regulation) Act 2023 when enacted and/or by the Regulator of Social Housing.
14. The Assistant Director – Corporate Health and Safety is the designated officer responsible for Health and Safety and related duties and as may be prescribed by the Social Housing (Regulation) Act 2023 when enacted and/or by the Regulator of Social Housing.

1.7 NON-AVAILABILITY OF EXECUTIVE MEMBER

In the event of the non-availability of an Executive Member, the Leader (or in his/her absence the Deputy Leader) may assume the responsibility for the particular portfolio or as he/she deems appropriate may request other Executive Member(s) to take on the responsibility for that portfolio.

1.8 COMMITTEE TERMS OF REFERENCE

All Committees are Committees of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.

PLANNING COMMITTEE

(9 Members of the Authority)

To exercise all the District Council functions relating to Town and Country Planning and Development Control as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (parts 1-2 of this Part) being those functions which are not to be the responsibility of the Executive.

LICENSING COMMITTEE

(10 Members of the Authority)

This Committee is a Committee of the Council constituted:

- (1) In relation to its functions under the Licensing Act 2003, under Section 6 of that Act.

- (2) In relation to its functions under the Gambling Act 2005.
- (3) In relation to its other functions, under Sections 101 and 102 of the Local Government Act 1972.
- (4) In relation to all District Council functions relating to Licensing as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) being those functions which are not to be the responsibility of the Executive (See parts 1-2 of this Part)

DELEGATED MATTERS:

1. To discharge the functions of the Council, that are licensing functions within the meaning of the Licensing Act 2003 as amended.
2. To discharge the functions of the Local Authority as set out in the Gambling Act 2005.
3. The appointment of Licensing Sub-Committees under Section 10 of the Licensing Act 2003.
4. In respect of the relevant prescribed period, to consider the Council's policy with respect to the exercise of its licensing functions and recommend to Council the adoption of the Statement of Licensing and Gambling Policy within the relevant prescribed period.
5. During each relevant prescribed period, to keep the Statement of Licensing and Gambling under review and to recommend any revisions to it, to Council.
6. To determine policies that are relevant to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions unless the policy must be determined by the Council.
7. To exercise the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions except where the function has been delegated to Officers of the Council.
8. To exercise all the District Council functions of the Council relating to health and safety at work as set out in Part "C" Schedule 1 of the functions and responsibilities regulations being those functions which must not be the responsibility of the Executive.

LICENSING SUB-COMMITTEES

(3 Members drawn from the pool of 10 Members on the Committee)

These Sub-Committees are Sub Committees of the Licensing Committee, appointed by that Committee under Section 10 of the Licensing Act 2003.

To determine applications under the Licensing Act 2003 and Gambling Act 2005, where relevant representations are received.

CHIEF OFFICERS' EMPLOYMENT COMMITTEE

(7 Members of the Authority)

1. To deal with all employment issues concerning the Head of Paid Service, Chief Finance Officer (Section 151), Monitoring Officer and Chief Officers (as defined in Article 11).
2. To determine the Council's employment policies in respect of the aforesaid positions.
3. To determine job descriptions and person specifications in respect of the aforesaid positions.
4. To determine whether, in the first instance, recruitment to a vacant post set out above shall be from among existing Officers or shall be advertised publicly.
5. To make arrangements for the vacancy 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.
6. To interview all shortlisted candidates for vacant posts set out above.
7. To appoint the preferred candidate except that the appointment of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (S151 Officer) is reserved to Council, in which case the Committee will make a recommendation to Council.
8. To discharge disciplinary and grievance proceedings, including determining the need for any investigation, appointing an independent designated person (where necessary) and conducting the hearing.
9. To discharge dismissal procedures regarding officers at Chief Officer level in accordance with the Employment Procedure Rules (Part 4 of the Constitution).
10. To make recommendations to Council regarding the dismissal of an officer designated as Head of Paid Service, Chief Finance Officer (Section 151) and Monitoring Officer only after considering recommendations from a report made by a designated independent person (i.e. as set out in Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.)
11. To discharge dismissal procedures for the dismissal of an officer designated Head of Paid Service, Chief Finance Officer (section 151) and Monitoring Officer only after Council has approved that dismissal.
12. To determine, where necessary, special arrangements for the composition and nature of a hearing committee, after receiving the advice of the HR & Payroll Manager as to such composition, where a conflict of interest may arise if the

Chief Officers' Employment Committee conducted the hearing itself. The composition may be made from external (non ADC) members in exceptional circumstances.

AUDIT COMMITTEE

(7 Members of the Authority)

To provide assurance as to the adequacy of the risk management framework and control environment, scrutiny of the authority's financial and non-financial performance in that context, and oversight of the financial reporting process, including:

1. Supporting the Monitoring Officer in the annual audit planning process and approving the Annual Audit Plan.
2. To approve the Internal Audit Charter and other policy documents developed by the Monitoring Officer for the purpose of maintaining or enhancing the independence and effectiveness of internal audit.
3. To monitor progress in delivering the Annual Audit Plan and developing assurance about the Council's Governance Framework; and to receive and consider the assurance provided by the Internal Audit Annual Report and Opinion as to the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
4. To receive and consider the key findings of all internal audit assignments and all reports and letters issued by External Audit and other relevant inspection agencies; and to monitor the adequacy of management responses.
5. To receive periodic reports from internal audit on progress with the implementation of agreed recommendations and to seek explanations from responsible managers and/or Executive Lead Members for delays in dealing with material deficiencies in the Council's Governance Framework.
6. To consider any reports on the extent of the internal audit function's conformance to the Public Sector Internal Audit Standards and Local Government Application Note and in instances where the internal audit function does not conform, consider whether the non-conformance is significant enough to be included in the Annual Governance Statement.
7. To monitor the effective development and operation of risk management and corporate governance in the Council.
8. To monitor the Council's Whistleblowing Policies and Anti-Fraud and Anti-Corruption Strategies and effective application of those policies and strategies.
9. To review any issue referred to it by the Chief Executive, a Director or any Council body.

10. To consider the Council's compliance with its own and other published standards and controls.
11. To maintain an overview of the Council's Constitution in respect of Contract Procedure Rules and Financial Regulations.
12. To oversee the development of the Council's Governance Statement in-year, to consider a report on the effectiveness of internal audit to support the Statement and to approve the completed Annual Governance Statement.
13. To approve the Annual Statement of Accounts on receipt of appropriate assurance that proper accounting policies have been followed and that there are no material issues arising from the Financial Statements or from the audit that need to be brought to the attention of the Council.
14. To discharge the Council's statutory responsibilities in respect of the appointment of an external auditor.
15. To comment on the scope and depth of external audit work and to ensure it gives value for money; advise and recommend on the effectiveness of relationships between internal audit and other inspection agencies or relevant bodies; and in conjunction with the Council's s151 Officer, to commission work from external audit.
16. To consider reports dealing with the performance of the providers of the Council's internal audit services.
17. To have responsibility for ensuring effective scrutiny of the Treasury Management Strategy and policies.

STANDARDS AND PERSONNEL APPEALS COMMITTEE

(7 Members of the Authority)

Standards Functions

For Recommendation to Council:-

1. The adoption or revision of the Members' Code of Conduct.
2. To propose amendments to the Constitution relating to matters of an ethical standards nature.

Delegated Matters:

3. To promote and maintain high standards of conduct by Members and Officers.

4. To grant dispensations to Councillors and Co-opted Members from requirements relating to interests set out in Members' Code of Conduct, where not delegated to the Monitoring Officer.
5. To hear appeals against decisions of the Monitoring Officer not to grant a dispensation.
6. To monitor and review the Council's Whistleblowing policy.
7. To monitor and review protocols for standards of behaviour for Members and Officers.
8. To monitor and review protocols for Members and Officers on relationships and dealings with outside organisations and individuals.
9. To monitor and review Member and Officer procedures relating to gifts and hospitality and disclosable pecuniary interest and other interests.
10. To arrange, monitor and review mandatory training for Members and Officers on ethics, probity and the local Code of Conduct for Members.
11. To monitor and oversee the response by the Council to complaints to the Ombudsman.
12. Dealing with complaints of alleged Member misconduct referred to the Monitoring Officer under Section 28(6) of the Localism Act 2011.
13. Granting and supervision of exemptions from posts being designated as politically restricted.

Personnel Appeals Functions

To hear and determine:

1. Appeals in accordance with the Council's procedures including in respect of discipline (including dismissal); and
2. Other appeals where the right of appeal to an Employment Tribunal exists.

Hearings Sub-Committee

(maximum of 3 Members taken from the Standards and Personnel Appeals Committee selected by the Monitoring Officer, the Independent Person invited)

1. To consider complaints referred to it by the Monitoring Officer in consultation with the Independent Person in accordance with Section 28 of the Localism Act 2011.

Referrals Sub-Committee

(minimum of 3 and maximum of 5 Members taken from the Standards and Personnel Appeals Committee selected by the Monitoring Officer. The Independent Person is invited to all Referrals Sub-Committee meetings)

1. To consider complaints referred to it by the Monitoring Officer to decide whether or not the complaint should be investigated or other action taken.

CHARITIES COMMITTEE

(7 Members of the Authority)

1. To ensure compliance with relevant Charity Law.
2. To make recommendations on, monitor and review the management, administration and associated arrangements for the day to day running of all the Charities of which the Council is the Sole Trustee.
3. To promote the purposes of the various Charities of which the Council is the Sole Trustee and ensure that the Charities are run in accordance with the relevant Trust purposes.
4. To oversee and manage programmes of Trust development.
5. To receive reports, accounts and requests from the relevant Advisory Groups.
6. To make an Annual Report to the Council.

PRINCIPAL SELECT COMMITTEE

(7 Members of the Authority)

In accordance with Article 8 of this Constitution:

1. To review and scrutinise individual decisions before or after implementation.
2. To review, monitor and approve the Select Work Programme.
3. To undertake time limited reviews on topics approved for the work programme.
4. To report any recommendations or considerations agreed by the Principal Select Committee to Cabinet.
5. To undertake such other overview and scrutiny functions as may be required including crime and disorder scrutiny and housing performance scrutiny.

The Committee does not have power to call-in decisions made by non-executive committees.

INWARD FOCUS SELECT COMMITTEE & OUTWARD FOCUS SELECT COMMITTEE

(7 Members of the Authority)

To undertake such tasks as may be requested by the Council or the Executive or as agreed by the Principal Select Committee as part of the work programme.

LOCAL PLAN DEVELOPMENT COMMITTEE

The Local Plan Development Committee's purpose is to inform and advise the Cabinet in reaching any decisions they may have to make in moving forward planning policy. The Local Plan Development Committee has no decision-making powers.

The terms of reference of the Committee is to:

- Oversee the preparation of the Local Plan
- Oversee the project management of work streams
- Give elected member views to the officer working group
- Provide advice on issues that affect businesses and residents
- Ensure integration / complementarity of the vision, objectives and policies of the Local Plan with other Corporate /Partners regional plans
- Advise on other key decisions on matters relating to Local Plan production including resources, scope of documents, evidence base, identification of alternative development options, content of the local development scheme, sustainability appraisal/ appropriate assessment, consultation methods, engagement, and relationships with the sub-regional context.
- Provide a forum for discussion of progress
- Guide the development of recommendations for further work

The Committee is politically balanced and is comprised of 9 Members appointed by the Council. Appropriate officers also attend to facilitate the work of the Committee.

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CONSTITUTION

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Rules of Procedure

Council Procedure Rules

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Definition

For the avoidance of doubt, please find outlined below the definition for “clear days” and “clear working days.”

Clear Days

“Clear Days” are inclusive of weekends/bank holidays but exclude the day any notices are served and the day of the meeting.

Clear Working Days

“Clear Working Days” are exclusive of weekends and bank holidays, the day any notices are served and the day of the meeting.

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

The Annual meeting is a very important event in the life of the Council and the District of Ashfield as a whole. At this meeting the Council:

1. Elects a person to preside if the Chairman of the Council is not present;
2. Elects the Chairman of the Council for the local government year (usually from May to May);
3. Elects the Vice Chairman of the Council;
4. Receives any declarations of disclosable pecuniary or personal interests and/or non-registerable interests;
5. Approves the minutes of the last meeting;
6. Receives any announcements from the Chairman and Head of Paid Service;
7. Elects the Leader of the Council for a four-year term of office;
8. Is informed by the Leader of the Council about the composition and constitution of the Executive (or Cabinet) for the coming year, and the names of Councillors he/she has chosen to be members of the Cabinet;
9. Is told by the Leader of the Council about the Scheme of Delegation for the discharge of Executive functions;
10. Approves a programme of Ordinary Meetings of the Council for the year;
11. Considers any business set out in the notice convening the meeting. (An item concerning notices of motion and written questions will not appear on the Summons.)

- 1.2** The Annual meeting normally takes place in May. But in those years when there has been an election for all Councillors (once every four years) the meeting will take place within 21 clear days of the retirement of the outgoing Councillors. In the circumstance of a disaster or an unplanned incident, the annual meeting can be postponed until the following year or until such time as is reasonable to resume normal Council activity.

1.3 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council will also:

- a. Decide which committees to establish for the local government year.
- b. Decide the size and terms of reference for those committees;

- c. Decide the allocation of seats on committees to political groups in accordance with the political balance rules;
- d. Appoint Councillors to serve on each committee; and
- e. Appoint to outside bodies, except where appointment to those bodies has been delegated by the Council elsewhere.

2. ORDINARY MEETINGS

Ordinary Meetings of the Council are used to carry out the business which the Council is directly responsible for. The order of business for Ordinary Meetings of the Council is as follows:

1. Elect a person to preside if the Chairman and Vice Chairman are not present;
2. Receive any declarations of disclosable pecuniary or personal interests and/or non-registerable;
3. Approve the minutes of the last meeting;
4. Receive any announcements from the Chairman, Leader and Members of the Cabinet or the Head of Paid Service;
5. Presentation of awards and/or certificates by the Chairman;
6. Receive questions from, and provide answers to, the public in accordance with **Rule 11 (Questions by the Public)**;
7. Receive and consider petitions in accordance with **Rule 12 (Petitions)**;
8. Deal with any business from the last Council meeting;
9. Consider the business specified in the Summons to the meeting, including proposals from the Cabinet in relation to the Council's budget and policy framework, reports of the Principal Select Committee for debate and reports from Officers of the Council;
10. Receive recommendations from the Cabinet and the Council's Committees and discuss and resolve them in line with the Council's rules of debate;
11. Receive updates from members of the Cabinet on their portfolio activity, with a 3 minute maximum speech time per Executive Lead Member and a maximum collective time allocation of 30 minutes.
12. Receive reports, questions and answers on the business of joint arrangements and external organisations;

13. Consider motions of which notice has been submitted by Members of the Council in accordance with **Rule 14 (Motions on Notice)** in the order in which they are recorded as having been received;
14. Receive questions from, and provide answers to, Members under Council **Rule 13 (Questions by Members)**;
15. Receive a list of minutes and a web link to access Cabinet and Committee meeting minutes that have been published since the last Ordinary Meeting of the Council, so that Members can give notice of their intention to ask a question of a relevant Committee Chairman under **Rule 13.2 (Questions on Notice at Council)**.

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

Sometimes additional or extraordinary meetings of the Council are required to deal with special or unexpected business. The Chief Executive can call these extraordinary meetings. He or she can also be asked to call Extraordinary Council Meetings by:

- a. The Council by resolution;
- b. The Chairman of the Council;
- c. The Monitoring officer and the Chief Finance Officer; and
- d. Any five Members of the Council if they have signed and presented a request to the Chairman of the Council to call a meeting and he or she has not done so within seven clear days of receiving this. A request for a meeting may be presented to the Chairman by being left for him or her with the Chief Executive.

3.2 Where it is decided to call an extraordinary meeting of the Council under **3.1(b)** or **3.1(c)** above, the Members calling the meeting shall:

- (a) Tell the Chief Executive they have done so;
- (b) Specify the business to be transacted; and
- (c) The date and time for when they have called the meeting.

3.3 The Chief Executive shall then ensure that the necessary notices and summonses are published and sent.

3.4 Only those items of business specified on the Summons may be transacted at an extraordinary meeting of the Council.

3.5 Extraordinary Budget and Tax Setting

1. Elect a person to preside if the Chairman and Vice Chairman are not present;
2. Receive any declarations of disclosable pecuniary or personal interests and/or non-registerable;
3. Consider the business specified in the Summons to the meeting, in relation to the formal setting of the Annual Budget and Council Tax;
4. Consider any additional business specified in the Summons.

To ensure the smooth flow of business the following provisions will operate for the Extraordinary Budget and Tax Setting meeting.

- a. The proposer of the Annual Budget and Council Tax Setting report will have a maximum 15 minutes to move the item.
- b. The proposer of the Annual Budget and Council Tax Setting report will have a maximum 5 minutes to summate following debate.
- c. The seconder of the Annual Budget and Council Tax Setting report will have a maximum of 10 minutes to second the item.
- d. Council Procedure Rule 16.4 will still apply for all other Members taking part in the debate on the Annual Budget and Council Tax Setting item.

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, any vote relating to Annual Budget and Council Tax Setting will be recorded in the minutes of the proceedings of the meeting with the names of the persons who cast a vote 'for' or 'against' or who abstained from voting.

4. ORDER OF BUSINESS

4.1 The order of business at meetings of the Council may be varied by:

- a. The Chairman with the consent of Members present; or
- b. A resolution of the Council, moved, seconded and put without comment.

5. URGENT ITEMS

- 5.1** If the Chairman decides that an item of business not included in the agenda for the meeting sent with the Summons may be taken for reasons of urgency (which must be specified) that item shall usually be taken at the end of the other items of business unless the Chairman with the consent of Members decides otherwise.

6. TIME AND PLACE OF MEETINGS

- 6.1** The time and place of meetings will be determined by the Chief Executive and notified in the Summons.

7. NOTICE OF AND SUMMONS TO MEETINGS

- 7.1** The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Chief Executive will send a Summons to every Member of the Council. The Summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by the reports specified on the agenda. Only in exceptional circumstances and with the agreement of the Monitoring Officer will it be permitted for reports to follow.

8. CHAIR OF MEETING

- 8.1** The person presiding at a meeting of the Council or its Committees and Sub-Committees may exercise any power or duty of the Chairman. If present at a meeting of the Council, the Chairman shall preside. In the absence of the Chairman the Vice Chairman shall preside. If both the Chairman and Vice Chairman are absent from a meeting of the Council, such Member of the Council as shall be chosen by the Members of the Council shall preside.

9. QUORUM

- 9.1** The quorum of a meeting will be one quarter of the whole number of Members (which shall in no case be less than **3**). The Chair shall seek to begin the meeting at the scheduled time. If there is not a quorum present either in one or more of the "places" identified in 6.1, the meeting will commence as soon as the quorum is present. If after **15 minutes** a quorum is still not present, then the meeting will be postponed. If during a meeting the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. If after 15 minutes there is still no quorum, then the remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. DURATION OF MEETING MAJORITY VOTE TO CONTINUE

10.1 Unless the majority of Members present vote for the meeting to continue, any meeting which commenced at 7.00 pm on reaching 9.00 pm will adjourn immediately (unless a thirty minute extension in accordance with **Rule 23 (The Conclusion of Proceedings)** has been approved). The remaining business will then be considered at a time and date to be fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

11. QUESTIONS BY THE PUBLIC (within a maximum time allocation of thirty minutes)

11.1 General

Members of the public may ask questions of Members of the Cabinet, the Leader of the Council and a Chairman of any Committee or Sub-Committee at ordinary meetings of the Council.

11.2 Order of Questions

Questions will be asked in the order in which notice of them was received in accordance with **Rule 11.3 (Notice of Questions)**, except that the Chairman may group together similar questions.

11.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon **7** clear working days before the day of the meeting. Each question must give the name and address of the questioner and name of the Member of the Council to whom it has been put. If the name of the Member is not specified then the Chief Executive will nominate the most appropriate Member.

11.4 Number of Questions

A maximum of **4** questions in any local government year may be submitted by any person or on behalf of an organisation or business. At any one meeting no person may submit more than 2 questions and no more than 2 such questions may be asked on behalf of an organisation or business.

11.5 Scope of Questions

The Chief Executive may reject a question if it:

- Is not about a matter for which the Council has a responsibility or which does not affect the District;
- Is defamatory, frivolous or offensive;

- Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- Requires the disclosure of confidential or exempt information;
- Relates to judicial/quasi-judicial items, planning and licensing applications or appeals,
- Names Officers or Members by name, and/or alleged breaches of the Members' Code of Conduct which are subject to or may be subject to investigation; or
- Relates to an ongoing complaint to the Council, either at Stage 1 or 2, or a complaint that is currently subject to investigation by the Local Government Ombudsman or a complaint which has been concluded either at Stage 1 or 2 or via the Local Government Ombudsman.

11.6 Record of Questions

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include the reasons for rejection. Copies of all questions will be circulated electronically to all Members and will be made available to those attending the meeting.

11.7 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question to the Member named in the notice. In the absence of the questioner, the question is to be relayed to the Council by the Chairman.

11.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in **Rule 11.5 (Scope of Questions)**.

11.9 Response

A response may be given by the Member to whom it has been put, or by the relevant Executive Lead Member.

11.10 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

11.11 Reference of Question to the Cabinet or a Committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but a Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

12. PETITIONS

- 12.1** Petitions may be presented to a meeting of the Council. The person wishing to present the petition shall give **10 clear working days'** notice of his/her intention to do so.
- 12.2** The person presenting the petition shall be allowed up to **5 minutes** to present the petition and make supporting remarks relevant to the petition.
- 12.3** The petition will then be received without discussion, and stand referred to be considered in accordance with the Council's Petition Scheme.
- 12.4** Petitions shall be presented in the order in which notice of them is received by the Chief Executive.
- 12.5** If the Council is presented with a petition which contains **more than 1,500 signatures** it will be debated by the Council and in accordance with the Council's Petition Scheme.
- 12.6** When a petition is debated by the Council the petition organiser will be given a maximum of **10 minutes** to present the petition and the petition will then be discussed by the Council for a maximum of **15 minutes**; 3 minutes maximum per Councillor. The Council will resolve how to respond to the petition.
- 12.7** If a petition submitted to the Council contains **more than 5,000 signatures**, the time allocated for discussion is **30 minutes**; 3 minutes maximum per Councillor.
- 12.8** Petitions which relate to Planning or Licensing applications are not covered by the Council's Petition Scheme. They will be referred to the relevant committee to consider.

13. QUESTIONS BY MEMBERS

On Reports of the Cabinet or Committees

- 13.1** A Member of the Council may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council. A Member is allowed to ask a follow up question which must arise out of the original question or reply.

Questions on Notice at Council

13.2 Subject to **Rule 13.4 (Notice of Questions)**, a Member of the Council may ask the Chairman of the Council, an Executive Lead Member or the Chairman of any Committee or Sub-Committee:

- (a) A question on any matter in relation to which the Council has powers or duties;
- (b) A question on any matter which affects the District;
- (c) A question in relation to the minutes of a Cabinet or Committee meeting, under **Rule 2.1(xiii)**.

For any one meeting, no Member may submit more than 2 questions in each category.

13.3 The Chairman will invite the questioner to put the question to the Member named in the notice. If the questioner is not present the question shall not be put and shall be answered in writing. In the event that there is insufficient time to deal with Members' questions because of the provisions of **Rule 23 (Conclusion of Proceedings)**, any questions that have not been dealt with shall be answered in writing.

13.4 Notice of Questions

A Member may only ask a question under **Rule 13.2 (Questions on Notice at Council)** if either:

- (a) He/she has given notice of the question either in writing or by electronic mail to the Chief Executive no later than **noon**, 7 clear working days before the day of the meeting.
- (b) The question relates to urgent matters, he/she has the consent of the Member to whom the question is to be put and the content of the question is given to the Chief Executive by **10am** on the day of the meeting.

13.5 Questions must be about matters for which the Council has a responsibility or which affect the District.

13.6 Any question which in the opinion of the Chief Executive is defamatory, frivolous or offensive shall be referred to the Chairman who may, after consideration, refer it back to the Member who submitted it indicating that it will not be put at the meeting.

13.7 Response

An answer to questions asked under **Rule 13 (Questions by Members)** may take the form of:

- (a) A direct oral answer by the Leader of the Council, Cabinet Executive Lead Member or the Chairman of a Committee or by any other person who they nominate;
- (b) Reference to a Council or other publication which contains the necessary information;
- (c) A written answer where the reply cannot conveniently be given orally. The written answer needs to be provided within 10 clear working days of the meeting to the questioner and copied to all Members; or
- (d) A combination of all the above.

13.8 There is no time limit on a Member orally responding to questions.

13.9 Supplementary Question

A Member asking a question under **Rule 13.2 (Questions on Notice at Council)** may ask one supplementary question without notice of the Member to whom the first question was asked. The question must arise directly out of the original question or the reply.

14. MOTIONS ON NOTICE

14.1 Notice

Except for motions which can be moved without notice under **Rule 15 (Motions without Notice)**, written notice of every motion, signed by the proposer and seconder must be delivered to the Chief Executive not later than noon, **7** clear working days before the date of the meeting. As soon as a valid notice of motion is received in accordance with **Rule 14.3 (Scope)** and approved as such by the Chief Executive, it will be entered in a book open to public inspection.

14.2 Motion Set Out in the Summons

Motions for which notice has been given will be listed on the Summons in the order in which the notices were received, unless the Members giving notice state, in writing, that they want to move it to a later meeting or withdraw it.

14.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District.

- a. The Chief Executive shall refer to the Chairman any motion which he/she considers:
 - i) Defamatory, frivolous or offensive; or
 - ii) Not a matter for which the Council has a responsibility or which affects the District; or

- iii) Substantially the same as a motion which has been put at a meeting of the Council in the last **6 months**; or
- iv) Requires the disclosure of confidential or exempt information.

14.3 The Chairman may, after consideration, refer the motion back to the Member who submitted it, indicating that it will not be placed on the Summons.

14.4 The following rules apply:

- a. Any motion which is the responsibility of the Cabinet or any Committee or Sub-Committees shall upon being moved and seconded, stand referred to the Cabinet or Committee or Sub-Committee without debate;
- b. No proposal shall allow a Member to move or second more than one written motion for inclusion on any Summons;
- c. A motion shall only be moved by the Member who has signed the notice, or by another Member authorised by that Member and notified to the Chief Executive not later than the commencement of the meeting;
- d. Where notice of motion has been accepted for any meeting of the Council, but is neither moved or seconded at the meeting, nor referred to any Committee or Sub Committee, the notice shall lapse and the motion shall not be moved without further notice.
- e. Valid motions must include appropriate and sufficient information to enable Councillors to make a lawful decision – for example legal, financial, statutory, and policy implications.
- f. A source must be provided for any figures and/or statistical data included in a motion.

14.5 The Chief Executive shall not include on the Summons any motion which identifies by name any Member or Officer.

14.6 Timings

The proposer of a motion will have a maximum of 8 minutes to move the motion, with an additional 5 minutes to summate following the conclusion of debate. A maximum of 6 minutes is allocated to the seconder of a proposed motion.

It is not necessary for the motion to be read in full when moving the motion, providing the motion has been supplied in writing to Council.

14.7 Urgent Motions

The Chairman may accept a motion to be considered as a matter of urgency (in which case the reason for urgency has to be stated).

15. MOTIONS WITHOUT NOTICE

15.1 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 on 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 or 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 9.00 pm;
- (n) To suspend a particular Council Procedure Rule;
- (o) To exclude the public and press in accordance with the Access to Information Rules;
- (p) To not hear further a Member named under **Rule 25.3 (Not to be Heard Further)** or to exclude him/her from the meeting under **Rule 25.4 (Member to Leave the Meeting)**; and
- (q) To give the consent of the Council where its consent is required by this Constitution.

16. RULES OF DEBATE

No Speeches until Motion Seconded

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

16.2 Right to Require Motion in Writing

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

16.3 Seconders's Speech

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

16.4 Content and Length of Speeches

No speech may exceed **5 minutes** without the consent of the Chairman. Members may be allowed an additional opportunity, at the Chairman's discretion, to speak during a debate for a maximum of a further **2 minutes** after the initial **5 minute** opportunity. Speeches must be directed to the question under discussion or to a personal explanation or point of order.

16.5 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; and/or
- (f) By way of personal explanation.

16.6 Amendments to Motions

The following rules apply to the amendment of motions:

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) To refer or defer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) To leave out words (as long as the effect would not be to negate the motion);

- (iii) To leave out words and insert or add others (as long as the effect would not be to negate the motion); or
 - (iv) To insert or add words (as long as the effect would not be to negate the motion).
- (b) An amendment referring to Members or Officers should state the Office which they hold rather than referring to named individuals.
 - (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 dealt with.
 - (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 Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

16.7 Alteration of Motion

The following rules apply to the alteration of motions:

- (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.

16.8 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.

16.9 Right of Reply

The following rules apply in terms of the right of reply when a motion has been moved:

- (a) The mover of a motion has a right of 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.

16.10 Motions which may be moved during debate

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

- (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 9.00 pm for a maximum of a further 30 minutes (under Rule 23);
- (h) To exclude the public and press in accordance with the Access to Information Rules; and
- (i) To not hear further a Member named under **Rule 25.3 (Member Not to Be Heard Further)** or to exclude him/her from the meeting under **Rule 25.4 (Member to Leave the Meeting)**.

16.11 Closure Motions

The following rules apply on the closure of motions:

- (a) A Member 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 a meeting.

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

16.12 Point of Order

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the Rule or law and the way in which he/she thinks it has been broken. The ruling of the Chairman on the matter will be final.

16.13 Personal Explanation

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

17. PREVIOUS DECISIONS AND MOTIONS

17.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least 9 Members.

17.2 Motion Similar to One Previously Rejected

- (a) A motion or amendment, which is in similar terms to one that has been rejected at a meeting of the Council in the past six months, cannot be moved unless the notice of motion or amendment is signed by at least 9 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

- (b) A decision making body (such as the Cabinet) can still recommend to Council the revision or reversal of a resolution made within the past 6 months.

18. VOTING

18.1 Majority

Any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

18.2 Chairman's Casting Vote

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

18.3 Show of Hands and Affirmation by the Meeting

Unless a recorded vote is agreed in accordance with **Rule 18.4, (Recorded Vote)** the Chairman will take the vote either by show of hands or electronically by using the available technology, or if there is no dissent, by the affirmation or the general agreement of the meeting.

18.4 Recorded Vote

At any meeting called under these Rules on a proposal moved and seconded for a recorded vote and supported by a majority of Members present and voting, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes.

18.5 The minutes of a budget decision meeting of the Council will:

- (a) Record the result of the vote; and
- (b) Whether each individual Member voted in favour, against or abstained from voting on the proposal.

18.6 Right to Require Individual Vote to be Recorded (Prescribed by Law)

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

18.7 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.

19. STATE OF ASHFIELD DEBATE

19.1 Calling of Debate

The Chairman of the Council may call a State of Ashfield debate annually on a date and in a form to be agreed with the Leader.

19.2 Form of Debate

The Chairman of the Council may decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of Ashfield debate.

19.3 Chairing of Debate

The State of Ashfield debate will be chaired by the Chairman of the Council.

19.4 Results of Debate

The results of the debate will be:

- (i) Shared as widely as possible within the community and to agencies and organisations in the area; and
- (ii) Considered by the Leader of the Council in proposing the budget and policy framework to the Council for the coming year.

20. MINUTES

20.1 Signing the Minutes

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

20.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting (Prescribed by Law)

When the next meeting is going to be an extraordinary meeting (called under paragraph 3 of Schedule 12 to the Local Government Act 1972) then the minutes can be approved at the next scheduled or planned meeting.

21 RECORD OF ATTENDANCE

- 21.1** All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

22 EXCLUSION OF PUBLIC

- 22.1** Members of the public and press may only be excluded either in accordance with the **Access to Information Rules (Part 4 of this Constitution) or Rule 26 (Disturbance by Public)**.

23 CONCLUSION OF PROCEEDINGS

- 23.1** Any meeting called under these Rules which commences at 7.00 pm shall conclude no later than **9.00 pm**; save that the conclusion may be extended to **9.30 pm** if approved by a majority of Members present and voting prior to **8.55 pm**. Any items of business not dealt with will stand adjourned to the next ordinary meeting unless the Chairman agrees to convene an extraordinary meeting to deal with the outstanding business.

24 RIGHT OF MEMBERS TO ATTEND MEETINGS

- 24.1** Any Member of the Council may attend any meeting of the Executive, Committees, and Sub-Committees called under these Rules of which he/she is not a Member. With the consent of the Chairman the Member may speak on any matter appearing on the agenda but may not move or vote on the subject. However, this rule does not apply to meetings of the Chief Officers' Employment Committee, its Sub-Committee, Standards & Personnel Appeals Committee when dealing with its appeals functions or Hearings Sub-Committee, Licensing Sub-Committees and Local Joint Consultative Committee.

25 MEMBERS' CONDUCT

25.1 Speaking

When a Member speaks at Council he/she must stand and address the meeting through the Chairman. If more than one Member intends to speak and stands, the Chairman will ask one to speak and the others must sit down. 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.

25.2 Chairman Speaking

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

25.3 Member not to be Heard Further

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

25.4 Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chairman 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.

25.5 General Disturbance

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

26. DISTURBANCE BY PUBLIC

26.1 Removal of Member of the Public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order his/her removal from the meeting room.

26.2 Clearance of Part of Meeting Room

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

27. MEETINGS OF COMMITTEES & SUB COMMITTEES

27.1 Time and place of ordinary meetings

The Council at the Annual Meeting shall fix the date and time and place of Ordinary Meetings of Committees and may fix the date and time and place of Ordinary Meetings of Sub Committees and other Sub Groups.

27.2 If the Council does not fix the date, time or place of an Ordinary Meeting of a Committee, Sub Committee or other Sub Group then the relevant Committee may do so.

27.3 The Chairman of a Committee or Sub Committee or the Chairman of the Council may call an Extraordinary Meeting of a Committee or Sub Committee at any time.

27.4 The Chairman of a Committee or Sub Committee or the Chairman of the Council, may if he/she considers it necessary (after consultation so far as practicable with such persons as appear to him/her to be representative of the political groups to which seats on the Committee or Sub Committee have been allocated) cancel a meeting of the Committee or Sub Committee or may change any of the details of place, date or time already fixed for the meeting.

27.5 Substitution of Members at Meetings

The Council's Committees and Sub-Committees shall have provision for substitute Members. The members of the Cabinet cannot have formal substitute or deputy Members who are not themselves members of the Cabinet. Members

of the Cabinet (other than the Leader of the Council) may not nominate or appoint substitutes for meetings of Committees of the Executive.

- 27.6** 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 the person they are substituting. (For example, they will not automatically be entitled to chair the meeting if acting as substitute for the Chairman). Substitute Members shall be from the same political group as the Ordinary Member. If a Member is not part of a political group, they may be substituted by another ungrouped Member.
- 27.7** Substitute Members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are substituting and where the ordinary Member will be absent for the whole of the meeting.
- 27.8** It is Council policy that before sitting and taking part in meetings of the Planning Committee, the Licensing Committee and its Sub-Committees, the Standards and Personnel Appeals Committee and its Sub-Committees and the Chief Officers' Employment Committee the Member must have received appropriate training. For the avoidance of doubt, the substitute Member must have received appropriate training for the Committee or Sub Committee to which they are appointed as substitute.
- 27.9** It is the responsibility of the ordinary Member who cannot attend to make arrangements for a substitute to be present in his/her place and to notify the Chief Executive (or his/her nominee) of the proposed substitution in advance of the meeting concerned. Substitution must be for the whole of the meeting. The attendance of substitute Members shall be recorded in the minutes of the meeting.
- 27.10** Once the substitution has been made the substitute Member will assume all the powers and duties of the ordinary or substituted Member until after the close of the meeting for which the substitution has been made. The ordinary or substituted Member will not be able to resume their powers and duties until after the meeting has finished. A substitute Member speaks and votes in their own capacity and is subject to the same requirements in respect of any declarations of interest and must follow the usual rules set out in the Members' Code of Conduct.

28. FILMING, AUDIO RECORDING, 'BLOGGING' AND 'TWEETING' OF MEETINGS

- 28.1** Members of the public are entitled to take photographs, film and audio-record live proceedings and report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.
- 28.2** The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chair of the meeting will facilitate this by ensuring that any such request not to be recorded is respected by those doing the recording.

28.3 The rules which the Council will apply are set out below:

- (i) Anyone wishing to record must let the Chair of the meeting know prior to, or at the start of, the meeting and the recording must be overt (i.e. clearly visible to anyone at the meeting), but non-disruptive.
- (ii) All those visually recording a meeting are requested to only focus on recording Councillors, Officers and the public who are directly involved in the conduct of the meeting.
- (iii) Any Member of the public has the right not to be recorded. Any children present at the meeting are not to be filmed unless their parents/guardians have given their consent. The Council ensures that agendas for, and information supplied at, public meetings make it clear that recording can take place – if anyone speaking at the meeting does not wish to be recorded they must let the Chair of the meeting know.
- (iii) It is not permitted to carry out an oral commentary or report during the filming of any meeting as this may be disruptive to the good order of the meeting.
- (iv) The Chair of the meeting has absolute discretion to stop or suspend recording if in their opinion continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules. The circumstances in which this might occur include:
 - Recording is disrupting the proceedings of the meeting;
 - There is public disturbance or a suspension of the meeting;
 - The meeting has resolved to exclude the public for reasons which are permitted by law;
 - A member of the public participating in a meeting objects to being recorded.
- (v) No restrictions will be placed upon anyone at the meeting using social media such as Twitter, blogs, Facebook etc., provided that the Chair of the meeting does not consider their actions are disrupting the proceedings of the meeting.
- (vi) Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Council's values or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view. The Council will have no liability for material published by any other person unless it is itself undertaking the publication.

- (vii) If confidential or exempt information is being discussed and the public are excluded from the meeting, then all recording equipment will need to be removed immediately from the room.
- (viii) 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.

29. WITHDRAWAL FROM MEETING – DISCLOSABLE PECUNIARY INTEREST

- 29.1** A Member must withdraw from the meeting room or Chamber during the whole consideration of any item of business in which he/she has a Disclosable Pecuniary Interest as defined by Regulations under the Localism Act 2011. The requirement to withdraw does not apply where the individual Member has sought and has been granted a dispensation.

30. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

30.1 Suspension

All of these Council Rules of Procedure except **Rule 18.6 (The Right to Require Individual Vote to be Recorded)** and **Rule 20.2 (No Requirement to sign Minutes of the Previous Meeting at an Extraordinary Meeting)** 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.

30.2 Amendment

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

31. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

- 31.1** All of the Council Rules of Procedure apply to meetings of Council. Only **Rules 6-10, 15-16, 18, 20-29** (but not **Rule 25.1**) apply to meetings of Committees and Sub-Committees and to the Cabinet.

32. INTERPRETATION OF COUNCIL PROCEDURE RULES

- 32.1** The ruling of the Chairman of the Council as to the construction or application of any of these Council Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

Access to Information Procedure Rules

1. SCOPE

- 1.1 These rules apply to all meetings of the Council, the Principal Select Committee, Inward Focus Select Committee, Outward Focus Select Committee, the regulatory committees, and public meetings of the Executive (together called Meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may have access to attend all Meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

- 4.1 The Council will give at least 5 clear working days notice of any Meeting by posting details of the Meeting at the Council Offices, Urban Road, Kirkby-in-Ashfield (the Designated Office).

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 The Council will make copies of the agenda and reports for the Meeting open to the public available on the Council's website at least 5 clear working days before the Meeting, not including weekends and bank holidays. If an item is added to the agenda later, the Chief Executive will make each additional report available to the public on the website as soon as the report is completed and sent to Councillors. The report will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

- 6.1 The Council will supply to any person on payment of a charge for postage and any other costs to be determined by the Monitoring Officer, 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. Any other documents supplied to Councillors in connection with an item, if the Chief Executive thinks fit.

7. ACCESS TO INFORMATION ABOUT DECISIONS TAKEN

7.1 The Council will make available electronically for six years, records of the decisions that the Council, its Cabinet, committees and sub-committees have made. These records will specify the:

- (a) Details of the decision and the date it was made;
- (b) The reasons for the decision;
- (c) Any other options considered and reasons why they were rejected;
- (d) Details of any interest declared by a Member of the decision-making body;
- (e) A note of dispensations granted.

7.2 In addition, the Council will also make available electronically:

- (a) The minutes of the Meeting or records of decisions taken, together with reasons, for all Meetings, 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

8.1 List of Background Papers

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

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

8.2 The list will not include published works or those which disclose exempt or confidential information as defined in Rule 10 and in respect of Executive reports, the advice of a political advisor.

8.3 Public Inspection of Background Papers

The Council will make available electronically for four years after the date of the Meeting, one copy of each of the documents on the list of background papers. For reports in respect of Executive functions a copy of relevant background papers will be published on the Council's website.

9. SUMMARY OF PUBLIC'S RIGHTS

9.1 A written summary of the public's rights to attend Meetings and to inspect and copy documents must be kept at and be available to the public at the Council Offices, Urban Road, Kirkby-in-Ashfield.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – Requirement to Exclude Public

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

10.2 Exempt Information – Discretion to Exclude Public

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

10.3 Where the Meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the Meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 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.

10.5 Meaning of Exempt Information

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

Category	Condition
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 a particular person. (Including the Authority holding that information.)	<p>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993. <p>“financial or business affairs” includes contemplated, as well as past or current activities.</p> <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>
4. Information relating to any consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.	<p>“employee” means a person employed under a contract of service</p> <p>“labour relations matter” means-</p> <ul style="list-style-type: none"> (a) any of the matters specified in paragraphs (a) to (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 (b) any dispute about a matter falling within paragraph (a) above;

	<p>and for the purposes of this definition the enactments 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; “office holder” in relation to the Authority, means the holder of any paid office appointments which are or may be made or confirmed by the Authority or by any joint board on which the Authority is represented or by any person who holds any such office or is an employee of the Authority;</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6. Information which reveals that the Authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

10.6 Information is not exempt information if it relates to a proposed development for which the Local Planning Authority (the Council) may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

10.7 Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the paragraph 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 (the Public Interest Test).

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

11.1 If the Proper Officer considers that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, 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 (Exclusion of the Public from Meetings)**, 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

12.1 **Rules 13 – 22** below 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 15 (General Exception)** or **Rule 16 (Special Urgency)** apply.

12.2 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 clear days of the date according to the Forward Plan by which it is to be decided, then it must also comply with **Rules 1 – 11** unless **Rule 15 (General Exception)** or **Rule 16 (Special Urgency)** apply. This requirement does not include meetings, whose sole purpose is for Officers to brief Members.

13. PROCEDURE BEFORE TAKING KEY OR EXEMPT DECISIONS

13.1 Subject to **Rule 15 (General Exception)** and **Rule 16 (Special Urgency)**, a Key Decision may not be taken unless:

- (a) A notice giving at least 28 clear days notification has been published in connection with the matter in question; and
- (b) At least 5 clear days have elapsed since the publication of the notice; and
- (c) Where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with **Rule 4 (Notice of Meetings)**.

13.2 A private meeting of the Executive to consider an item of business containing either confidential or exempt information shall not be held unless:

- (a) 28 clear days notice has been given of the proposed business to be transacted and allows the opportunity for the public to make

representations about why the business should be transacted in public; and

- (b) A further notice has been given at least 5 clear days before the meeting re-stating the reasons for the meeting being held in private and outlining any representations made by the public as to why the business should be transacted in public and the Executive's response to those representations.

13.3 If the above timetable is impracticable, a meeting can still go ahead under a "Special Urgency" provision if the Executive has had agreement from the relevant Principal Select Committee Chairman or, if s/he is unable to act, the Chairman or Vice Chairman of the Council setting out why a meeting is urgent and cannot reasonably be deferred. This notice will be displayed at the Council Offices and on the website.

14. THE FORWARD PLAN

14.1 Period of Forward Plan

A Forward Plan notice of a potential key or exempt Executive decision will be prepared by the Leader at least 28 clear days prior to the expected date of the decision. They will be prepared on a monthly basis.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a Key Decision or an exempt Executive decision to be taken by the Executive, a committee of the Executive, individual Members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) The matter in respect of which a decision is to be made;
- (b) The decision takers name and title, or if a body, its name and full membership;
- (c) The date on which, or the period within which, the decision will be taken;
- (d) The documents to be submitted to the decision taker and details of how to receive copies in relation to the matter.
- (e) A note that other documents relevant to the decision may be submitted to the decision maker and details of how to receive copies.

14.3 The Forward Plan of Key and Exempt decisions will be published at least 28 clear days in advance of the date a proposed decision is to be taken.

15. GENERAL EXCEPTION

15.1 If a matter which is likely to be a Key Decision has not been included on the Forward Plan then, subject to **Rule 16 (Special Urgency)**, the decision may still be taken if:

- (a) The Monitoring Officer has informed the Chairman of the Principal Select Committee, or if there is no such person, each Member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (b) The Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on the website; and
- (c) At least 5 clear days have elapsed since the Monitoring Officer complied with (a) and (b).

16. SPECIAL URGENCY

16.1 If, by virtue of the date by which a decision must be taken, **Rule 15 (General Exception)** cannot be followed, then the decision can only be taken if the decision taker obtains the agreement of the Chairman of the relevant Principal Select Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chairman of the Principal Select Committee, or if the Chairman of the Principal Select Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice. A copy of the notice of this agreement will be made available at the offices of the Council and on the website.

17. REPORT TO COUNCIL

17.1 When an Principal Select Committee can require a Report

If the Principal Select Committee thinks that a Key Decision has been taken which has not been treated as a Key Decision by the Executive, the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee 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 Principal Select Committee. Such a report must include:

- (a) The decision and reasons for the decision;
- (b) Who took the decision; and
- (c) If the Executive do not think it was a Key Decision, the reasons for that opinion.

17.2 Reports on Special Urgency Decisions

The Leader will submit a report to the next available Council meeting following any Executive decisions taken in the circumstances set out in **Rule 16 (Special Urgency)**. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. In any event, there will at least be an annual report on the use of the Rule 16 (special urgency) procedure.

18. RECORD OF DECISIONS

- 18.1** After any meeting of the Executive or any of its committees, whether held in public or private, the Chief Executive, a designated Officer, or in exceptional circumstances, 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 statement of the reasons for each decision, any alternative options considered and rejected at that meeting and details of any declaration of interest and any dispensation granted.

19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

- 19.1** The Executive will decide whether meetings relating to matters which are not Key Decisions will be held in public or, if there are legal grounds for excluding the public and press, in private.

20. DECISIONS BY INDIVIDUAL MEMBERS OF 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 five clear days after receipt of that report.

20.2 Provision of Copies of Reports to the Principal Select Committee

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 Chairman of the Principal Select Committee 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 an Executive decision has been taken by an individual Member of the Cabinet or by an Officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of **Rule 7 (Access to Information)** and **Rule 8 (Inspection of Documents after Meetings)** will also apply to the making of decisions by individual Members of the Cabinet or by an Officer. A record of the decision will be available at the Council Offices and on the website. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

21. PRINCIPAL SELECT COMMITTEES ACCESS TO DOCUMENTS

21.1 Rights to Copies

Subject to **Rule 21.2 (Information Which is not Confidential or Exempt)** below, a member of the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

- (a) Any business transacted at a public or private meeting of the Cabinet or its Committees; or
- (b) Any decision taken by an individual Member of the Cabinet; or
- (c) Any Executive decision taken by an Officer.

21.2 This right only applies to information which is not confidential or exempt, unless it is relevant to an action or decision being reviewed or scrutinised by the Principal Select Committee, Inward Focus Select Committee, Outward Focus Select Committee, or is otherwise relevant to the programme of work of the Committee.

21.3 Advice from a Political Assistant or adviser is exempt from this right of access.

21.4 The relevant documents should be provided as soon as practicable and, in any event, no later than 10 clear working days following receipt of the request. Where the Executive or Officer is of the view that a Select Committee Member is not entitled to a copy of the document, it must provide a written statement setting out its reasons for that decision.

22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

Material Relating to Business Conducted at a Public or Private Meeting of the Executive or an Individual Member or Officer Exercising an Executive function

22.1 All Members will be entitled to inspect any document which is in the possession of, or under the control of the Executive at least 5 clear working days before a public meeting, or for any private meeting, after conclusion of the meeting or immediately after a decision has been made in respect of any decision taken by an individual Member or Officer, unless:

- (a) It discloses exempt information falling within paragraphs 1,2,4,5 and 7 of the categories of exempt information as outlined above; or
- (b) It contains the advice of a political adviser.

22.2 Nature of Rights

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

Budget and Policy Framework Procedure Rules

1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

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

2. PROCESS FOR DEVELOPING THE FRAMEWORK

- (a) The Executive will publicise by including in the Forward Plan 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 Chairman of the Principal Select Committee will also be notified. The consultation period shall in each instance be as specified in the Forward Plan.
- (b) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If the Principal Select Committee wishes to respond to the Executive in that consultation process then it may do so. The Executive will take any response from the Principal Select Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (c)
 - (i) Where the Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (ii)
 - (ii) Before the Council:
 - (a) Amends the draft plan or strategy;
 - (b) Approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (c) Adopts (with or without modification) the plan or strategy;

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

- (iii) Where the Council gives instructions in accordance with paragraph (ii) it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives instructions on behalf of the Executive within which the Leader may:
 - (a) submit a revision of the draft plan or strategy as amended by the Executive (the “revised draft plan or strategy”), with the Executive reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration;
 - (b) inform the Council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.

- (iv) When the period specified by the Council referred to in paragraph (iii) has expired, the Council must, when:
 - (a) Amending the draft plan or strategy, or, if there is one, the revised draft plan or strategy;
 - (b) Approving, for the purpose of submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - (c) Adopting (with or without modification) the plan or strategy;

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

- (v) Subject to paragraph (ix) where, before 8th February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year:
 - (a) Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

- (b) Estimates or other amounts to be used for the purpose of such a calculation;
- (c) Estimates of such a calculation;
- (d) Amounts required to be stated in a precept under Chapter IV or Part I of the Local Government Finance Act 1992 and following consideration of those estimates or amounts the Council has any objections to them;

it must take the action set out in paragraph (vi)

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

- (b) The Executive's reasons for those amendments;
 - (c) Any disagreement that the Executive has with any of the Council's objections; and
 - (d) The Executive's reasons for that disagreement, which the Leader submitted to the Council or informed the Council of within the period specified.
- (ix) Paragraphs (v) to (vii) shall not apply in relation to:
- (a) Calculations or substitute calculations which Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
 - (b) Amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Sections 52J or 52U of that Act.

The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of at least 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Executive, individual Members of the Executive and any Officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- (b) If the Executive, Committees of the Executive, individual Members of the Executive and any Officers, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to 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 urgent, 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 Executive, a Committee of the Executive, an individual Member of the Executive or Officers, or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Council if the decision is urgent. A decision is urgent if:
 - i) It is not practical to convene a quorate meeting of the Council; and
 - ii) The Chairman of the Principal Select Committee agrees that the decision is urgent.

The reasons why it is not practical to convene a quorate meeting of Council and the Chairman of the Principal Select Committee'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 Chairman of the Principal Select Committee the consent of the Chairman of the Council, and in the absence of both the Vice-Chairman, will be sufficient. In the absence of all of these Members, the consent of the Monitoring Officer 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

- (a) Financial Procedure Rules may provide for limitations on transfers between or within the elements of the Budget.
- (b) Any part of the Budget and Policy Framework may specify the extent to which the Executive may transfer funds within the Framework.

6. IN -YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a Committee of the Executive or Officers, or joint arrangements discharging Executive functions must be in line with it.

- (a) The Executive may vary the Policy Framework in circumstances where:-
 - (i) The relevant part of the Policy Framework provides for the Executive to determine a variation;
 - (i) It is necessary to ensure compliance with the law, ministerial direction or government guidance;
 - (iii) In relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
 - (iv) The result is a closure or discontinuance of a service or part of service in order to meet a budgetary constraint.
- (b) Therefore recommendations from the Executive to the Council informing the Policy Framework may contain recommendations as to in what circumstances each part of the proposed Policy Framework may be varied by the Executive.
- (c) When the Executive varies the Policy Framework under this rule it will report the variation and the reasons for it to the next available meeting of the Council.

7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Where the Principal Select Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure,

and to the Principal Select Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance 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 Principal Select Committee 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 Principal Select Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
 - i) Endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework, the decision to take immediate effect; or
 - ii) Amend the Budget and Policy Framework to allow the decision to take immediate effect; or
 - iii) Determine that the decision is wholly or partly outside the Budget and Policy Framework and require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.
- (d) Urgent decisions under Rule 4 may not be subject to call-in.

8. Where a decision has been taken and implemented and it appears to the Principal Select Committee that it is wholly or partly outside the Budget and Policy Framework, on advice from the Monitoring Officer and/or Chief Finance Officer, then the Committee may submit a report to the Council and/or the Executive with or without recommendations.
9. Where any proposal, notice or other document is to be given by or to the Executive or the Council under these rules it is to be given, in writing, to the Chief Executive who is responsible for serving and/or publishing it.
10. The Chief Executive will call, at the earliest practical time, any meeting required to be called under these rules.

Executive Procedure Rules

1. ARRANGEMENTS FOR THE EXERCISE OF EXECUTIVE FUNCTIONS

1.1 Executive Decisions

The Leader will determine a scheme of delegations (set out in Part 3 of this Constitution) which may provide for Executive functions to be discharged by:

- i) The Leader, personally;
- ii) The Executive as a whole;
- iii) A Committee of the Executive;
- iv) An individual Member of the Executive personally;
- v) An Officer;
- vi) Joint arrangements; or
- vii) Another local authority.

1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written scheme of delegations made by him/her for inclusion in Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- i) The names of the Members appointed to the Executive by the Leader;
- ii) The extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- iii) The terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- iv) The nature and extent of any delegation of Executive functions to, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and

- v) The nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the office to whom the delegation is made.

1.3 Sub Delegation of Executive Functions

- i) Where the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to, a joint arrangement or an Officer.
- ii) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.
- iii) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader may delegate further to an Officer.
- iv) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

1.4 Amendment of delegations by the Leader

- i) The Leader may amend the scheme of delegation at any time by serving notice of the change on the Chief Executive and the person or body concerned.
- ii) Subject to **Article 6.05** the change in delegation will take effect two working days after the Chief Executive is notified, notwithstanding that this Constitution has not been amended to reflect the change.
- iii) The Chief Executive will report the change to the next available meeting of the Council and amend Part III of the Constitution accordingly.

1.5 Conflicts of Interest

- i) 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 5 of this Constitution.
- ii) If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct in Part 5 of this Constitution.
- iii) If the exercise of an Executive function has been delegated to a Committee of the Executive, 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 5 of this Constitution.

1.6 Executive Meetings – When and Where?

The Executive will meet as required at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader and as specified on the summons convening the meeting.

1.7 Public or Private Meetings of the Executive?

All meetings of the Executive will be open to the public. The public will only be excluded from meetings of the Executive when dealing with confidential or exempt information as set out in Part 4 of this constitution.

1.8 Quorum

The quorum for a meeting of the Executive, or a Committee of it, shall be one quarter of the total number of Members of the Executive (including the Leader or nominated Member), but not less than 3, whichever is the larger.

1.9 How are Decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, then the Executive Member nominated as Deputy Leader will preside, in his/her absence a nominated Executive Member as agreed and voted upon at the meeting shall preside.

2.2 Who May Attend?

Executive meetings are open to members of the public to attend, subject to the provisions set out in Part 4 of this Constitution which deals with the Access to Information Rules and paragraph 1.7 above.

2.3 Conduct of Business?

At each meeting of the Executive the following business will be conducted:

- i) To receive apologies for absence;
- ii) To consider the minutes of the last meeting;
- iii) To receive declarations of interest by Members;
- iv) Matters referred to the Executive (whether by a Select Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- v) Consideration of reports from Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee; and
- vi) Matters set out in the agenda for the meeting, and which shall indicate which are the Key Decisions and which are not, in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the Executive from any Member of the Executive or an Officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the relevant Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee, 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 Executive Agenda?

The Leader will decide upon the schedule for the meetings of the Executive. The Leader may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any Member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Executive.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive 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, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive 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.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. ARRANGEMENTS FOR THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE AND OUTWARD FOCUS SELECT COMMITTEE

The Council will appoint the Principal Select Committee, the Inward Focus Select Committee and the Outward Focus Select Committee as set out in Article 6 and will appoint such Members to serve on them as it considers appropriate from time to time. The Principal Select Committee may appoint Sub-Committees.

- (a) The Council has appointed one Principal Select Committee which will perform all overview and scrutiny functions on behalf of the Council. It will consist of Members of the Council.
- (b) The Council has appointed the Inward Focus Select Committee and Outward Focus Select Committee.

2. MEMBERSHIP OF THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE

All Councillors, except Members of the Executive, may be members of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committees. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. CO-OPTEEES

The Principal Select Committee or Sub-Committee or Inward Focus Select Committee or Outward Focus Select Committee shall be entitled to recommend to Council the appointment of non-voting co-optee(s).

4. HOUSING SCRUTINY

Any tenant activity with regard to scrutiny of housing matters will be carried out by the existing Tenants Gateway and will be reported to the Principal Select Committee as required.

5. MEETINGS OF THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE

Meetings of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may be called by the relevant Chairman and may be called from time to time as and when appropriate or may be scheduled by the Council.

6. QUORUM

The quorum for the Principal Select Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

7. CHAIRING PRINCIPAL SELECT COMMITTEE MEETINGS

The Chairmen of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee will be appointed by the Council.

8. WORK PROGRAMME

The Principal Select Committee approve the Select Work Programme. All Members will be invited at least annually to submit items for suggested Select Committee reviews, in doing so they shall consider wishes of all Members. The Executive and/or Council may also request the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee to undertake work.

9. AGENDA ITEMS

Any Member of the Principal Select Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda but any such item shall not be discussed until a report which complies with the requirements of the Local Government Act 2000 is presented.

The Principal Select Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where it does so, the Principal Select Committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Principal Select Committee within two months of receiving it.

Crime and disorder issues shall be considered by either the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee annually.

Any Councillor shall refer an issue to the Principal Select Committee under the 'Councillor Call for Action' where local problems have arisen, and other methods of resolution have been exhausted.

10. POLICY REVIEW AND DEVELOPMENT

- (a) The role of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee in relation to the development of the Council's budget and policy framework 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 Principal Select Committee or any Sub-Committee may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee 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.

11. REPORTS FROM THE PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE

- (a) Once it has formed recommendations on proposals for development, the Principal Select Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and 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) If the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared by the Proper Officer and submitted for consideration by the Council or Executive with the majority report. Minority reports and recommendations are not permissible as part of the call-in procedure.
- (c) The Council or Executive shall consider the report of the Principal Select Committee as soon as practicable and in any event within 2 months of it being submitted to the Proper Officer.

12. MAKING SURE THAT PRINCIPAL SELECT COMMITTEE REPORTS ARE CONSIDERED BY THE EXECUTIVE OR POLICY COMMITTEES

Once a Principal Select Committee report on any matter which is the responsibility of the Executive has been completed, an advance copy will be submitted to the Leader after which, it will be included on the agenda of the next available meeting of the Executive. If for any reason the Executive does not consider the Principal Select Committee report within 2 months then the matter will 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 Executive.

The Principal Select Committee will in any event have access to the Executive's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee following consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

13. CALL-IN OF EXECUTIVE DECISIONS

When a decision is made by the Executive, an individual Member of the Executive or a Committee of the Executive, or a Key Decision is made by an Officer with delegated authority from the Leader, or under joint arrangements, the decision shall be published as soon as possible on the Council's website and shall be available at the Main Offices of the Council.

The Council's call-in procedure provides that:

No Executive decision shall be implemented until 5 clear working days have expired after the date of publication of the decision (this 5 day period is the "call-in" period) except for:

- Urgent decisions, as mentioned below; and
- Decisions involving an issue worth less than £5,000 (where capable of being valued).

These decisions may be implemented immediately they are made.

Day to day management and operational decisions taken by Officer's are not subject to the call-in procedure.

Call-in does not apply to decisions of the regulatory committees, i.e. licensing (including Sub Committees) Planning, Audit, or Standards and Personnel Appeals Committees.

If the call-in period expires without a valid call-in being made, the decision may be implemented without any further requirement.

Call-in should only be used in exceptional circumstances. Prior to formally submitting a call-in, the Pre Call-in Procedure must be adhered to (4-61). To call-in a decision at least five Members must complete a form available from Democratic Services notifying the Chief Executive in writing which Executive Member or Officer decision they wish to call-in and why. The grounds for call-in would normally be where a matter is:

- (a) Contrary to policy, (b) Contrary to budget or (c) based on incorrect or inadequate or inaccurate information.

The completed form must be received by the Chief Executive within the call-in period and a copy must be sent to the Leader of the Council.

When a decision is “called in” it must be referred to the Principal Select Committee for a special or ‘extraordinary’ meeting to be held. Such meeting to be convened within **10** clear working days, for further consideration to enable the Committee to review the decision and make recommendations.

Where necessary and at the discretion of the Chairman of the Principal Select Committee, Executive Lead Members/Officers will engage in the process to allow Members to gather more information and consider the matter in more depth to make recommendations.

At the meeting, the Member who has proposed the call-in will have the opportunity to briefly explain his or her reasons to the Committee. The relevant Cabinet Executive Lead Member will then have the opportunity to briefly respond. Members of the Committee (and at the discretion of the Chair other elected Members) will then question the Cabinet Executive Lead Member and relevant officers about the decision. At the conclusion of the discussion, the Committee will determine what further action, if any, it wishes to take. The Committee may:

- (j) Refer the decision back to the Executive for reconsideration in the light of recommendations from the Committee.
- (ii) Request that the decision be deferred until the Principal Select Committee has considered relevant issues and made recommendations to the Executive.
- (iii) Take no action in relation to the called-in decision but consider whether issues arising from the call-in need to be added to the Select Work Programme.
- (iv) If, but only if (having taken the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that

the decision is wholly or partly outside the Budget and Policy Framework refer the matter, with any recommendations, to the Council after following the procedure in the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.

An Executive decision can only be called in once; repeated call-ins of the same decision are not permissible.

The Chief Executive will rule on whether this procedure has been properly followed.

Any matter that is called in should be dealt with in accordance with the Council's "Pre call-in Procedure and Attendance at Executive Protocol", which is set out below.

Minority reports/recommendations are not permissible for a call-in.

14. RIGHTS OF PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, AND OUTWARD FOCUS SELECT COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, Members of the Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee have the additional right to documents, and to notice of meetings as set out in the **Access to Information Procedure Rules in Part 4** of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Principal Select Committee as appropriate depending on the particular matter under consideration.

15. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) The Principal Select Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive, the Head of Paid Service and/or any Officer to attend before it to explain in relation to matters within their remit and subject to compliance with the relevant Member/Officer Interview Protocols:
 - i) Any particular decision or series of decisions;
 - ii) The extent to which the actions taken implement Council policy; and/or
 - iii) Their performance.

It is the duty of those persons to attend if so required.

- (b) The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee may require Executive Lead Members to report on the implementation and/or progress of approved review recommendations (within their areas of responsibility) no less than 3 months after completion of the review and agreement from the Executive
- (c) Where any Member or Officer is required to attend a meeting of the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee under this provision the approved protocols will apply.

16. ATTENDANCE BY OTHERS

The Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee may invite people to 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. Where any such person is to attend the protocol relating to Members of the Public will apply.

17. PROCEDURE AT PRINCIPAL SELECT COMMITTEE MEETINGS

- (a) The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee shall consider the following business:
 - i) To receive apologies for absence;
 - ii) Receive declarations of interest;
 - iii) The minutes of the last meeting;
 - iv) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision (usually facilitated through an extraordinary meeting);
 - v) Consideration of any matter referred to the Committee under Councillor Call for Action;
 - vi) Responses of the Executive to reports of the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee where appropriate; and
 - vii) The business otherwise set out on the agenda for the meeting.

18. PETITIONS

(a) Principal Select Committee Consideration

In accordance with the Council's Petition Scheme, petitions submitted to the Council containing **between 750 and 1,499 signatures** are considered by the Principal Select Committee.

The Principal Select Committee will invite an appropriate Council Officer to attend a meeting to give evidence in response to the petition. The Principal Select Committee may also decide to call any Member(s) relevant to the issue(s) set out in the petition to attend the meeting.

The petition organiser or nominated person is permitted a maximum of **15 minutes** to present the submitted petition and ask **three** questions relevant to the petition. Questions to be asked by the petition organiser or nominated person must be submitted to the Assistant Director – Democracy at least **10 clear working days** before the Principal Select Committee Meeting. Questions submitted as part of this process considered by the Chief Executive to be vexatious, discriminatory, abusive, unreasonable, or otherwise inappropriate will not be considered.

Following questions asked by the petition organiser or nominated person, a further **15 minutes maximum** is allocated for discussion between the Council Officer in attendance and Principal Select Committee Members.

Following consideration, Principal Select Committee Members may decide to approve recommendations to be submitted to a future meeting of the Council's Cabinet.

(b) Review

A petition organiser has a right to request that the Principal Select Committee reviews the steps taken by the Council in response to a petition. It is expected that the petition organiser will give a brief explanation including the reasons why the Council's response is not considered to be adequate. The Committee shall consider if the petition was dealt with adequately. If the Committee determines that a petition has not been dealt with adequately it may use any of its powers to deal with the matter.

The petition organiser will be informed of the outcome of the review within 5 working days of the meeting and the decision will be published on the Council's website.

19. MATTERS NOT WITHIN THE REMIT OF PRINCIPAL SELECT COMMITTEE, INWARD FOCUS SELECT COMMITTEE, OR OUTWARD FOCUS SELECT COMMITTEE

The following matters should not normally be considered by Select Committees:-

- (a) Day to day managerial and operational decisions by Officers.
- (b) Any matter previously agreed to be an urgent decision by the Chairman of the Principal Select Committee.
- (c) An executive decision which has already been the subject of consideration under the call-in procedure.
- (d) Regulatory or quasi-judicial decisions of the Council its Committees or Sub Committees or the Executive.
- (e) Matters relating to the conduct of individual Members or Officers which are being dealt with under the ethical framework established by Part III Local Government Act 2000 and the current disciplinary rules and procedure, respectively.
- (f) Urgent decisions under Rule 16 of the Access to Information Rules.

OVERVIEW AND SCRUTINY INTERVIEW PROTOCOL (MEMBERS)

1. Any Executive Member (or any other Member of the Council) invited to appear before the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will receive advance notification together with the proposed terms of reference or purpose of the meeting.
2. Every effort will be made to ensure that adequate notice is given of the date, time and place of the meeting and of the anticipated information and/or documentation that is likely to be requested by a Select Committee.
3. A written explanation of the procedures, including the public nature of the meeting will be given at the time of the invitation to attend. The written explanation shall include the nature of the evidence expected from Members. Subject to prior approval by the relevant Chairman, the Member so requested to appear before the Committee may be accompanied by the appropriate Executive Director or such other Officer as may be nominated.
4. Where considered to be appropriate, Members may be asked to prepare a written statement to deal with the matter or matters under investigation with a view to this being circulated to the Committee with the agenda.
5. At all times during the meeting everyone present will be treated with the utmost courtesy, respect, and consideration. All questions must be put openly and constructively.
6. Only one Member at a time may ask questions (questions will be asked in the order determined by the Chairman).
7. All questions asked of Members in attendance should relate to those areas where the Member has received advance notice, or in those instances where it is considered that the Member may have first-hand experience which is deemed to be beneficial to the investigation.
8. All parties must take extreme care to respect an individual's rights.

OVERVIEW AND SCRUTINY INTERVIEW PROTOCOL (OFFICERS)

1. Any Officer asked to appear before any of the Council's Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will receive advance notification together with the proposed terms of reference or purpose of the meeting.
2. Every effort will be made to ensure that adequate notice is given of the date, time, and place of the meeting and of the anticipated information and/or documentation that is likely to be requested by the Committee.
3. A written explanation of the procedures, including the public nature of the meeting will be given at the time of the invitation to attend. The written explanation shall include the nature of the evidence expected from Officers and of their requirement to be politically impartial.
4. Where considered to be appropriate, Officers will be asked to prepare a written statement to deal with the matter or matters under investigation with a view to this being circulated to the Committee with the agenda.
5. At all times during the meeting everyone present will be treated with the utmost courtesy, respect, and consideration. All questions must be put openly and constructively.
6. Only one Member at a time may ask questions (questions will be asked in the order determined by the Chairman).
7. Whilst undertaking scrutiny of decisions, Officer information will normally be given by an Executive Director or Assistant Director. In exceptional circumstances, a Member of the Committee may request the Chairman to consider asking the relevant Chief Officer for the attendance of a more junior Officer. However, when requesting such attendance the Member must supply to the Chairman reasons for the request. In the event of the Chief Officer being reluctant to accede to the request, the Chief Executive shall have the power to decide.
8. Where the review being undertaken relates to a review of policy (as opposed to a review of a decision being undertaken by the main Principal Select Committee), it will be appropriate for Members to meet with and listen to Officers at all levels within the Council provided always that prior authorisation has been given for such Officer attendance by the appropriate Executive Director or Assistant Director.

9. All questions asked of those Officers attending by virtue of paragraph 8 should relate to those areas where the Officer has received advance notice or in those instances where the Officer has “hands on” experience which is deemed to be beneficial to the investigation.
10. Extreme care must be taken by all parties to respect an individual Officer’s rights, especially if any matter or matters under consideration could ultimately result in the contemplation of disciplinary action or other proceedings.

OVERVIEW AND SCRUTINY INTERVIEW PROTOCOL (MEMBERS OF THE PUBLIC)

1. Any person invited (an 'Invitee') to appear before the Principal Select Committee, Inward Focus Select Committee, or Outward Focus Select Committee will receive advance notification together with the proposed terms of reference or purpose of the meeting.
2. Every effort will be made to ensure that adequate notice is given of the date, time and place of the meeting and of the anticipated information and/or documentation that is likely to be requested by a Select Committee.
3. A written explanation of the procedures, including the public nature of the meeting will be given at the time of the invitation to attend. The written explanation shall include the nature of the evidence expected from an Invitee.
4. Where considered to be appropriate, the Invitee may be asked to prepare a written statement to deal with the matter or matters under investigation with a view to this being circulated to the Select Committee with the agenda.
5. At all times during the meeting everyone present will be treated with the utmost courtesy, respect and consideration. All questions must be put openly and constructively.
6. Only one question may be asked at a time (questions will be asked in the order determined by the Chairman).
7. All questions asked should relate to those areas where the Invitee has received advance notice or in those instances where it is considered that he/she may have "hands on" experience which is deemed to be beneficial to the investigation.
8. Extreme care must be taken by all parties to respect an individual's rights.

PRE CALL-IN PROCEDURE AND ATTENDANCE AT CABINET PROTOCOL

1. Any Member considering the prospect of submitting a formal call-in as prescribed within **paragraph 13** of the Overview and Scrutiny Procedure Rules, is requested to comply with the provisions of this Protocol. Firstly, with regard to prior discussion with Executive colleagues and secondly, with respect to attendance at Executive meetings if the subject matter ultimately results in a call-in for reconsideration.
2. Upon receipt of the Executive agenda, Members are requested to carefully read all reports and their recommendation(s) together with the reasons given for the recommendation(s). If the proposal appears unwelcome the Member is required to firstly contact either the Leader, Deputy Leader or the Executive Lead Member for the particular function to discuss the areas of concern.
3. After discussion, the Member needs to be aware that any Member of the Council is entitled to attend a meeting of the Executive and with the consent of the Chairman of the meeting, take part in the discussion but not to vote.
4. If the Member has not consulted a Member of the Executive before the matter is discussed, or attended the meeting during its discussion, that Member is required to consult and discuss the decision with the relevant Executive Lead Member or the Leader or Deputy Leader before instigating the call-in procedure.
5. If after any or all of the above steps have been exhausted a Member still wishes the matter to be called in and reconsidered, the terms of **paragraph 13** will apply. This requires **5 Members** lying outside of the Executive to signify to the Chief Executive that they support the application for the call-in and reconsideration.
6. If the call-in is validly made to the Chief Executive, and all pre-call in procedures have been followed, the matter will be referred within 10 working days to a special meeting of the Principal Select Committee who have the option to ask the Executive to reconsider its decision or make recommendations to it.
7. The originator of the call-in application and the Chairman of the Principal Select Committee have the right to attend if/when that Executive meeting is asked to reconsider its decision or consider further recommendations put forward and place before the Executive, its decision and any recommendations.
8. In reconsidering the matter the Executive must formally respond to the Principal Select Committee giving clear explanations as to the reasons for either accepting or declining any recommendations made.

9. At all times during the meeting everyone present will be treated with the utmost courtesy, respect and consideration. Any questions made to or by either the originator of the application, the Chairman of the Principal Select Committee or any Executive Member must be put openly and constructively.
10. Normal rules of debate are to apply and only one Member at a time may speak as determined by the Chairman.
11. Extreme care must be taken by all parties to respect an individual Member's rights.
12. A call-in will be approved by the Chief Executive subject to the above procedures being followed.

INTRODUCTION TO FINANCIAL REGULATIONS

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INTRODUCTION TO FINANCIAL REGULATIONS

1. Financial Regulations provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf.
2. The Regulations identify the financial responsibilities of the Council, the Cabinet and Select Committee Members, the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, and other Chief Officers.

The Council has designated the following posts as shown:

POST	DESIGNATION
Chief Executive	Head of Paid Service (Also Chief Officer)
Executive Directors	Chief Officers
Executive Director of Governance	Monitoring Officer
Corporate Resource Director & Section 151 Officer	Chief Finance Officer

Cabinet Members and Chief Officers must maintain a written record where decision making has been delegated to members of their staff, including seconded staff.

3. These Financial Regulations are complementary to:
 - a) any legislation affecting the functions of the Council;
 - b) the Standing Orders of the Council;
 - c) the Codes of Conduct for Members and Employees;
 - d) the UK Public Procurement Directives;
 - e) any directions agreed under any agreement where the Council acts as agent for other organisations

and shall be applied in conjunction herewith;

Chief Officers are responsible for promoting the financial management standards set by the Chief Finance Officer amongst all relevant staff and for monitoring adherence to the standards and practices, liaising with the Chief Finance Officer.

4. All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
5. Chief Officers are responsible for ensuring that all Officers under their control are aware of the existence and extent of the Council's financial rules and other internal regulatory documents and that they comply with them.

6. Breaches of Financial Regulations and Contracts Procedure Rules shall be referred to the Chief Finance Officer and the Monitoring Officer for investigation. Disciplinary procedures will be invoked where appropriate.

FINANCIAL REGULATIONS

FINANCIAL REGULATION A: FINANCIAL MANAGEMENT

INTRODUCTION

A.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the Policy Framework and Budget.

THE COUNCIL

A.2 The Council is responsible for adopting the Council's Constitution, the Members' Code of Conduct and for approving the Policy Framework and Budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The Framework is set out in its Constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.

A.3 The 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 or Sub Committees. The scheme of delegations and details of who has responsibility for which decisions are set out in the Constitution.

THE CABINET

A.4 The Cabinet is responsible for proposing the Policy Framework and Budget to the Council, and for discharging Cabinet functions in accordance with the Policy Framework and Budget.

A.5 Cabinet decisions can be delegated to a Committee of the Cabinet, an individual Executive Lead Member, an Officer or a joint committee.

A.6 The Cabinet is responsible for establishing protocols to ensure that individual Executive Lead Members consult with relevant Officers before taking a decision within his or her delegated authority. In doing so, the Member must take account of legal and financial liabilities and the principles of decision making as referred to in paragraph 13.02 of Article 13 of the Council's Constitution; namely:

- a) 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;
- d) A presumption in favour of openness; and
- e) Clarity of aims and desired outcomes.

COMMITTEES OF THE COUNCIL

Principal Select Committee

A.7 The Principal Select Committee is responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Standards and Personnel Appeals Committee

A.8 The Standards and Personnel Appeals Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the Code.

Regulatory Committees

A.9 Planning and Licensing Committees are not Executive functions but are exercised through powers delegated by the Council. These Committees report to the Council. The Audit Committee is responsible for independent assurance about the management's arrangements for ensuring a sound system of internal control which facilitates the effective exercise of the Council's functions and ensuring it has appropriate arrangements for the management of risk.

THE STATUTORY OFFICERS

Head of Paid Service

A.10 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He or she must report to and provide information for the Cabinet, the Council, the Principal Select Committee 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 Council's decisions (see below).

Monitoring Officer

A.11 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and ethics and therefore provides support to the Standards and Personnel Appeals Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting Key Decisions are operating effectively.

A.12 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 responsibility.

A.13 The Monitoring Officer is responsible for advising all Councillors and Officers about who has authority to take a particular decision.

A.14 The Monitoring Officer is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Policy Framework.

A.15 The Monitoring Officer (together with the Chief Finance Officer) is responsible for advising the Cabinet or 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;
- Committing expenditure in future years to above the budget level;
- Incurring inter-divisional 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.

A.16 The Monitoring Officer is responsible for maintaining the Council's Constitution.

Chief Finance Officer

A.17 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Local Government Act 2000;
- The Local Government Act 2003;
- The Local Audit and Accountability Act 2014; and
- The Accounts and Audit Regulations 2015

A.18 The Chief Finance Officer is responsible for:

- The proper administration of the Council's financial affairs;
- Setting and monitoring compliance with financial management standards;
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- Providing financial information;
- Preparing the Revenue Budget and Capital Programme; and
- Treasury Management.

A.19 The Chief Finance Officer shall:

- a) Report to the Cabinet with respect to the level of financial resources estimated to be available in each financial year;
- b) Report at least once per year informing Cabinet of the Council's financial position and performance.

A.20 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Council, Cabinet and External Auditor if the Council or one of its Officers:

- Incurs unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
- Has made, or is about to make, a decision which involves incurring an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally.
- The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114.

CHIEF OFFICERS

A.21 Chief Officers are responsible for ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.

A.22 It is the responsibility of Chief Officers to consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

A.23 Chief Officers are responsible for the accountability and control of resources consumed and generated by their Directorates.

OTHER FINANCIAL ACCOUNTABILITIES

Virement

A.24 The Council is responsible for agreeing procedures for virement of expenditure between budget headings.

Treatment of Year-End Balances

A.25 The Council is responsible for agreeing procedures for carrying forward revenue underspends on budget headings. (NB - The Council has decided that under Financial Regulation A.25 delegated authority be granted to the Chief Finance Officer in consultation with the Chief Executive and the appropriate Executive Lead Member responsible for Finance to approve the carry forward of an underspend up to a limit of £15,000. Carry forward of underspends in excess of £15,000 must be approved by the Cabinet).

The carry forward should be in respect of unusual items of expenditure that are sufficiently committed, but cannot be accounted for in the original year, and cannot be absorbed in the new year's budget.

All underspends on service estimates carried forward must be reported to Council.

Accounting Policies

A.26 The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently. These are considered annually by the Audit Committee.

Accounting Records and Returns

A.27 All accounting procedures and financial records of the Council and its Services shall be in an approved form subject to the approval of the Chief Finance Officer.

The Annual Statement of Accounts

A.28 The Chief Finance Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the current Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting in the United Kingdom based on International Financial Reporting Standards. The Audit Committee is responsible for approving the Annual Statement of Accounts.

FINANCIAL REGULATION B: FINANCIAL PLANNING

INTRODUCTION

B.1 The Council is responsible for agreeing the Council's Policy Framework and Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- The Corporate Plan;
- The Budget;
- The Capital Programme;
- The Capital Strategy;
- The Medium Term Financial Strategy; and
- The Treasury Management Strategy

B.2 The Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Decisions should be referred to the Council by the Monitoring Officer.

B.3 The Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. 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.

Preparation of the Corporate Plan

B.4 The Head of Paid Service is responsible for proposing the Corporate Plan to the Cabinet for consideration before its submission to the Council for approval.

Preparation of the Medium Term Financial Strategy

B.5 The Chief Finance Officer is responsible for the development and maintenance of the Council's Medium Term Financial Strategy and for obtaining Council approval of the evolving Strategy. The Strategy sets out the way in which the Council's financial resources are aligned to the delivery of the Corporate Plan and the maintenance of prudent levels of finance reserves.

BUDGETING

B.6 The Chief Finance Officer shall report annually to the Cabinet upon the Revenue and Capital Estimates for all the Council's functions. The Chief Finance Officer shall prepare and update at least annually a three-year rolling Revenue Budget and Capital Forecast. Each year, the Cabinet shall consider and recommend, based on corporate priorities, the strategic allocation of resources to services and submit a report to the Council.

B.7 The pre-arranged format and timescale of the Estimates shall be determined by the Chief Finance Officer. It is the responsibility of Chief Officers to ensure that Budget Estimates reflecting agreed Service Plans are submitted to the Chief Finance Officer and that these Estimates are prepared in line with guidance issued by the Chief Finance Officer.

Budget Monitoring and Control

B.8 (a) Chief Officers shall:

- i. Only incur expenditure on revenue services where there is an approved budget in that financial year;
- ii. Only incur expenditure on a capital project where that project is in the Council's Capital Programme as applied to that financial year. Where new projects are proposed, the Cabinet shall consider corporate priorities and affordability and make any necessary recommendation by submitting a report to the Council.
- iii. Note that a capital project will only be considered for inclusion in the Capital Programme if it meets the definition as outlined in the Capital Strategy i.e. expenditure on the acquisition, creation or enhancement of tangible fixed assets that yields benefits to the Council and the services it provides for a period of more than one year. The total cost of the project should exceed £10,000 to be considered as capital expenditure.

Capital expenditure is defined as:

- The acquisition, reclamation, enhancement or laying out of land;
- The acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures and;
- The acquisition, installation or replacement of moveable or immovable plant, machinery or apparatus, vehicles and vessels.

Expenditure on existing assets can be capitalised expenditure where it:

- Is intended to lengthen substantially the useful life of the asset, or increase substantially the market value of the asset; or
- Increase substantially the extent to which the asset can or will be used for the purposes of or in conjunction with the functions of the Council.

It does not include expenditure that merely maintains the value of an existing asset e.g. major repairs.

- iv. Monitor and regulate the financial performance for those services where there is Directorate responsibility. Where in exceptional or unexpected circumstances a Service is faced with a material increase in its net expenditure, which cannot reasonably be contained within its resource allocation figure for the year, the

Chief Officer must (wherever possible, prior to incurring the expenditure) submit a request to Cabinet for a Supplementary Estimate (a Supplementary estimate is a budget increase greater than that already approved by Council at the annual budget setting meeting) to cover the additional expenditure. The Cabinet may only approve the request if the expenditure can be met from within the overall budget and is within the financial limits set by the Council regarding the reallocation of budget funds from one service to another.

The decision to approve, or otherwise, expenditure exceeding the overall budget must be made by the Council who will also decide how this will be funded as outlined in B.2 and B.3.

- (d) The Chief Finance Officer shall ensure that each Chief Officer has access to current statements of receipts and payments for those services under his/her control;
- (e) The foregoing shall be subject to the rules governing virement in B.10 below.

Budgetary Control – Capital

B.9 The approved annual capital estimate for each specific project shall not be exceeded. Where, in exceptional or unexpected circumstances, a Service is faced with an increase in the capital estimate, the Chief Officer must (wherever possible prior to incurring the expenditure) notify the Chief Finance Officer and Cabinet. Cabinet may only approve additional expenditure on a specific project if it can be met from the Capital Budget for the year and does not increase the cost of the life of the approved Capital Programme. The decision to approve or otherwise expenditure exceeding the overall budget must be made by Council who will decide how this will be funded as outlined in B.3 and B.4.

Budgetary Control - Virement

B.10 Once a budget has been approved, a Chief Officer can make a transfer of up to £20,000 between budget heads within that Service Area, if, in the opinion of the Chief Officer, it is in the best interests of the Council. A Chief Officer can, following approval by the Chief Finance Officer and the Executive Lead Member responsible for Finance make a transfer of up to £50,000 between budget heads.

Virements within Revenue budgets may be made subject to the following:-

- i) Virements are not divided into lots to circumvent the financial limits prescribed.
- ii) Where the transfer involves the transfer of budgets from staffing budgets to non-staffing budgets and vice versa, approval must also be sought from the Head of Paid Service.
- iii) Virements may only take place if there is no significant change in policy involved.

- iv) Virements between budgets of different Executive Lead Members or between different Chief Officers shall require the approval of Cabinet.

Virements between £50,000 and £100,000 will require approval by Cabinet. Any amounts in excess of £100,000 will require approval by Council.

Re-allocation of budgets following service reviews and reorganisations do not constitute virements.

Emergencies or Disasters

B.11 The Head of Paid Service and/or the Chief Finance Officer may incur expenditure or utilise resources which are essential to meet any immediate needs and shall suitably report to the Cabinet.

USE OF RESERVES

B.12 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax. A general reserve (or working balance) is maintained as a matter of prudence. It enables the Council to provide for unexpected events and thereby protect it from overspending should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

Key controls for the maintenance of reserves:

- Maintaining reserves in accordance with the relevant CIPFA Accounting Code of Practice and the Reserves Policy
- For each reserve established, the purpose, usage and the basis of transactions should be clearly identified
- Specific approval by the Head of Paid Service in consultation with the Chief Finance Officer for all use of earmarked reserves for a specific project up to £50,000
- A recommendation to Cabinet for amounts for a specific project in excess of £50,000 but under £100,000.
- Where external funding/contributions are made available to support specific projects/schemes, regardless of value, these funds can be accessed without consideration of the above financial limits. In these instances an Officer Decision Record (ODR) will be completed.
- The Council's General Fund minimum balance must be at least £1.35million.

It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or full Council on prudent levels of reserves for the Council to hold, and to take account of advice from the external auditor in this matter.

FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES

INTRODUCTION

C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

RISK MANAGEMENT

C.2 The Cabinet is responsible for recommending approval of the Council's Risk Management Policy Statement and Strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

C.3 The Chief Finance Officer is responsible for preparing the Council's Risk Management Policy Statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

INTERNAL CONTROL

C.4 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

C.5 The Chief Finance 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.

C.6 It is the responsibility of Chief Officers 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.

C.7 The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording amounts, shall be separated as completely as possible for the duty of collecting or disbursing them.

AUDIT REQUIREMENTS

C.8 In accordance with the Accounts and Audit Regulations 2015, the Chief Finance Officer shall have responsibility for arranging a continuous internal audit of accounting, financial and other operations of the Council. The Council shall, at least once in each year, conduct a review of effectiveness of its system of internal audit and report the findings of the review to the Audit Committee.

C.9 Internal Audit will have the responsibility to review, appraise and report as necessary on:

- a) The adequacy and effectiveness of the control environment comprising of risk management, control and governance;
- b) The extent of compliance with Financial Regulations and Contract Procedure Rules and approved procedures of the Council plus the extent of compliance with external laws and regulation;
- c) The extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from waste, inefficiency, administration, poor value of money, fraud or other cause;
- d) The integrity of processes and systems, including those under development, to ensure that controls offer adequate protection against error, fraud and loss of any kind.

C.10 The Chief Finance Officer, or any other authorised officer, shall have authority to:

- a) Enter any Council owned or occupied premises or land at all times (subject to any legal restriction outside the Council's control);
- b) Have access at all times to all records, documents and correspondence relating to any transaction of the Council;
- c) Require and receive such explanations as are necessary concerning any matter under examination; and
- d) Require any Officer or Member of the Council to produce cash, stores or any other Council owned property under their control.

C.11 If a Chief Officer becomes aware of, or reasonably suspects, some irregularity concerning cash, stores or other Council property, or some irregularity concerning the exercise of some Council function, the Chief Officer shall, forthwith, notify the Head of Paid Service and the Chief Finance Officer. If appropriate, the Chief Officer shall also notify the Monitoring Officer. Upon receipt of such notification these Officers shall take such steps as they, or one of them, may consider necessary, including (if appropriate) arrangements for investigation and report in accordance with the Counter Fraud Strategy.

C.12 Financial Regulations C.8 to C.11 above are inclusive and complementary to and not a substitution for the statutory audit undertaken by the External Auditors or for the External Auditors' statutory rights of access. They do not diminish each Chief Officer's responsibility to take adequate measures to safeguard the Council's cash, stores and other property and assets.

C.13 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

ASSETS

LAND AND BUILDINGS

C.14 Transactions involving land and buildings shall be effected in accordance with the Code of Procedures for the Disposal of Land and Buildings.

C.15 The Executive Director of Governance shall maintain suitable and sufficient records relating to all the Council's land and buildings.

C.16 The Executive Director of Governance shall ensure the secure custody of all title deeds.

INVENTORIES

C.17 Chief Officers shall ensure that:

- a) Responsible officer(s) are nominated to maintain inventories;
- b) Inventories are maintained for their Services, in a form agreed with the Chief Finance Officer, recording an adequate description of furniture, fittings and equipment and plant and machinery (excluding I.T Equipment).

A copy of the inventory shall be forwarded to the Chief Finance Officer who shall make suitable arrangements for its storage in a separate location.

Leased items should be included on the Inventory but clearly marked as such.

In addition to the Service inventory, equipment purchased by the Information Technology Section, including that purchased on behalf of other Services shall be recorded on the Information Technology Inventory.

- c) There is an annual physical check of all inventory items. Surpluses or deficiencies (with reasons if ascertainable) shall be recorded in the inventory and reported to the Chief Finance Officer. The Chief Finance Officer shall consider any such report in the context of C.11 above.
- d) Items appearing on the inventory (excluding leased items) shall be 'smart water marked' as property of the Council.
- e) Where an Officer ceases to be the responsible officer, an immediate check of the inventory shall be made and be the subject of a report as described in (c) above.

- f) In the event of any Council equipment being made available to any third party (where this is authorised) an inventory shall be produced which shall be agreed in writing with the third party who shall be responsible for the equipment for the duration of its use.

STOCKS AND STORES

C.18 Chief Officers shall:

- a) Be accountable for the stocks and stores under their control;
- b) If appropriate, determine maximum stock levels and ensure that stocks do not then exceed such levels except in special circumstances with the approval of the Chief Finance Officer; where it is inappropriate to determine maximum stock levels Chief Officers shall ensure that actual stocks are not excessive;
- c) Make arrangements for continual stocktaking covering all items at least once per year. Stocktaking procedures shall be conducted by persons not involved in the receipt and issue of stock;
- d) Supply to the Chief Finance Officer such information as may be required for the financial records;
- e) Be authorised to approve the write-off of any single item of stock valued at £1,000 or under; or a number of items on the same stock code valued at £1,000 or under. Reasons for write-off and authorisation shall be clearly documented and notified to the Chief Finance Officer. All other amounts shall require approval by the Chief Finance Officer.
- f) Determine the appropriate course of action, such action may include:
 - i. Adjustments to the stock records;
 - ii. Disposal by competitive tender, auction or other suitable methods; and
 - iii. In any event comply with C.11 above.
- g) Stocks and Stores should be issued to Council employees only, subject to them having the necessary authorisation to withdraw stores. Authorised Council employees should not withdraw stocks and stores for use by anyone else other than Council employees.

SECURITY

C.19 Chief Officers shall:

- a) Ensure that proper arrangements exist for the security of Council property;
- b) Arrange for the safe custody of keys to safes and other key secured areas. The loss of such keys must be reported to the Chief Finance Officer immediately the loss is discovered;

- c) Consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed; and
- d) Ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure is in place.

C.20 Chief Officers shall be responsible for maintaining proper security and privacy regarding information held on computer for its use, in accordance with the Data Protection Act 1984 and 1998 and the Computer Misuse Act 1990, amended by the Police and Justice Act 2006.

BANKING ARRANGEMENTS

C.21 Arrangements with the Council's bankers shall be made by the Chief Finance Officer, who is hereby authorised to operate bank accounts.

C.22 Cheques shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.

C.23 Cheques drawn on the Council's Bank Accounts shall bear the signature of the Chief Finance Officer (either facsimile or manuscript). All cheques in excess of £50,000 shall bear an additional authorised signatory.

C.24 The Chief Finance Officer shall approve the appropriate procedures for payments made via electronic transfer. No payment is to be made by the Council via Direct Debit without the relevant mandate having first of all been authorised by the Corporate Resource Director.

PETTY CASH AND FLOAT ACCOUNTS

C.25 The Chief Finance Officer shall issue detailed guidance as to the operation and management of these accounts and shall determine whether an account in any area of the Council is necessary.

C.26 Chief Officers shall ensure that:

- a) Each account is accurately maintained on an imprest system;
- b) Petty Cash accounts shall only be used for minor items of expenditure, not exceeding £25 or other items as they may approve. All payments shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require and in particular to enable the recovery of Value Added Tax;
- c) Such accounts must not be used for depositing income collected (see D.28 below) nor for the payment of Officer expenses nor for Officer's personal expenditure;
- d) The Officer responsible for an account shall make adequate provision for the security of the cash and accounting records;

- e) On leaving the employment of the Council or otherwise ceasing to hold an imprest advance, the Officer shall account to the Chief Finance Officer for the amounts advanced to him/her and payments made.

TREASURY MANAGEMENT

C.27 The Council's Treasury Management policies and practices shall conform to the CIPFA Code of Practice "Treasury Management in the Public Sector" and associated sector-specific guidance subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.

C.28 The Council shall adopt and maintain:

- A Treasury Management Policy Statement, setting out the policies, objectives and the approach to risk of its Treasury Management activities; and
- A range of Treasury Management Practice Notes (TMPs), setting out the manner in which the Council will pursue those policies and objectives and prescribing how it will manage and control those activities.

C.29 The Chief Finance Officer shall be responsible for the execution and administration of Treasury Management decisions in accordance with the Council's Policy Statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.

C.30 The Cabinet shall be responsible for the implementation and regular monitoring of Treasury Management policies and practices and will receive, as a minimum, each year reports setting out the Annual Treasury Management Strategy and Plan for the coming year; a mid-year review and an annual Treasury Management Performance Report as prescribed in the relevant TMPs.

C.31 The Audit Committee is responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies.

C.32 Where the Council acts as a Trustee to a Fund or Charity, all funds shall be kept in the name of the Council unless the terms of the Trust require otherwise.

C.33 All securities held for Trust Funds shall be deposited with the Chief Finance Officer.

C.34 Financial transactions of Trust Funds shall be authorised by the Chief Finance Officer who shall ensure that proper accounting records are maintained.

C.35 All income and payments of the Trust Fund shall be in accordance with the Council's Financial Regulations unless the terms of the Trust require otherwise. All investments and borrowing shall be made in the name of the Council or exceptionally in the name of nominees expressly approved by the Cabinet.

INSURANCES

C.36 The Chief Finance Officer shall:

- a) Arrange sufficient insurance cover, either internally or externally, as is considered appropriate, co-ordinate all claims and advise other Officers, where necessary, on the negotiation of claims;
- b) Annually, or at such other shorter period as may be considered necessary, review all insurances in consultation with other Chief Officers as appropriate.

C.37 Chief Officers shall without delay consult with the Chief Finance Officer in respect of:

- a) The terms of any indemnity which the Council is requested to give;
- b) All new risks and property which may be required to be insured and any alterations affecting existing insurance; and
- c) Any loss, liability or damage or any event likely to lead to a claim.

C.38 Chief Officers shall submit to the Chief Finance Officer completed claims for transmission to the Council's Insurance Broker or Insurers as appropriate.

C.39 The Chief Finance Officer shall report annually to the Cabinet on the performance of the Internal Insurance Fund.

STAFFING

C.40 The appointment of employees shall be regulated by the Council and in accordance with the approved establishments, grades and rates of pay.

C.41 Chief Officers are responsible for providing overall management to employees. The HR & Payroll Manager, under the direction of the appropriate Executive Director is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

C.42 Chief Officers are responsible for controlling total employee numbers by:

- Advising the Cabinet on the budget necessary in any given year to cover estimated employee levels;
- Adjusting the employee resources 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; and
- The proper use of appointment procedures.

FINANCIAL REGULATION D: SYSTEMS & PROCEDURES

INTRODUCTION

D.1 The Accounts and Audit Regulations specify that the Council must ensure that it has a sound system of internal control which—

- (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
- (b) ensures that the financial and operational management of the authority is effective; and
- (c) includes effective arrangements for the management of risk.

GENERAL

D.2 All accounting procedures and financial records of the Council and its Services shall be in an approved form subject to the approval of the Chief Finance Officer. Any proposed changes to financial procedures shall not be implemented without consultation with and approval by the Chief Finance Officer.

D.3 The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording such amounts, shall be separated as completely as possible from the duty of collecting and disbursing them.

D.4 Chief Officers must ensure that all their Officers receive relevant financial training that has been approved by the Chief Finance Officer. The Chief Finance Officer shall determine the level of financial knowledge and awareness required of the Council's Officers and develop, and ensure ongoing delivery of, an appropriate programme of financial training.

D.5 Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation. Chief Officers must ensure that Officers are aware of their responsibilities under Data Protection, Freedom of Information and other legislation relating to information technology and the Council's collection, storage and use of data.

AUTHORISED SIGNATORIES

D.6 Prior to the beginning of each financial year, the Chief Finance Officer shall require each Chief Officer to supply a list of Officers, together with specimen signatures, authorised to certify documents which will result in expenditure being incurred. The lists shall also form the basis of electronic authorisation on the electronic purchase ordering system.

D.7 Any changes of authorised signatories during a financial year shall be notified immediately by the appropriate Chief Officer to the Chief Finance Officer.

ORDERS FOR WORK, GOODS AND SERVICES

D.8 All work, goods or services to be supplied to the Council shall be ordered through the Council's electronic purchase ordering system unless the Chief Finance Officer authorises alternative arrangements. The Chief Finance Officer has specified alternative arrangements for the following generic categories of procurement:

- Supplies of public utility services;
- Periodic payments such as rent or rates;
- Work which is part of a formal contract (excluding term or schedule of rates contracts);
- Credit Card purchases; and
- Approved Purchase Card transactions.

Procedural Instructions for each of these procurement categories are maintained by Corporate Finance.

D.9 Chief Officers must ensure their Officers comply fully with D8. If a Chief Officer considers that there are further categories of procurement where it is inappropriate to make use of the e-ordering system, they may make a case to the Chief Finance Officer for a further exemption. The Chief Finance Officer shall determine whether any exemption is granted after being satisfied that alternative arrangements provide an acceptable level of control.

D.10 Orders for goods and services shall not be issued unless the expenditure is included in an approved estimate or other specified financial provision.

D.11 Each order shall conform to the directions of the Council with respect to the central purchasing, use of contracts and the standardisation of supplies and materials. Each order shall be placed with due regard to the Contract Procedure Rules.

D.12 Official orders shall clearly indicate the nature and quantity of the work and services required and any relevant contract or agreed prices.

D.13 Verbal orders shall not be used except in case of emergencies occurring outside of normal office hours. A Confirmation Order - clearly marked as such - shall be sent to the supplier on the next working day.

D.14 Official orders must not be raised for any personal or private purchases nor must personal or private use be made of Council contracts. This includes the use of Purchase Cards in the name of Ashfield District Council for personal use.

RECEIPT OF GOODS

D.15 Delivery notes should, where appropriate, accompany the delivery of goods and the receiving Officer must certify thereon, at the time of delivery, receipt of the goods and, if necessary qualify the delivery note in respect of missing or substituted goods; damaged items must not be accepted. Where ordered and delivered by weight or volume, the receiving Officer shall make such periodical tests as are necessary to ensure that the quantities charged have actually been delivered. Details of all delivery notes must be entered onto the Council's ordering system; matched against the order and retained in accordance with the document retention guidelines. Where there is no delivery note an acknowledgement should be entered onto the ordering system to confirm that the goods or service have been received.

PAYMENT OF ACCOUNTS DUE

D.16 Payment of money due from the Council shall be in a form approved by the Chief Finance Officer and drawn on the Council's bank accounts.

D.17 In accordance with the procedures outlined in D.6 & D.7 above, an authorised Officer shall be responsible for examining, verifying and certifying invoices and other payment vouchers or accounts arising from sources in the authorised Officer's Department.

D.18 Before certifying an account for payment, or any other payment voucher, the authorised Officer shall be satisfied that:

- a) Financial Regulation D.3 above, separation of duties, has been complied with;
- b) The work, goods or services to which the account relates have been carried out, received, examined and approved, and orders referenced accordingly;
- c) The prices, calculations, trade discounts, other allowances, credits and Value Added Tax (VAT) are correct;
- d) The expenditure has been properly incurred, is within the relevant estimate provision and is correctly coded to the service or account to which it is properly chargeable;
- e) Appropriate entries have been made in inventories and stores records as required;
- f) The account has not been previously paid, that the official order has been matched against the goods received note, or equivalent to prevent duplicate payment and that payment is a proper liability of the Council; and
- g) Under no circumstances should supplier reminders and statements be used to enable payment to a supplier even if an official order exists. The use of copy invoices should be avoided. In situations where it is necessary, the copy invoice should be returned to the Directorate issuing the order and the authorising officer be required to complete, sign and date the following statement on the invoice:

“I certify this copy supplier invoice has not been paid previously and I have undertaken the necessary checks to confirm this fact”.

- h) Incorrect supplier invoices should not be amended by Council employees. They should be returned to the supplier with a request to provide an invoice for the correct amount or a credit note.
- i) Where the item of expenditure is subject to VAT either:
 - A VAT invoice is obtained to ensure that the appropriate amount can be recovered; or
 - A VAT receipt is obtained and forwarded to the Chief Finance Officer.

Where payment is made by purchase card, it may not be possible to comply with (b), (f) and (g) above but Officers must ensure compliance with the other items (a), (c), (d), and with the guidance for the use of purchase cards.

D.19 Suitably certified accounts for payment shall be forwarded to the Chief Finance Officer in accordance with the instructions issued from time to time.

D.20 Contractor payments that are subject to phased payments based on value of work completed to date and where the contractors are VAT registered should comply with the VAT guidance on self billing. The reason being that VAT due is being determined by the Council based on value of work and therefore should be included in the payment to the contractor. The criteria of the scheme include:-

- i. The agreement of the contractor.
- ii. The contractor name, address and VAT registration is stated on each of the staged certificate payments.
- iii. The staged payment certificate states “THE VAT SHOWN IS YOUR OUTPUT TAX DUE TO CUSTOMS & EXCISE”.
- iv. A copy of the certificate is provided to the contractor.
- v. The contractor must not raise VAT invoices for supplies covered by the agreement.

D.21 Before authorising payments to a sub-contractor, as defined by His Majesty’s Revenue & Customs (HMRC), for construction work carried out, the certifying Officer of the service concerned shall satisfy himself/herself that the subcontractor to whom payment is due is the holder of a valid Sub-Contractors Tax Certificate issued by the HMRC, otherwise tax at the appropriate rate must be deducted as required by any statutory provisions in being at that time.

D.22 Duly certified accounts shall be passed without delay to the Chief Finance Officer who shall examine them to the extent that he/she considers necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may require.

PAYMENTS TO EMPLOYEES AND MEMBERS

D.23 The Chief Finance Officer shall control the payment of all salaries, wages and other emoluments.

D.24 Each Chief Officer shall notify the HR & Payroll Manager at the Mansfield & Ashfield Shared Service as soon as possible, and in a form prescribed by him/her, of all matters affecting payment of salaries and wages and in particular:

- a) Appointments, resignations, dismissals, suspensions, secondment and transfers;
- b) Absences from duty for sickness or other reason, apart from approved leave with pay;
- c) Changes in remuneration, other than normal increments, pay awards and agreements of general application;
- d) Information necessary to maintain records of service for superannuation, income tax, national insurance, etc;
- e) Certified travel and subsistence claims and other allowances. Certification is taken to mean journeys were authorised and expenses properly and necessarily incurred, and that allowances were properly payable by the Council, ensuring that cost effective use of travel arrangements is achieved.

D.25 Members' Allowances shall be paid in accordance with a scheme approved by the Council.

D.26 Pay documents shall be in a form approved by the Chief Finance Officer and shall after signing by the claimant be certified in accordance with D.6 above.

D.27 Each Chief Officer, in conjunction with the Chief Finance Officer shall make arrangements to annually confirm the authenticity of those employees appearing on the payroll for his/her Directorate. Such arrangements shall include the verification of individual rates of pay.

INCOME

D.28 The Chief Finance Officer shall approve all procedures affecting income due to the Council.

D.29 Chief Officers shall:

- i. Ensure compliance with such procedures;

- ii. Have adequate controls for the custody and use of all receipt books and other receipting facilities;
- iii. Prior to reporting to the Cabinet and at least annually, review the scheme of charges applicable in their Directorates and this shall be done in consultation with the Chief Finance Officer;
- iv. Ensure that for any payment wherever feasible, income will be collected on a prepayment basis i.e. prior to delivery of the goods or services being supplied;
- v. Seek prompt payment by utilising the most secure and efficient methods of payment; and
- vi. Ensure that where appropriate the supply of any service by the Council is supported by a written agreement between the parties.

Receipts and Depositing of Income

D.30 All receipts and depositing of income must comply with the Accounts and Audit Regulations 2015 (or any replacement or re-enactment thereof) as more particularly detailed in the principles below:

- a) Every payment received on behalf of the Council shall, without delay, be acknowledged by the issue of an official receipt;
- b) Where Council income, in whatever form, necessarily passes from one Officer to another, the receiving Officer shall sign an appropriate form of receipt, which shall be retained in the Directorate records of the Officer who passed the income to the receiving Officer;
- c) Chief Officers shall ensure that all income is collected and deposited without delay in the Council's appropriate bank account as directed by the Chief Finance Officer. Further, that adequate detail of receipts and specific records of cheques are kept which refer to the original debt. The cheque values and references to the debts shall be entered on the deposit slip, which shall identify the collecting Officer and Directorate;
- d) All cheques accepted in payment of a debt shall be made payable to Ashfield District Council. Cheques not made payable to Ashfield District Council shall only be accepted with the specific approval of the Chief Finance Officer;
- e) No Officer shall obtain personally, or for a third party, any pecuniary advantage involving the use of any Council funds and, without prejudice to the generality of this requirement, no Officer shall exchange a personal cheque for Council funds;
- f) No deductions shall be made from income received without the specific approval of the Chief Finance Officer;

- g) Income shall be deposited on a daily basis except where the Chief Finance Officer determines otherwise. Where income has not been deposited on a daily basis, the total value kept overnight shall not exceed the limits determined in the Council's insurance policies. Information relating to these limits is available from the Chief Finance Officer;
- h) The Chief Finance Officer shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer shall have the right to inspect any documents or other evidence in this connection as he/she may decide; and
- i) Post-dated cheques shall not be accepted.

Irrecoverables

D.31 All requests for write-off must be submitted on the approved form and processed in accordance with the following:

- a) The Chief Finance Officer may authorise the writing off of individual irrecoverable debts not exceeding £5,000 plus any debts subject to claims in bankruptcy and liquidation proceedings and death where the debt is not recoverable from the deceased's estate;
- b) The Chief Finance Officer, in conjunction with the Executive Lead Member responsible for Finance may authorise amounts between £5,000 and £10,000; and
- c) Proposals to write off amounts in excess of £10,000 (not covered by D.31 a) above) shall be referred to Cabinet.

All amounts submitted for write-off (regardless of value) shall be supported by reasons given by the appropriate Chief Officer for the Directorate which raised the debt for the proposal.

D.32 Outstanding debts will still be pursued after write-off should information be received which indicates that there is a possibility that the debt can legally be recovered.

Sundry Debtor Accounts

D.33 Sundry Debtor accounts shall be raised promptly for all amounts due to the Council except where otherwise approved by the Chief Finance Officer.

D.34 Reductions to accounts raised should only be to correct charges raised in error. The reductions (where necessary) shall only be made by the use of credit notes approved in accordance with the required procedures. Credit notes should not be used to clear unpaid legally collectable debts.

D.35 The Chief Finance Officer is responsible for the collection of all debts owed to the Council. Debts outstanding will be pursued in accordance with the Council's debt recovery procedures. Agreement terms with debtors to recover outstanding debts will be determined by the Recovery Team in line with policy guidance approved by the Chief Finance Officer.

D.36 Where legitimate charges raised remain unpaid after all elements of the recovery process have been completed, these charges should be submitted to the Chief Finance Officer for formal write off in accordance with Section D31 – Irrecoverables.

TAXATION

D.37 The Chief Finance 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 Council.

D.38 The Chief Finance Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

TRADING ACCOUNTS/BUSINESS UNITS

D.39 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

MISCELLANEOUS

Retention periods

D.40 The original documents (or suitable copies) which relate to financial transactions shall be kept for periods specified in legislation or according to the requirements of interested bodies. Where such requirements do not exist, a minimum of four years will be the standard period of retention.

FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS

INTRODUCTION

E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

PARTNERSHIPS, JOINT VENTURES AND COMPANIES IN WHICH THE COUNCIL IS A GUARANTOR OR HAS A SHARE HOLDING INTEREST

E.2 Where it is proposed that the Council be involved in a partnership arrangement or joint venture or where the Council is to be guarantor of a company limited by guarantee or a shareholder of a company, the appropriate officer shall first consult with the Chief Finance Officer and the Executive Director of Governance on the proposals, and shall agree arrangements to provide for the effective monitoring in each case of the arrangement, joint venture or company operation.

E.3 Any clauses required by the Executive Director of Governance to safeguard the interests of the Council must be included in a company's Memorandum and Articles of Association.

E.4 Unless secure arrangements are put in place to the contrary, partnerships etc, shall comply with the Council's Financial Regulations.

Code of Procedures Relating to the Disposal of Land and Buildings

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Code of Procedures Relating to the Disposal of Land and Buildings

1. INTRODUCTION

- 1.1 The Corporate Resource Director shall be responsible for drawing up and amending, on an annual basis, a Code of Procedures with respect to the disposal of land and buildings. This Code and any amendments to it shall be subject to approval by the Executive and shall be subject to review.
- 1.2 The Executive may, in a typical circumstances, waive, vary or suspend the application of any part of the Code of Procedure. In cases of urgency, the Chief Executive may do likewise following consultation with the appropriate Executive Lead Member.
- 1.3 The Code shall include provision relating to the manner of disposal and shall include procedures relating to advertisements, acceptance of tenders, completion of sale and other matters of significance.
- 1.4 The disposal of land and buildings shall be in accordance with this Code of Procedure. The Chief Executive, Executive Directors, or Corporate Resource Director shall keep an up-to-date copy which shall be available for inspection by Members, Officers and the public at all reasonable times in the Council Offices.
- 1.5 This Code does not cover the disposal of Council Houses under the statutory Right to Buy Scheme.

2. DISPOSAL OF LAND AND BUILDINGS

2.1 General

- (a) Once the Executive has declared Council land or buildings as surplus to requirements, the Executive shall be responsible for the disposal of the land and buildings. For the purpose of this Code, land or buildings shall be deemed surplus to requirements where the disposal is more beneficial than retention, or where the existing beneficial use or purpose has ceased, has become uneconomic or is no longer viable to continue in its existing use.
- (b) Where the value or size or extent of land or buildings located within the District boundary and not forming part of the Council's property investment portfolio are considered by the Corporate Resource Director (in consultation with the appropriate Executive Lead Member) to be either de minimis, or where a prospective purchaser has a specific or unique link to the land or buildings such that they represent the only realistic purchaser, the disposal

may be dealt with by a report made by the Corporate Resource Director to the Executive Lead Member.

- (c) Where the Council land or buildings lie outside of the District and/or form part of the Council's property investment portfolio, the disposal may be dealt with by a report made by the Corporate Resource Director to the Executive, demonstrating a robust business case can be made and best value can be achieved in line with Section 123 of the Local Government Act 1972.
- (d) All such disposals shall be effected in accordance with the Code of Procedures made under Financial Regulations.
- (e) Members or employees who have a direct or indirect pecuniary interest in the disposal of any Council land or buildings shall declare that interest in accordance with the Authority's Standing Orders, Financial Regulations, national and local conditions of service and the relevant codes of conduct. Such persons shall not be supplied with or given any access to any tender documents, contracts or other information relating thereto without the express written authority of the Chief Executive.

2.2 Reporting Procedure

The Corporate Resource Director shall make a report to the Executive (or where 2.1(b) applies a report to the Executive Lead Member), to obtain agreement in principle for any proposed disposal and the method of disposal to be used. The report shall include statements on the following matters:

- (a) Identification and clear communication of any issues which need to be resolved prior to marketing, for example (including but not limited to):
 - Clarify physical and legal extent of ownership (including plan)
 - Resolution of occupation;
 - Legal interests;
 - Pre-disposal site works, if required;
 - Repairs and maintenance obligations;
 - Purchase of associated property;
 - Provision of services;
 - Lotting and phasing of large parcels of land;

- Possibility of disposal by means of Joint Venture;
 - Variation/release of covenants governing use of land
 - Whether included on the Register of Community Assets (Localism Act 2011).
- (b) The strategic implications as determined by the relevant Chief Officers.
- (c) The financial implications, as determined by the Chief Finance Officer.
- (d) The legal requirements relating to the disposal of land and buildings specifically but not exclusively Section 123 of the Local Government Act 1972 which requires the Council not to dispose of land at less than best consideration than can reasonably be obtained, unless the transaction is covered by one of the exceptions detailed in the General Disposal (Consent (England) 2003) and Section 32 of the Housing Act 1985 and the General Housing Consents or the need to seek special consent from the Secretary of State.
- (e) Details of planning consents and any significant development potential relating to the property being considered for disposal and whether the contract shall include a clause to enable the recovery of a share of any future increase in value.
- (f) Where it is considered necessary to use the services of external advisers (for example on a complex or a typical sale), the instruction given to the adviser shall ensure, so far as may be appropriate, compliance with this Code.

Without prejudice to the generality of this provision, the advice of an independent registered valuer shall be obtained on all cases where the anticipated value of land exceeds £500,000 or where it is considered necessary due to the complexity or uniqueness of the land or buildings.

- (g) The major terms including (but not limited to) restrictions upon and covenants required from a purchaser to be contained in the contract documentation.
- (h) The recommended method of disposal and the justification for it.

3. DISCUSSIONS WITH POTENTIAL PURCHASERS

Before making a report, the Corporate Resource Director may have informal discussions with potential purchasers prior to making any recommendations. The Corporate Resource Director shall also consider whether in the light of their complexity and/or financial implications, two Officers should attend any such meetings. Key case notes will be recorded as appropriate.

4. DISPOSAL

Disposal shall be by one of the following methods:

4.1 Private Treaty

Any disposal can be considered as disposal by private treaty and the Corporate Resource Director:

- (a) Shall be responsible, where it is deemed appropriate, to arrange for public advertisement of the property;
- (b) Shall be responsible for making the arrangements with potential purchasers for holding informal discussions to determine the level of interest;
- (c) If the level of interest in the property is sufficiently high, shall be responsible for calling for sealed bids from prospective purchasers;
- (d) After receipt of bids, shall be responsible for determining how further negotiations for the potential disposal are to be conducted;
- (e) Upon the conclusion of negotiations shall report the results to the Executive for consideration.
- (f) Should the results of negotiation yield an offer that satisfies requirements for best value under Section 123 of the Local Government Act 1972 and has a high probability of being concluded, a report shall be made to the Executive (or if appropriate, to the Executive Lead MEmber).

4.2 Public Auction

Should the disposal be undertaken by Public Auction, the Corporate Resource Director shall recommend to the Executive which auctioneer(s) shall be used and the Executive Director of Governance shall prepare the contract, conditions of sale and all supporting documentation (searches, replies to enquiries etc.). Any reserve prices shall be agreed by the Corporate Resource Director in consultation with the relevant Executive Lead Member.

The guide price shall be agreed by the Corporate Resource Director with the chosen auctioneer(s).

4.3 Public Advertisement and Open Tender

- (a) Where formal tendering procedures are felt appropriate, advertisements shall invite the submission of tenders by a specified date. Where considered appropriate by the Corporate Resource Director, the invitation to tender shall include, for the purpose of guidance only, a guide price. The tenders shall be in a form settled by the Corporate Resource Director after consultation with the Executive Director of Governance and be capable of acceptance as a contractual obligation to enter into a binding contract satisfying the requirements of Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 or any statutory re-enactment or modification thereof. A similar procedure shall apply where sales are to be subject to contract, save that the contractual obligation will not then arise until contracts are exchanged.
- (b) Notices stating the date and time by which tenders are to be returned shall be given in whatever media form as the Corporate Resource Director considers appropriate, describing the land to be sold and inviting tenders for its sale. Said notices shall be given within a reasonable timeframe prior to the tender submission deadline.

5. TENDERS

Tenders sought in accordance with Section 4 above shall be in accordance with the following procedures which seek to ensure fair competition; these shall apply in relation to the receipt, opening and acceptance of tenders and shall be clearly stated in all invitations to tender.

5.1 Receipt of Tenders in hardcopy form

Where tenders are invited in hardcopy form, every invitation shall state that no tender will be considered unless contained in a pre-addressed plain envelope which shall be securely sealed and shall bear the word "tender" and the description of the land or buildings which are the subject of the sale. The envelope shall not bear any distinguishing matter or mark intended to indicate the identity of the sender and prospective tenderers shall be notified accordingly. Such envelopes shall be addressed impersonally to the Executive Director of Governance and until the time appointed for opening, shall remain in the secure custody of the Executive Director of Governance. The tender invitation shall include the tender return date and time. Late tenders shall not be considered by the Council.

5.2 Receipt of Tenders in electronic form

Where tenders are invited in electronic form, every invitation shall state that emailed correspondence shall be addressed to the Executive Director of Governance and until the time appointed for opening, shall remain in the secure custody of the Executive Director of Governance. Late tenders shall not be considered by the Council.

5.2 Opening

Tenders shall be opened at one time and only in the presence of at least one representative each of the Corporate Resource Director and the Executive Director of Governance approved by them for that purpose.

5.3 Recording

The Executive Director of Governance shall maintain a register of all tenders received for the sale of land and buildings and issue a receipt to the tenderer. Details of the tenders received shall be recorded in the register and produced when the tenders are opened. The Register shall be signed by the representatives of the Corporate Resource Director and the Executive Director of Governance.

5.4 Not Bound by the Highest Tender or any Tender

It shall be clearly stated in all documents of tender that the Council do not bind themselves to accept the highest tender or, indeed, any tender.

5.5 Unsuccessful Tenders

All parties submitting unsuccessful tenders shall be notified promptly of the outcome of their offer by the Corporate Resource Director.

5.6 Successful Tenders

The successful tenderer shall be notified promptly of the outcome by the Corporate Resource Director.

6. **POST TENDER**

The Corporate Resource Director in consultation with Executive Lead Member has the discretion to:

- (a) Negotiate terms, including price, with the successful tender; and
- (b) Cease negotiations with the successful tenderer; and

- (c) Commence negotiations with unsuccessful tenders; and
- (d) Cease sale by tender.

7. COMPLETION OF SALE

Except where a longer period has been expressly agreed, a reasonable period shall be allowed for the completion once a sale has been agreed.

If completion has been aborted, a further report should be made by the Corporate Resource Director and the Executive Director of Governance in consultation with the Executive Lead Member.

Contract Procedure Rules

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QUICK REFERENCE GUIDE TO THE CONTRACT PROCEDURE RULES

Total Contract Value	Process	Advertising	Authority	Signature	Relevant Part
£0.00 - £10,000	<p>Ensure a budget is allocated.</p> <p>Chief Officer need not obtain quotations.</p> <p>Contracts in writing and a Purchase Order must be raised for every contract</p>	None	Chief Officer	Chief Officer or officer authorised by him/her in writing	5.1.1 9.5.1
£10,000 - £50,000	<p>3 Written Quotations (unless using a framework or where using the Crown Commercial Services [CCS] assisted procurement service)</p> <p>Strategic Procurement Lead Officer or Corporate Resource Director notified.</p>	All Contracts over £30,000 must be published on Find a Tender (FTS) & Contract Finder	Chief Officer (ODR at award stage)	Chief Officer or officer authorised by him/her in writing	5.1.2 9.5.1
£50,000 to below Thresholds (and “frameworks”)	<p>Instruct the preferred procurement provider to obtain at least 3 tenders in writing (unless using a framework or where using the CCS assisted procurement service)</p> <p>Strategic Procurement Lead Officer or Corporate Resource Director notified.</p>	All Contracts must be published on Find a Tender (FTS) & Contract Finder	Chief Officer/Executive Lead Member (ODR [capital spend up to £1m] or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.3 9.4.1

Above thresholds	Instruct the preferred procurement provider to obtain Competitive Tenders (e.g., Restricted/Open procedure [unless using a framework or where using the CCS assisted procurement service]) Procurements & Projects Officer or Corporate Resource Director notified.	published on Find a Tender (FTS) & Contract Finder	Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.4 9.4.1
Former Part B Services – Social and Other Specific Services (excludes NHS Contracts) below threshold	Competitive Tenders must be sought (e.g., Restricted/Open procedure [unless using a framework]) Procurements & Projects Officer or Corporate Resource Director notified.	published on Find a Tender (FTS) & Contract Finder	Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.6
Former Part B Services – Social and Other Specific Services (excludes NHS Contracts) above threshold	Competitive Tenders must be sought (e.g., Restricted/Open procedure [unless using a framework]) Procurements & Projects Officer or Corporate Resource Director notified.	published on Find a Tender (FTS) & Contract Finder or PIN (Prior Information Notice)	Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)	Signed and Sealed (refer to Legal Services)	5.1.6
Frameworks:					

Frameworks	<p>Ensure VFM (3.11) Process as set out in Framework Agreement - Must Instruct the preferred procurement provider if above thresholds or use the CCS assisted procurement service</p> <p>Must not be longer than 4 years (3.15).</p>	None – call off agreement to be used	<p>Chief Officer/Executive Lead Member (ODR or EDR at award stage dependent on non-key/key decision*)</p>	<p>Chief Officer or officer authorised by him/her in writing) if under £50,000 Signed and Sealed if over £50,000 (refer to Legal Services)</p>	<p>3 9.4.1</p>
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Exceptions:					
Exceptions - Urgency	<p>Chief Officer to certify that contract is required so urgently as to preclude the invitation of tenders. The appropriate Executive Lead Member shall be kept informed of such decisions and a record of the decision shall be retained by the Chief Officer and a copy sent to the Procurements & Projects Officer or Corporate Resource Director.</p>		<p>Chief Officer/Executive Lead Member (ODR or EDR at process stage dependent on non-key/key decision*)</p> <p>Executive Lead Member to be notified</p>	See above re contract value	17.6.1

Exceptions - Specialist	An exception will be sought from the Executive Lead Member or Cabinet to either deal with a single contractor or to vary the quotation/tender requirements.		Executive Lead Member/Cabinet (EDR at process stage regardless of whether non-key/key decision*)	See above re contract value	17.6.2
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N.B. Contracts must not be broken down into smaller or separate Contracts to avoid compliance with the rules

***NOTE:**

1. If an Executive Decision Record (EDR) is being used to record the decision, then officers need to ensure that the report item (to approve the award) is included on the Forward Plan at the commencement of the procurement process (or in good time) for either a key or non-key decision. This will ensure that the requisite 28-day notice period can be observed (for a key or exempt decision), prior to approval being sought to award the contract from either the Executive Lead Member or Executive Director.
2. Please note for Exceptions to Contract Procedure Rules 17.6.1 and 17.6.2 (Urgency and Specialist Contractor), this will require approval being sought earlier at the process stage either due to urgency or to deal with a single contractor/vary the quotation/tender requirements.

1. COMPLIANCE

- 1.1 The purpose of these Contract Procedure Rules is to safeguard the interests of the Council, its employees (“Officers”), or any person acting on behalf of the Council, to set clear rules for the purchase of works, goods and services for the Council and to ensure a system of openness, integrity and accountability, in which the probity and transparency of the Council's procurement process will be beyond reproach or challenge.
- 1.2 The Local Government Act 1972 requires the Council to have standing orders for how it enters into Contracts. These Contract Procedure Rules are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council to officers and members for entering into Contracts on behalf of the Council.
- 1.3 Accordingly, these Contract Procedure Rules must be followed by every Officer and any person acting on behalf of the Council (including consultants) every time there is a requirement of the Council to procure work, goods, materials or services under a contract regardless of value. All necessary legal, financial and professional advice must be taken by such Officers or by such persons to ensure compliance with these Contract Procedure Rules, the Council's Financial Regulations and all relevant UK legislation. Failure to comply with these Contract Procedure Rules may result in disciplinary action and legal proceedings against Officers and other persons concerned.
- 1.4 Each Chief Officer is responsible for ensuring that his/her directorate complies with these Contract Procedure Rules, the Council's Financial Regulations and all relevant UK legislation. To plan the procurement of and manage Contracts within his/her Directorate to ensure that Contracts:
- Secure Best Value;
 - Are operated effectively, efficiently and economically;
 - Are operated within the terms of the Contracts themselves, so that the Council is not at risk of being in breach of Contract;
 - To provide timely details to the Finance Team of Contracts entered into by his/her Directorate for inclusion into the Council's Contracts Register. Contracts for less than £5,000 need not be recorded in the Register.
 - To keep adequate records to show compliance with Contract Procedure Rules, Financial Regulations, and all relevant UK legislation in his/her Directorate.

Another Chief Officer or an Officer within his/her own Directorate may be authorised via written delegation to carry out the Chief Officer's duties in respect of a particular Contract or Contracts generally.

- 1.5 These Contracts Procedure Rules do not apply to:
- 1.5.1 Contracts for the purchase or sale of any interest in land (including leasehold interests).
- 1.5.2 Contracts for the appointment of individual Members of Staff, including Members of Staff sourced through employment agencies under a Corporate Contract (Corporate Contract means a Contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area).
- 1.5.3 Grant agreements, either where the Council is giving or receiving a grant save that where any grant agreement has a value of £50,000 or more the provisions of paragraph 9.4 in relation to signing the grant agreement shall apply.
- 1.5.4 Supply of works, goods and services by the Council.
- 1.5.5 If a Contract is being procured in collaboration with other local authorities, the Contract Procedure Rules of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own Contract Procedure Rules.
- 1.5.6 These Contract Procedure Rules do not apply to:
- i. The obtaining of specialist legal services as an adjunct to the general provision of such services to the Council the obtaining of which shall be made by the Executive Director of Governance but who shall still ensure the price obtained is not in excess of the market price and represents value for money and that the spirit of the rules are complied with as far as possible subject to the specialism of service or that a Framework Agreement is used;
- and;
- ii. The obtaining of financial services in connection with the issue of sale, purchase or transfer of securities or other financial instruments and central bank services the obtaining of which shall be made by the Corporate Resource Director.
- 1.6 Every Council employee ("Officer") must ensure that they are aware of and observe the provisions of the Council's Code of Conduct for Employees. If an Officer has an interest, financial or otherwise, in a Contract or proposed Contract, he/she must declare it in writing to the Chief Officer as soon as he/she becomes aware of the interest. An elected Member must register any contractual interests in accordance with the Member's Code of Conduct. An elected Member or Officer who has an interest in a Contract must not take part in the procurement or management of that Contract.
- 1.7 Chief Officers shall ensure that the Council complies with the statutory obligation to secure Best Value and that the Council complies with other legislation for the time being in force. The Chief Officer responsible for each Contract must record an estimated value for the Contract before any offers are sought. The value of a Contract is the total amount that the Council expects to pay or receive for the

Contract, including any Contract extension period. This may be a lump sum e.g. £250,000 or a periodic payment e.g. £50,000 per year for a 5 year Contract = £250,000.

- 1.8 If a Chief Officer wishes to nominate a particular sub-Contractor to a main Contractor, the procedures in these Contract Procedure Rules must be followed to select the sub-Contractor as well as the main Contractor.
- 1.9 Before beginning the commissioning process for the supply of any services Chief Officers must consider whether the Public Services (Social Value) Act 2012 applies to the services. this applies to all amounts over £25k (ADC Social Value Policy, also see the recent PPN – PPN 05/21 and the National Procurement Policy), . Where it does apply Chief Officers must make the following considerations at the pre-procurement stage:
 - 1.9.1 How what is proposed to be procured might improve the economic, social and environmental well-being of the “relevant area”;
 - 1.9.2 How in conducting a procurement process the Council might act with a view to securing that improvement; and
 - 1.9.3 Whether to undertake a consultation on these matters.
- 1.10 If there is a Corporate Contract for the supply of any works, goods or services, the Chief Officer must buy through that Contract, rather than awarding a separate Contract for his/her own Directorate. The Strategic Procurement Lead Officer or the Corporate Resource Director’s advice should be sought on these matters.

2. BEST VALUE

- 2.1 Best Value requires the Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is the optimum combination of whole life costs and benefits to meet customer requirements.
- 2.2 Best Value requires the Council to identify those quotations and tenders which will secure the best balance of price against quality over the whole life of the Contract.
- 2.3 The best and most widely accepted way of securing the necessary transparency in the evaluation of all the price and quality factors contained in quotations and tenders received is to adopt a robust points system which provides a pre-disclosed maximum number of points for price and for each factor in quality.
- 2.4 Chief Officers shall seek advice from the preferred procurement provider about the Quotation/Tender Evaluation Models to ensure compliance with the requirements of these Contract Procedure Rules especially where any Contract has a procurement requirement falling within the UK procurement regime or whose aggregate value is likely to exceed the relevant threshold figure for the time being in force.

2.5 Chief Officers shall adopt the Quotation/Tender Evaluation Models recommended by the preferred procurement provider to ensure compliance with the requirements of these Contract Procedure Rules where any Contract does not have a procurement requirement falling within the UK procurement regime or, if it does, whose value, or (if made up of a series of related Contracts) whose aggregate value is not likely to exceed the relevant threshold figure for the time being in force.

2.6 Make or Buy

2.6.1 The National Procurement Strategy for Local Government States: 'Procurement is the process of acquiring goods, services and works. It involves options appraisal and the critical 'make or buy' decision which may result in the provision of services in-house in appropriate circumstances. Therefore a joined up, strategic 'Make or Buy' decision for all goods and services should be made by the Council.

2.6.2 Where the Council has chosen to develop and sustain internal expertise in an area then it is likely that using the internal provision will secure Best Value. As a minimum dialogue should be had between the purchasing section and the internal provider before any decision is made to procure externally.

2.6.3 For the majority of services provided in-house, a significant level of their overall costs are fixed or will only change if there is a considerable change in levels of delivery (cost such as supervision/management, investment in ICT, buildings or machinery and their contribution to overheads). Therefore an internal provider is likely to be able to provide a service at a cheaper overall cost to the Council than an external provider.

2.6.4 Arrangements for internal provision should be periodically reviewed to ensure that they do not become out-of-date and continue to be the most suitable arrangements, taking into account, for example, that:

- requirements change over time and may no longer be reflected in the agreed service (e.g. in terms of quality, quantity or range of options offered);
- innovations or alternatives may have been developed since the original agreement;
- new entrants to a market could potentially be cheaper than the in-house alternative.

The regularity of these reviews will depend upon the degree of change in the market, the degree of change in the requirements and the flexibility of the existing agreement.

2.6.5 An externally provided solution may provide better Value for Money for the Council because:

- the extra cost required to provide the service internally is less than the price available externally (including any potential TUPE costs if currently provided externally, and/or break costs in the terms of PFI contracts);
- there is insufficient capacity (including any necessary specialism) to provide the service in-house;
- the quality that can be offered internally does not meet the needs of the internal customer.

2.6.6 The following should not be used for contracting out (or not using internal services) include:

- unsolved management problems (including issues of ‘long-standing resentment or mistrust of one group of staff by another’);
- ability to transfer risk (as this will be built into prices);
- a legacy of capital starvation (as prudential borrowing can rectify this).(Standing Guide to the Commissioning of Local Authority Work and Services, CIPFA’s 2013/4)

2.6.7 The expectation is that in most cases, the service managers from the customer and provider sections will discuss and agree if any of the criteria in 2.6.5 are met and thus if it is appropriate to externally procure. If the parties cannot agree it should be referred to the Strategic Procurement Lead Officer.

2.6.8 Chief Officer(s) are responsible for updating and reviewing procedures and processes for resolving any disputes within the ‘Make or Buy’ process between departments.

2.6.9 Chief Officers are responsible for checking whether in-house provision is an alternative before commencing purchasing or tendering activities.

2.6.10 Strategic Procurement Lead Officer is responsible for periodically reviewing internal arrangements to ensure that they continue to provide the most suitable solution to meet their requirements.

3 PARTNERING/Framework Agreements

3.1 Chief Officers shall adopt an integrated approach to procurement by actively considering whether the use of partnering or framework agreements is an appropriate form of service delivery for any of their services.

3.2 The overriding ethos of partnering is to provide a formal legally binding relationship that allows each party to a project to form a partnering team to work together to deliver the project in line with the principles of Best Value.

3.3 The early integration of the partnering team and the procurement process can achieve substantial improvements in the procurement of projects.

- 3.4 Partnering requires the partners to deal fairly with each other and work together in a spirit of mutual trust, respect, good faith, co-operation and dedication to agreed common goals and an understanding of each other's expectations and values.
- 3.5 Partnering is designed to facilitate collaborative working which can be achieved through either project partnering or strategic alliancing, which is the grouping of a number of projects in order to obtain the benefits of long-term relationships.
- 3.6 Chief Officers shall ensure that the collaborative culture is fully embedded in all procedures, where partnering has been adopted.
- 3.7 There are various contract options available to provide a contractual arrangement to suit a partnering environment. Advice should be sought from the Strategic Procurement Lead Officer the Corporate Resource Director.
- 3.8 Framework agreements established in pursuance of the EU and UK Regulations and any re-enactment(s) of them by other contracting authorities are recommended where it is possible for the Council to access such frameworks and where such use will ensure compliance with the requirements of these Contract Procedure Rules.
- 3.9 Chief Officers shall ensure that the details of every partnering contract and framework agreement option is referred to Legal Services for a consideration of the suitability of the arrangement concerned and the Council's legal liability before such arrangement is concluded.
- 3.10 Legal Services or the Strategic Procurement Lead Officer must be consulted before joining or buying from a new Framework Agreement where the expenditure will be more than the Threshold except for Works Contracts. It must be confirmed by the lead authority and owner of the framework that it is open and available to the Council
- 3.11 A Chief Officer may, subject to complying with UK procurement regime requirements, authorise participation in a Framework Agreement, where it can be shown that the framework:
- Offers value for money; and/or
 - Offers savings in the costs of procurement.
- 3.12 To select a Supplier for a specific Contract under a multi-Supplier framework agreement or to conduct a mini competition, the Chief Officer, in consultation with the preferred procurement provider, must follow the procedure set out in that Framework Agreement. Where the contract value is £50,000 or above, it must be done in consultation with the preferred procurement provider.
- 3.13 Advice must be sought on whether a standstill period applies to the award process Successful and unsuccessful Suppliers who participated in a mini-competition must be notified of the decision to award the specific Contract.

3.14 Call off contracts under framework agreements of £50,000 or more must be executed as deeds, by affixing the Council's Common Seal.

3.15 A call off contract under a Framework Agreement must not be longer than 4 years unless specifically agreed by the Executive Director of Governance.

4 SELECTION OF SUPPLIERS

4.1 Chief Officers shall ensure compliance with the Council's Corporate Procurement Contracts currently in force to procure work, goods, materials or services. These are arrangements established by the Corporate Resource Director.

4.1.1 Chief Officers shall ensure that quotations and tenders be invited by the use of one of the following approaches:

UK Public Procurement

4.1.1.1 The UK public procurement regime is mandatory for any Contract which has a procurement requirement falling within the UK procurement regime and, if so, whose value, or (if made up of a series of related Contracts), whose aggregate value is likely to exceed the relevant threshold figure for the time being in force;

Approved Lists;

4.1.1.2 Chief Officers should not use approved lists of contractors without first obtaining advice from the Legal Services or the Strategic Procurement Lead Officer

4.1.1.3 Joint procurement arrangements / frameworks / purchasing consortia arrangements established by other contracting authorities;

4.1.1.4 Office of Government Commerce (OGC) Buying Solutions framework contracts or other such like contracts;

4.1.1.5 Suitable suppliers derived from a competitive selection process conducted in consultation with the preferred procurement provider and where necessary, the Strategic Procurement Lead Officer.

4.1.2 Chief Officers should adopt a collaborative approach to procurement, where appropriate, through the use of partnering as described in paragraph 3 of these Contract Procedure Rules. A partner is obtained through a competitive selection process which can be demonstrated by using any of the arrangements set-out in paragraph 4.3.1 of these Contract Procedure Rules.

4.2 Public Procurement including Framework Agreements

4.2.1 Chief Officers shall ensure that all procurement complies with the requirements of the UK Regulations and any re-enactment(s).

4.2.2 Chief Officers, in conjunction with the preferred procurement provider, shall ensure that the appropriate advertisements are placed in Find a Tender Service

and other relevant publications. The Strategic Procurement Lead Officer shall ensure a register of such advertisements is maintained.

- 4.2.3 Suppliers expressing an interest in being invited to tender in response to an Find a Tender Contract Service notice or an advertisement must complete a PQQ, in a form approved by the preferred procurement provider. PQQs must be evaluated separately from, and before, any tenders are evaluated. Any PQQ that is received after the latest date specified for return must not be considered.

Advisory Note: The criteria on which PQQs are evaluated must be designed to establish the capability of the Supplier to undertake the Contract which will be different from the criteria on which tenders are evaluated.

- 4.2.4 A sufficient number of Suppliers must be invited to tender to ensure genuine competition. The minimum number is five. If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of a Chief Officer(s);
- 4.2.5 As soon as possible after the PQQ shortlisting, the preferred procurement provider must write to any Suppliers who were not selected, with reasons as to why they were not successful. If a Supplier who was not selected asks for further information on why he was unsuccessful, the Chief Officer must make the appropriate arrangements with the preferred procurement provider for feedback to be provided.

4.3 **Joint Procurement Arrangements / Frameworks/ Purchasing Consortia**

- 4.3.1 To fulfil their requirements, Chief Officers may use a number of arrangements established outside the Council by other parties, provided that those parties are “contracting authorities” as defined by the Public Contracts Regulations 2015 and any re-enactment(s) of them, these arrangements being:
- 4.3.1.1 Joint procurement arrangements with other local authorities;
- 4.3.1.2 Framework arrangements established by contracting authorities such as the East Midlands Property Alliance (EMPA);
- 4.3.1.3 Purchasing consortia established by contracting authorities such as the Eastern Shires Purchasing Organisation (ESPO).
- 4.3.2 Any requirement of the Council involving the procurement of work, goods, materials or services via joint procurement arrangements with other local authorities, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, shall be deemed to comply with the corresponding requirements of these Contract Procedure Rules.
- 4.3.3 Advice from Strategic Procurement Lead Officer/the preferred procurement provider should be sought before using framework arrangements established by contracting authorities.

4.3.4 Chief Officers shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary shall refer them to the Legal Services for a consideration of the suitability of the arrangement concerned and of the Council's legal liability before proceeding with or entering into any arrangement referred to in paragraph 4.3.1 of these Contract Procedure Rules.

4.3.5 Chief Officers shall ensure that the terms and conditions entered into are complied with.

4.4 Vetting of Suppliers

4.4.1 Chief Officers shall ensure that suppliers are vetted for financial stability, technical competence, managerial capability, previous performance for the ability to comply with any national legislation and Council policies and procedures before each Contract is let or before being included into the relevant approved list(s), whichever is the earlier. Where applicable, Chief Officers shall ensure that suppliers meet adequate and appropriate standards of health and safety.

5 INVITATIONS TO SUPPLIERS

5.1 Procurement of Contracts for work, goods, materials and services (including Contracts involving construction and engineering related work):

5.1.1 Where the estimated value of a Contract over the whole life of the Contract is under **£10,000**, the Chief Officer need not obtain quotations. All contracts must be in writing and a purchase order must be raised for every contract

5.1.2 Where the estimated value of a Contract over the whole life of the Contract is between **£10,000 and £50,000**, Chief Officers shall obtain at least **3 written quotations**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules. Chief Officers, however, may elect to seek tenders in lieu of quotations.

5.1.3 Where the estimated value of a Contract over the whole life of the Contract is **between £50,000 and the relevant threshold**, Chief Officers will use the preferred procurement provider to obtain **at least 3 tenders in writing**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules

5.1.4 Where the estimated value of a Contract over the whole life of the Contract exceeds the relevant Threshold, Chief Officers will use the preferred procurement provider obtain **a minimum of 5 tenders in writing**. If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of a Chief Officer(s);

5.1.4.1 Where the estimated value of a Contract over the whole life of the Contract exceeds the relevant threshold the Chief Officer and the preferred procurement provider will consider the following principles before inviting tenders:

- Analysis and evaluation of all practical options for Contract packages and methods of procurement, with the object of selecting the option that most effectively ensures best value and provides full, fair and open competition;
- Taking into account the goals and objectives in the Sustainable Community Strategy and the priorities of the Corporate Plan;
- Consultation with stakeholders within and outside the Council about service standards and specifications;
- Market investigation;
- Analysis of performance under any current Contract and consideration of prospective performance in the light of consultations and investigations;
- Stimulation of diversity and innovation, enhancement of choice for service users and attraction of new Suppliers;
- Promotion of sustainability;
- Where appropriate, a commitment from the Supplier not to use zero hour contracts; to recruit local apprentices and local labour and to pay the Living Wage.
- Declarations in relation to professional and business conduct, including Blacklisting;
- Partnerships between the public, private and voluntary sectors should be sought, which demonstrate a shared commitment to objectives that benefit users of the Council's services;
- Value for money should be applied, with the objective of achieving a Contract that best serves the needs of service users.

5.1.4.2 At the same time as submitting the procurement request to engage the preferred procurement provider in developing a procurement plan, the Chief Officer must give full instructions to Legal Services to draft or approve terms and conditions of Contract where non-standard terms are being used.

5.1.5 The decision to invite quotations or tenders for a Contract and the decision to award the Contract must be separate decisions.

Former Part B Services (excludes NHS Contracts)

5.1.6 Competitive tenders must be sought for Social and other Specific Services which are:

- Health, social and related services

- Administrative social, educational, healthcare and cultural services
- Compulsory social security services
- Benefit services
- Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services
- Religious services
- Hotel and restaurant services
- Legal services to the extent not already excluded
- Other administrative services and Government services
- Provision of services to the community
- Prison related services
- Investigation and security services
- Internal services
- Postal services

5.1.7 Full details of the relevant services are contained in Schedule 3 of The Public Contracts Regulations 2015.

5.2 Formal Quotations and Tenders need not be sought:

5.2.1 If the estimated value of a Contract over the whole life of the Contract is less than £10,000. (Chief Officers have delegated authority to enter into Contracts below the Quotation level provided that a budget has been allocated for that expenditure). Contracts below the Quotation level must be signed for and on behalf of the Council by the Chief Officer responsible for the Contract or an Officer authorised by him/her and a Purchase Order raised through the Council's finance system.

5.2.2 In the event of an emergency (Exceptions to Contract Procedure Rules). Chief Officers, however, shall ensure that the most suitable arrangement is secured for the Council and the details are recorded in writing.

5.3 Chief Officers shall ensure that the e-tendering system shall be used wherever possible when inviting and receiving quotations and tenders electronically.

- 5.4 Chief Officers must not try to avoid compliance with these Contract Procedure Rules or the UK Regulations by splitting a procurement for the same or similar works, goods or services into smaller, separate contracts.
- 5.5 Chief Officers shall ensure that each individual Contract be packaged to secure Best Value for the Council.
- 5.6 Chief Officers shall ensure that suppliers invited to provide quotations or to submit tenders are contacted and (regardless of the process being used) a record maintained of the requests made and their agreement to provide quotations or submit tenders.
- 5.7 Chief Officers shall ensure that where there is a multiple stage process for inviting quotations or tenders then any criteria to be used for short-listing suppliers throughout such process is robust and transparent and shall make use of the assistance available from the preferred procurement provider.
- 5.8 Chief Officers shall ensure that a realistic period be stipulated in the invitations to suppliers to provide quotations or to submit tenders, with a minimum period of ten working days allowed for a response. This period may be reduced provided the special circumstances are recorded.
- 5.9 Chief Officers shall ensure that invitations to suppliers to provide quotations or to submit tenders for work, goods, materials or services, incorporate:
- 5.9.1 The requirements set out in these Contract Procedure Rules appropriate to the circumstances of the invitation;
- 5.9.2 A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers. The specification should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the Chief Officer to see whether the Council's requirements are being met by the Supplier. All necessary professional and technical advice and assistance must be obtained in preparing the specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants who assist in the preparation of a specification must not be invited to tender for the Contract. The people who prepare the specification should, as a rule, be part of the panel that evaluates tenders;
- 5.9.3 The nature and quantity of the work, goods, materials or services that is required;
- 5.9.4 The time, or times, within which the work or services are to be performed or the goods and materials are to be delivered;
- 5.9.5 A notification that assignment or sub-contracting is not permitted without prior written consent from the Council, unless the circumstances of the particular invitation require a different approach;
- 5.9.6 A notification that quotations are provided and tenders are submitted to the Council on the basis that they are compiled and delivered at the supplier's

expense and that, in no circumstances, will the Council contribute to such expenses whatever the outcome of the procurement process;

- 5.9.7 A notification that the Council is not bound to accept the lowest or any quotation or tender for a specific Contract;
- 5.9.8 A Certificate of Bona Fides;
- 5.9.9 A Form of Tender. The form of tender must also state that the tender will remain open for acceptance by the Council for a period of ninety days after the last date for receipt of tenders, or such other period as appropriate;
- 5.9.10 Adequate and appropriate provisions regarding insurances, health and safety, equality and diversity, data protection and freedom of information;
- 5.9.11 Adequate and appropriate price adjustment provisions (unless the circumstances of the particular invitation require a different approach), anti-collusion provisions; anti-corruption provisions and anti-fraud provisions;
- 5.9.12 Robust and transparent award criteria to be used in evaluating quotations or tenders received to ensure compliance with the requirements of these Contract Procedure Rules; and/or
- 5.9.13 The terms and conditions of Contract
- 5.9.13.1 For Contracts over the relevant Threshold, full instructions must be given at earliest opportunity and in any event not later than submitting the procurement request to the preferred procurement provider and to Legal Services to draft the terms and conditions of Contract or to approve non-standard terms and conditions of Contract e.g. JCT.
- 5.9.13.2 All Contracts, whatever their value, must include:
- A clear and comprehensive description of the works, goods or services to be supplied (the specification);
 - The price to be paid by the Council and mechanism;
 - Key performance indicators;
 - The time or times within which the Contract is to be performed;
 - A provision allowing the Council to use information gained from the Contract for preventing and detecting fraud;
 - A provision requiring the Supplier to comply with requests under the Freedom of Information Act 2000 for information relating to the Contract; and

- A right for the Council to terminate the Contract immediately in the event of corrupt activity and for the Council to recover its losses arising from the termination and other termination provisions where appropriate.
- A provision requiring the Supplier to comply with all applicable law about:

the processing of personal data and privacy (including the General Data Protection Regulation (Regulation (EU) 2016/679)(“UK GDPR”), the Law Enforcement Directive (Directive (EU) 2016/680)(“LED”), any applicable national implementing Laws as amended from time to time and the Data Protection Act 2018 (to the extent that it relates to processing of personal data and privacy)
- Health and Safety;
- Equality and Diversity
- Freedom of Information
- Money Laundering
- Anti-Corruption
- Intellectual Property
- Whistleblowing
- Insurance; and
- Other relevant statutory provisions including Modern Slavery
- A provision for making changes to the Contract to take account of changes in circumstances;
- If the Supplier's failure in performance would cause the Council financial loss, a provision for payment of liquidated damages;
- An appropriate dispute resolution procedure;
- A prohibition on the Supplier assigning, sub-letting or novating the Contract without the Council's consent;
- A provision requiring the Supplier to co-operate with the Council;
- If appropriate, a warranty by the Supplier that his employees are suitable persons to be employed in that Contract and, notwithstanding the provisions of the Rehabilitation of Offenders Act 1974, have disclosed all charges, cautions and convictions of criminal offences. This may include obtaining disclosures by the Disclosure and Barring Service;

- A provision requiring the Supplier to employ sufficient numbers of appropriately trained, skilled and competent staff and allowing the Council to require the removal of any member of the Supplier's staff from the Contract, if his/her behaviour justifies it;
- Where transfer of staff may be involved, provisions dealing with rights and obligations regarding employee matters, including pensions;
- A requirement for the Supplier to maintain records concerning the Contract and to give the Council access to such records and to the Supplier's premises and personnel for the purpose of internal or external audit;
- Where appropriate, a provision regarding tax deductions under the Construction Industry Contract;

5.9.14 The Chief Officer must:

5.9.14.1 Require the Supplier to maintain appropriate and adequate levels of insurance cover, in consultation with the Council's Corporate Resource Director, for employer's liability, public liability, products liability, all risks/Contract works and professional indemnity insurance. Unless otherwise agreed by the Corporate Resource Director, the minimum levels of cover shall be:

- £10 million for employer's liability insurance
- £5 million for public liability and products liability insurance
- £2 million for professional indemnity insurance or in exceptional cases where £2m is not feasible for the works covered, £1m at the discretion of the Chief Finance Officer. All policies must contain an indemnity of principals clause.

5.9.14.2 Ensure that the Supplier holds the required insurance cover at the start of the Contract, renews the policies as necessary during the Contract period and, following each renewal, provides details verified by his insurer or broker of his insurance for the Council's records.

5.9.15 As a general rule, all Contracts, whatever their value, must provide for payment by the Council after supply of the works, goods or services. Exceptionally, and only with the consent of the Chief Finance Officer, a Contract may provide for payment in advance. Generally, the Contract notice or other advertisement inviting tenders must not be published until the terms and conditions of Contract have been drafted.

5.9.16 If appropriate, a pricing document for completion by the tenderer; and

5.9.17 Any other relevant items that are considered necessary.

5.10 Chief Officers shall ensure that the information set-out in paragraphs 5.9.1 to 5.9.17 inclusive of these Contract Procedure Rules be issued to each supplier

invited to provide quotations or to submit tenders at the same time. Any supplementary information must be given on the same basis.

- 5.11 Chief Officers shall ensure that TUPE issues are considered when any employee either of the Council or of an incumbent provider of work or services may be affected by any transfer arrangement and obtain advice from a Legal Services before proceeding with invitations to suppliers to provide quotations or to submit tenders.

6 TENDERING PROCEDURES

This paragraph relates to tendering procedures for Contracts in respect of which the Council's e-tendering system is not used as expressly agreed by the preferred procurement provider involving construction and engineering related work or Contracts estimated to have a value over the whole life of the Contract exceeding £50,000 for work, goods, materials and services, provided there is no conflict with the requirements of the Public Contracts Regulations 2015 and any re-enactment(s) of them.

- 6.1 Chief Officers shall ensure that all suppliers invited to submit a tender (regardless of the process being used) confirm receipt of the tender documents, using the Council's e-tendering system.
- 6.2 Unless otherwise stipulated in the tender documents, all written tenders must be delivered to the preferred procurement provider (as appropriate) and in a plain envelope.
- 6.3 Chief Officers shall ensure that the tender documents stipulate that all envelopes containing tenders shall be securely sealed and shall bear the word 'TENDER' followed by the name and/or reference of the Contract to which the tender relates. Also, such envelopes shall not bear any distinguishing mark intended to indicate the identity of the supplier.
- 6.4 Chief Officers shall ensure that all envelopes containing tenders remain in the custody of the designated officer concerned until the time appointed for their opening.
- 6.5 Chief Officers shall ensure that the envelopes containing tenders for the same Contract be opened at the same time by the designated officer concerned who shall do so in the presence of another officer or officers approved by the designated officer concerned for that purpose.
- 6.6 Chief Officers shall ensure that tenders received for whatever reason after the specified time or date or not delivered to the Council in accordance with the tender instructions will not be considered.
- 6.7 A commitment from the Supplier not to use zero hour contracts; to recruit local apprentices and local labour and to pay the Living Wage is welcomed.
- 6.8 Declarations in relation to professional and business conduct, including Blacklisting must be completed;

- 6.9 Any tender that does not comply with the instructions to tenderers or is conditional in any way will be rejected and will not be evaluated by the Council; and
- Any Contract will be terminated immediately, and any losses to the Council arising from the termination recovered from the Supplier, if the Supplier, or anyone acting on his behalf (with or without the Supplier's knowledge) : (1) Offers or promises or gives a financial or other advantage to any elected Member of the Council, any Member of Staff or any consultant in connection with the Contract; or (2) Requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the Contract is performed improperly
- 6.10 Appropriate time must be allowed for submission of tenders. The minimum is ten working days from the date of the invitation to tender, however each tender process should be considered in the light of the complexity of the tender.
- 6.11 Amendments to invitation to tender documents, made after the invitations have been sent out, must be clearly headed "ITT Amendment" and sent to all Suppliers who have been invited to tender. One or more amendments must be numbered consecutively. Amendments must be sent out in sufficient time to allow Suppliers to adjust their tenders before close of tenders. If necessary, the tender period must be extended to allow for this.
- 6.12 Tenders must be opened one at a time by the preferred procurement provider, in the presence of the Chief Officer or an Officer authorised by him/her.
- 6.13 All tenders must be numbered in the order they are opened and all persons present must initial the forms of tender.
- 6.14 Requests For Quotations and Invitations to Tender should be transmitted by electronic means wherever possible. The paper-based processes set out in these Rules must be followed unless an e-procurement package is being used.

7 PROCEDURES FOR QUOTATION AND TENDER DISCUSSION AND/OR CLARIFICATION

7.1 Pre-Quotation and Pre-Tender Discussion

7.1.1 Discussion prior to inviting quotations or tenders with potential suppliers may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the Council, provided there is no conflict with the requirements of the UK Regulations and any re-enactment(s) of them. The objective of such discussion is to ensure that an effective invitation is prepared. All potential suppliers must be treated equally within this process.

7.2 Post-Quotation and Post-Tender Clarification

7.2.1 Clarification after receipt of quotations or tenders and before the letting of Contract(s) with those supplier(s) who have submitted such quotations or tenders may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the Council, provided there is no conflict with the requirements of the UK Regulations and any re-enactment(s) of them. The objective of such discussion is to obtain an improvement in content of these quotations or tenders in circumstances which do not put the other supplier(s) at a disadvantage, distort competition or affect adversely trust in the competition process. All potential suppliers must be treated equally within this process.

7.2.2 Where post-quotation or post-tender clarification results in a fundamental change to the specification or the proposed terms and conditions that are to apply, an official order must not be issued or a formal contract must not be made and quotations or tenders must be re-invited.

7.2.3 A tender that is qualified or expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of Contract must be treated as non-compliant and rejected. Non-compliant tenders must not be evaluated. This does not prevent the Council inviting variant bids. If variant bids are invited, tenderers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender, so that all bids may be compared fairly.

8 ACCEPTANCE OF QUOTATIONS AND TENDERS

8.1 Whenever an e-tendering system is not used, Chief Officers shall ensure that a record of the quotations received be prepared, signed, dated and timed, which record shall include the date and time each quotation is received, together with the main terms of each quotation (e.g. value, price, delivery period, or other significant issues unique to each quotation).

8.2 Whenever an e-tendering system is not used, Chief Officers shall ensure that a record of the tenders received is prepared, signed, dated and timed and countersigned by another officer or officers present, which record shall include the date and time each tender is received, together with the main terms of each tender (e.g. value, price, delivery period, or other significant issues unique to each tender).

- 8.3 Subject to any legal obligations on the Council, Chief Officers shall ensure that the confidentiality of quotations and tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer shall not be given to another supplier.
- 8.4 Where a quotation or tender is received from a consortium, which is acting jointly for the purpose of being awarded a Contract, such quotation or tender shall be evaluated in accordance with the requirements of either paragraph 8.5 or paragraph 8.5.1 of these Contract Procedure Rules.
- 8.4.1 Chief Officers shall ensure that any quotation or tender of a consortium is not treated as ineligible on the grounds that the consortium has not formed a legal entity for the purposes of providing a quotation or submitting a tender.
- 8.4.2 Where the quotation or tender received from a consortium is to be accepted, Chief Officers shall ensure that the proposed terms and conditions that are to apply are referred to the Legal Services for consideration of the Council's legal liability before proceeding with or entering into an official order or a formal contract. The Executive Director of Governance shall decide on whether to require the consortium to form a legal entity before entering into, or as a term of, the official order or formal contract.
- 8.4.3 The vetting of the consortium, and for Contracts involving construction and engineering related work, shall be in accordance with the requirements of paragraph 4.4.1 of these Contract Procedure Rules.
- 8.5 Chief Officers shall ensure that tenders received are evaluated in accordance with the Quotation/Tender Evaluation model recommended by the preferred procurement provider. Any Contract that has a procurement requirement falling within the UK procurement regime and, if so, whose value, or (if made up of a series of related Contracts), whose aggregate value is likely to exceed the relevant threshold figure for the time being in force.
- 8.5.1 Chief Officers shall ensure that quotations received and tenders received are adequately and appropriately evaluated where any Contract does not have a procurement requirement falling within the UK procurement regime or, if it does, whose value, or (if made up of a series of related Contracts) whose aggregate value is not likely to exceed the relevant threshold figure for the time being in force and shall adopt the Quotation/Tender Evaluation Model recommended by the preferred procurement provider.
- 8.6 Chief Officers shall ensure that errors or discrepancies found in quotations or tenders be adequately and appropriately dealt with. Where such error or discrepancy cannot be adequately and appropriately dealt with the matter shall be immediately referred to the Chief Finance Officer for a decision.
- 8.7 Chief Officers shall ensure that the quotation or tender which secures Best Value for the Council be accepted, provided that there is no conflict with the Public Contracts Regulations 2015 and any re-enactment(s) of them.

- 8.8 Chief Officers shall ensure that a record is kept of the withdrawal of a quotation or tender by a supplier within a specific Contract together with the circumstances of such withdrawal.
- 8.8.1 Chief Officers shall ensure that this information is reported to all officers responsible for the selection of suppliers who may be invited to provide quotations or submit tenders for the provision of work, goods, materials or services.
- 8.9 Chief Officers shall ensure that where the accepted quotation or tender is changed following the rectification of errors or discrepancies and/or post-quotation/tender clarification, such amendment(s) be initialled by Chief Officers or authorised signing officer(s).
- 8.10 Each Contract shall be let on the authority of a Chief Officer, following a decision having been taken on the acceptance of a quotation or tender by an appropriate decision-maker (i.e. for executive business a Chief Officer (or other specifically delegated officer), Executive Lead Member/Leader or Cabinet) in accordance with the currently prevailing financial limits.
- 8.11 Chief Officers shall ensure compliance with the relevant provisions of these Contract Procedure Rules where the accepted quotation or tender incorporates provisional, prime cost or non-defined items or other such similar items.
- 8.12 A tender that exceeds the budget allocated must not be accepted. If a tender exceeds the budget allocated, the Chief Officer must obtain an additional allocation of funds in accordance with Financial Regulations before the tender may be accepted.
- 8.13 The decision to award the Contract must include the name of the successful tenderer, the length of the Contract and any options for extension and the price or estimated price of the Contract.
- 8.14 Chief Officers shall ensure that suppliers whose quotation or tender for a specific Contract is not accepted be notified and given the names of all suppliers who provided a quotation or submitted a tender, together with the prices, or ranges of prices, so provided or submitted. Such prices, or range of prices, must not be correlated to the names of the suppliers.

9 ORDERS AND CONTRACTS

- 9.1 All Contracts must be evidenced by means of an official order or a formal contract. Such official order must be issued or such formal contract must be made to all suppliers for the provision of Contracts, before the relevant supply, service or work begins, except in exceptional circumstances as provided for in paragraph 9.2 of these Contract Procedure Rules.
- 9.1.1 Chief Officers shall ensure that official orders are raised through the Council's main financial system.

- 9.1.2 Chief Officers shall ensure that official orders are also raised through the Council's main financial system:
- 9.1.2.1 For call-offs, draw-downs or other similar arrangements, where an official order has already been issued or formal contract has already been made, or where a series of official orders have already been issued or formal contracts have already been made with the same external organisation, which relate to the same Contract; and
- 9.1.2.2 For budgetary purposes, where a formal contract has already been made. However, such budgetary orders shall not be issued to suppliers, but shall be retained by the relevant Council department.
- 9.2 In exceptional circumstances, where an official order has been raised electronically, i.e. by telephone, e-mail or fax transmission, Chief Officers shall ensure that an official confirmatory order be issued through the Council's main financial system without undue delay.
- 9.3 Chief Officers shall ensure that an official order or a formal contract for any individual Contract is not artificially divided into two or more separate official orders or formal contracts with the intention of avoiding the application of these Contract Procedure Rules.
- 9.4 Where any Contract has a value of £50,000 or more:
- 9.4.1 the Head of Paid Service must make a formal contract under seal where the value of any Contract is £50,000 or more. All Contracts executed as deeds must have the Council's Common Seal impressed on them. All call off contracts under Framework Agreements, bonds and guarantees, and Contracts of £50,000 or more must be executed as deeds.
- 9.4.2 the Executive Director of Governance (taking into consideration the risks involved) may deem a formal contract under seal to be inappropriate in any particular case (except for Contracts involving construction and engineering related work), even where the value of the Contract not involving construction and engineering related work is £50,000 or more. In this case, the Chief Officer concerned shall ensure that an official order or a simple contract relating to such Contract is made in such terms that have the prior approval of the Executive Director of Governance.
- 9.5 Where any Contract has a value of less than £50,000:
- 9.5.1 the Chief Officer concerned must issue an official order or make a simple contract where the value of any Contract is less than £50,000. Such official order or such simple contract must be signed by at least one Chief Officer.
- 9.5.2 the Executive Director of Governance (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the Contract is less than £50,000. In this case, the Chief Officer concerned shall ensure that a formal contract under seal relating to the Contract is made in such terms that have the prior approval of

the Executive Director Governance and in accordance with paragraph 9.4 of these Contract Procedure Rules;

- 9.5.3 Chief Officers may authorise, in writing, other officers to sign official orders or simple contracts or to authorise such orders or contracts electronically in a main financial system on their behalf at a value agreed with the Chief Finance Officer provided Chief Officers are satisfied that their officers have received relevant financial training as approved by the Chief Finance Officer.
- 9.6 Chief Officers shall ensure that:
 - 9.6.1 no official order be issued or formal contract made for a Contract which will commit the Council to expenditure unless provision exists to finance that expenditure, except in the event of an emergency;
 - 9.6.2 no official order be issued or formal contract made for work, goods, materials or services for the private use of any person;
 - 9.6.3 only official order forms in a format approved by the Chief Finance Officer be used;
 - 9.6.4 each official order or formal contract indicates clearly the nature and quantity of the work, goods, materials or services, the agreed value or price and provisions for payment, any trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a quotation, tender or other arrangement;
 - 9.6.5 each official order or supplier's form of order used to call-off, draw-down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the work, goods, materials or services (as the case may be) which form the subject-matter of the contract.
 - 9.6.6 where the terms of any official order or a formal contract are changed, such amendment(s) be initialled by Chief Officers or authorised signing officers. In addition, the copy of an official order so changed and held by the issuing Council department, be amended accordingly;
 - 9.6.7 a scanned copy of every executed formal contract is sent to the Strategic Procurement Lead Officer.
- 9.7 The Strategic Procurement Lead Officer shall ensure that as soon as possible after any formal contract has been made, the Chief Finance Officer is notified and a register be kept of such contracts made.
- 9.8 Chief Officers shall ensure that any contingency allowance incorporated into an official order or formal contract does not exceed 10% of the estimated cost of a Contract unless agreed otherwise with the Chief Finance Officer.

10 CONTRACTS THAT HAVE COMMENCED

Contract Management

- 10.1 A Contract must not start until the Contract documents have been signed or signed and sealed and dated. Chief Officers must allow time for this in the Contract programme.
- 10.2 Within ten days of the date of the Chief Officer or Contract officer should 1] notify the Finance Team if the Contract is worth £5,000 or more or 2] Strategic Procurement Lead Officer and the preferred procurement provider if the Contract is worth £30,000 or more of the following:
- The Contract reference number
 - The title of the agreement
 - The local authority responsible
 - The works, goods or services to be supplied;
 - The procurement procedure adopted;
 - The name of the Supplier,
 - The Contract value; and
 - The commencement and completion dates;
- 10.3 The preferred procurement provider shall arrange for publication of a Contract award notice, this is subject to a time limit of 30 days, if appropriate, and a register of notified information shall be maintained, which will be available for inspection via appointment by any member of the Council, internal/external auditors and any member of the public. Publication is by way of the Contracts Register. Contracts below £30k are managed directly by service areas and should be updated on the Contracts Register through Finance. Where the CCS assisted procurement service is used the assisted procurement service will arrange for the advertisement on Contracts Finder (FTS) and advise the Council that this has been completed. Where the value is between £30k and £50k and where the procurement has been managed in house then the Procurement and Projects Officer is to be advised of the contract award details in order to publish on Contracts Finder
- 10.4 The Chief Officer shall be the Contract manager for the Contracts for which he/she is responsible up to the relevant Threshold, but he/she may authorise another Officer by written delegation to have day-to-day responsibility for managing the Contract. For Contracts over the relevant Threshold, the Chief Officer must appoint a dedicated Contract manager with appropriate skills and experience.
- 10.5 The Chief Officer is responsible for:
- Managing the Contract and ensuring that it is carried out in accordance with its terms and conditions;
 - Monitoring the Supplier's performance;

- Making the Contractor aware that he is expected to comply with the Council's equal opportunities, anti-bribery, whistle-blowing and anti-money laundering policies;
- Ensuring that the Supplier maintains the insurance policies required by the Contract;
- Agreeing any minor changes to the Contract (but not changes to prices) before they are carried out;
- Keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the Contract;
- Deducting liquidated damages, if appropriate;
- In consultation with Legal Services consenting to sub-Contracts, assignments to new Suppliers and/or novation to a new Supplier(s); and
- Managing the transition between the ending of one Contract and the beginning of another

10.6 The Chief Officer must consult Legal Services for consideration of the Council's legal position:

- Before any Contract is to be terminated or suspended;
- In the event of a claim for payment not clearly within the terms and conditions of Contract;
- Before making any deduction from payments due to a Supplier or withholding payment from a Supplier;
- Before making any extension to a Contract or variation of the scope of a Contract.

Extensions to Contracts

10.7 An extension to a Contract is an additional period at the end of the Contract, during which the works or the services to be carried out are a repetition of the works, supplies or services under the original Contract.

10.8 Unless a Contract specifically includes an option to extend its term, that Contract may not be extended. The Contract will cease to exist at the end of its term. Exceptions to this paragraph 10.8 (extension of the term of a contract where the contract does not provide an option to extend the term) may be permitted only in exceptional circumstances in consultation with Legal Services and in accordance with the provisions of the Public Contracts Regulations 2015, and the approval of the Executive Director of Governance must be obtained.

10.9 If a Contract specifically includes an option to extend its term and:

- The contract notice or other advertisements for the Contract stated that an extension Contract may be awarded; and
- The estimated value of the Contract in the contract notice or other advertisements took account of the potential extended Contract; and
- The extension represents good value for money for the Council,

10.10 Then the Chief Officer may make a decision to award the extension Contract if the value of the extension is below £50,000 per annum. If the value of the extension is over £50,000 per annum the decision to award the extension Contract must be made by the Cabinet, unless Cabinet Authority has already been provided within the original contract approval. Once the extension has expired, that Contract will cease to exist.

Variations to the Scope of Contracts

10.11 Provided that a budget has been allocated for that expenditure and value for money can be demonstrated, the Chief Officer may agree with a Supplier to carry out additional works or services that were not included in the original Contract but which through unforeseen circumstances have become necessary and which either cannot for technical or economic reasons be carried out or provided separately from those included in the original Contract without major inconvenience to the Council or could be carried out or provided separately but are strictly necessary to the later stages of the Contract. The additional works or services must not exceed 50% of the value of the original Contract and authorisation must be obtained from the appropriate decision-maker.

11 PAYMENTS

11.1 Chief Officers shall ensure that payments to suppliers for work, goods, materials or services are certified and made in accordance with:

11.1.1 The appropriate term(s) of the official order or formal contract; and

11.1.2 The Council's Financial Regulations.

12 PERFORMANCE SECURITY ARRANGEMENTS

12.1 Chief Officers shall ensure that procurement exercises allow for the obtaining of security for the due performance of all Contracts (whether they be Contracts involving goods, materials or services or involving construction and engineering related work) between the Council and any external organisation where the value of such Contract is estimated to be £275,000 or more.

12.2 Chief Officers must decide, taking appropriate advice, whether the circumstances justify the Council requiring the supplier to provide appropriate security arrangements. Such security may be by way of performance bonding, parent

company/third party guarantees, deposit of money as security or other means considered appropriate by the Chief Officer.

13 INSURANCES

13.1 Chief Officers shall ensure that there is adequate and appropriate insurance cover in force during the continuance of a Contract for both the Council and its suppliers in conjunction with the Council's insurance officers.

14 CONSULTANTS

14.1 Where a supplier is providing consultancy services to the Council (e.g. professional, technical, IT and managerial), Chief Officers shall ensure that the relevant provisions of these Contract Procedure Rules are followed and included in the terms of such supplier's appointment.

14.2 Chief Officers shall ensure that the taxation procedures set out within the Financial Regulations are followed in the employment of consultants.

14.3 Chief Officers shall ensure compliance with the requirements of the Audit for commissioning and managing consultants

14.4 All consultants engaged to act on behalf of the Council must comply with policy and declare that:

- They will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council; and
- They will notify the relevant Chief Officer if they have any links with (e.g. a family member or close friend works for) an organisation or Supplier who is tendering or quoting for a Contract with the Council or already has a Contract with the Council.

15 RECORDS

15.1 Chief Officers shall ensure that the records required by these Contract Procedure Rules are kept and securely retained.

15.2 For the purpose of these Contract Procedure Rules, Chief Officers shall ensure that the relevant documentation set-out in the Council's Retention and Disposal Policy is securely kept and retained for at least the periods stated in such schedule.

16 AUDIT EXAMINATION

16.1 The authority of the Council's Internal Audit is outlined in the Council's Financial Regulations and will be utilised where appropriate.

17 EXCEPTIONS TO CONTRACT PROCEDURE RULES

- 17.1 An exception to Contract Procedure Rules is a permission to let a Contract without complying with one or more of the Rules. An exception to Contract Procedure Rules may be granted subject to conditions.
- 17.2 Permission to use an exception to Contract Procedure Rules will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not be a permitted exception to the Rules.
- 17.3 If an exception is granted, the Chief Officer responsible for the Contract must demonstrate that the price obtained is not in excess of the market price and that the Contract represents value for money.
- 17.4 An exception to Contract Procedure Rules is not required in the following circumstances:
- 17.4.1 Placing an order under an existing Corporate Contract or single Supplier Framework Agreement;
- 17.4.2 As part of a partnering Contract that contemplates a series of Contracts with a single Supplier, provided the entire series has been duly authorised as appropriate for its value;
- 17.4.3 Legislation requires the Council to let a Contract differently from these Contract Procedure Rules;
- 17.4.4 Placing an order through the preferred procurement under an arrangement, of which the Council is an affiliate, which has gone through a compliant competitive process;
- 17.5 Exceptions under this Rule shall be notified to the Strategic Procurement Lead Officer or the Corporate Resource Director.
- 17.6 Exceptions may be granted in the following circumstances:
- 17.6.1 The Contract is for the execution of works or the supply of goods or services certified by the Chief Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Executive Lead Member shall be kept informed of such decisions and a record of the decision shall be retained by the Chief Officer and a copy sent to the Strategic Procurement Lead Officer or the Corporate Resource Director.
- 17.6.2 Where there is no (or insufficient) marketplace to tender for the supply of goods, services or works required because of the specialist nature of the proposed Contract permission to apply an exception will be sought from the Executive Lead Member or Cabinet to either deal with a single contractor or to vary the quotation/tender requirements.

18 ELECTRONIC SIGNATURES

- 18.1 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.

18.1.1 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative.

18.1.2 The use of Electronic Signatures is not permitted in circumstances where:

- the Contract is to be sealed;
- a physical, handwritten signature needs to be filed;
- there is a proviso in the Contract which prevents the use of an Electronic Signature;
- the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- the Contract needs to be notarised.

19 DEFINITIONS

Authority	Means a decision by the Cabinet, the Council, the Executive Lead Member and or Chief Officer to spend money and award the Contract;
Award a Contract	means to accept an offer from a Supplier;
Cabinet	means the Leader of the Council and the other members of the Council's Executive, who are all Executive Lead Members;
CCS Chief Finance Officer	Crown Commercial Service means the officer designated under section 151 of the Local Government Act 1972.
Chief Officer	means the posts designated as Chief Officers in Part 2 Article 10 of the Council's Constitution or a person authorised by him/her in writing
Contract	means the bargain or agreement between the Council and a Supplier for the supply of works, goods or services;
Contract Document	means the document setting out the Council's specific requirements to be delivered through the contract, together with the terms and conditions of the Contract. A Purchase Order is a Contract document. Although at law a verbal agreement may be a Contract, Contracts for Ashfield District Council must always be supported by appropriate written Contract documents;
Contractor	see Supplier;

Contract Finder	means a web based portal provided by or on behalf of the Cabinet Office
Corporate Contract	means a Contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area e.g. stationery. Corporate Contracts are generally procured and managed by the preferred procurement provider;
Emergency	means an occurrence involving or likely to ‘involve danger to life or health’ or ‘serious damage to property’ or ‘destruction of property’.
Find a Tender Service (FTS)	means a web based portal provided by or on behalf of the Cabinet Office
UK Regulations	means the Public Contracts Regulations 2015 as amended from time to time;
Threshold	means the value in pounds sterling above which the UK Regulations apply to a proposed public Contract;
Exception	means a decision by Cabinet, the Council, a Executive Lead Member or a Chief Officer not to comply fully with these Contract Procedure Rules
Framework Agreement means	an agreement between one or more contracting authorities and one or more Suppliers which fixes the terms and conditions under which the Supplier will enter into one or more specific call off Contracts with an authority during the term of the framework agreement, which should be no more than 4 years;
Goods	see Supplies Contract;
Key Decision	a key Decision is defined in the constitution as one which is likely to:- (a) Result in the Council making savings or incurring expenditure exceeding £50,000 revenue or £1m capital or (b) Have a significant effect, either positive or negative, on communities living or working in an area comprising two or more wards or electoral divisions in the Council’s area.
Living Wage	means an hourly wage rate, set independently and updated annually calculated according to the basic cost of living in the UK;
Members of Staff	means Officers who carry out the day to day work of the Council, either on a permanent or a temporary basis, and includes officers, interim post-holders and agency staff but not consultants or Suppliers;
Monitoring Officer means	the Officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council’s

	compliance with the law and rules of administration. The Executive Director of Governance is the Monitoring Officer;
Officer	means an individual who holds a post on the Council's establishment;
PIN	means the Prior Information Notice;
PQQ	means a Pre-Qualification Questionnaire, which Suppliers have to complete to provide evidence of their legal, financial and technical capacity (including but the not limited to their health and safety and equal opportunities polices) to undertake a Contract for the Council;
Preferred Procurement Provider	means the provider that has been approved to manage procurement activities.
Public Procurement Legislation	includes the Public Contracts Regulations 2015, UK legislation affecting public sector Contracts and any amendment, re-enactment or replacement of any of them;
Purchase Order	means the Council's official order form for the purchase of works, goods or services;
Quotation	means an offer by a Supplier to undertake a Contract;
Services Contract	means a Contract for the provision of services to the Council;
Supplier	means a Supplier of works, goods or services to the Council;
Supplies Contract	means a Contract for the sale or hire of goods to the Council and includes, where appropriate, installation of goods;
Tender	means an offer by a Supplier to undertake a Contract of £50,000 or more in value;
TUPE Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of them.
Voluntary Transparency Notice	means a notice published in Find a Tender by the preferred procurement provider on the request of the Chief Officer, which contains the name and contact details of the Council; a description of the object of the Contract; a justification of the decision of the Council to award the Contract without advertising it in Find a Tender; the name and contact details of the Supplier to be awarded the Contract and any other information the preferred procurement provider considers it useful to include;

Works Contract

means a Contract for the construction, repair or maintenance of a physical asset e.g. a building or a road.

EMPLOYMENT PROCEDURE RULES

1. INTRODUCTION

- (a) The Council has developed these rules in order to outline the process to be followed when appointing or dismissing employees or taking disciplinary action against employees.

2. RECRUITMENT AND APPOINTMENT

(a) Declarations

- i) The Council requires any candidate for appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or employee of the Council or of the partner of such persons.
- ii) No candidate so related to a Councillor or an employee will be appointed without the authority of the relevant Chief Officer or an employee nominated by him/her.

(b) Seeking Support for Appointment

- i) 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) No Councillor will seek support for any person for any appointment with the Council.

3. APPOINTMENT AND DISMISSAL OF CHIEF OFFICERS AND STATUTORY OFFICERS

- (a) In accordance with the Committee Terms of Reference (Part 3 of the Constitution) the Chief Officers' Employment Committee is responsible for the appointment and dismissal of, and the taking of disciplinary action against, Chief Officers and Statutory Officers as defined in Article 11.
- (b) The Chief Officers' Employment Committee will be required to follow the Council's Recruitment and Selection Policy.
- (c) The Chief Officers' Employment Committee will meet as and when required and must include at least one Member of the Executive. The Chief Officers Employment Committee shall have a membership of 7.

4. APPOINTMENTS – CHIEF OFFICERS AND STATUTORY OFFICERS

- (a) The Chief Officers' Employment Committee may choose to appoint any of the Chief Officers or Statutory Officers from an internal pool of candidates or by externally advertising.

- (b) The Chief Officers' Employment Committee will draw up a job description and person specification which will be sent to any person on request.
- (c) The Chief Officers' Employment Committee will interview shortlisted candidates. Candidates will be interviewed in accordance with the Recruitment and Selection Policy and the advice of an HR adviser.
- (d) The preferred candidate will be offered the post subject to there being no well-founded objection by any member of the Executive, satisfactory references and pre-employment checks.
- (e) A final decision in respect of the appointment of a Statutory Officer rests with the Council.
- (f) Where a reorganisation affects the structure/numbers of Chief Officer posts, posts in the new structure will be filled in line with the relevant Council policy. Any competitive interviews required under that policy will be carried out by the Chief Officers' Employment Committee.

5. DISMISSAL AND DISCIPLINARY ACTION – CHIEF OFFICERS AND STATUTORY OFFICERS

- (a) The Chief Officers Employment Committee will hear disciplinary matters relating to Chief Officers and Statutory Officers.
- (b) In the case of dismissals, the Chief Officers' Employment Committee will hear the case against the Chief Officer/Statutory Officer and the hearing will be conducted in accordance with the Council's Disciplinary Policy or the relevant statutory procedure in the case of the Statutory Officers. The provisions of the relevant legislation including the requirements set out in Schedule 1 Part 2 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) are incorporated by reference into these procedure rules. In the case of discrepancy between these procedure rules and the legislation, the legislative provisions shall take precedence.
- (c) A final decision in respect of a Statutory Officer rests with the Council. The Council will consider the proposal to dismiss in accordance with the relevant statutory requirements and any associated detailed procedures and must approve such dismissal before the notice of dismissal is issued.
- (d) In the case of a Statutory Officer, no disciplinary action may be taken until the advice, views or recommendations of an Independent Panel are considered by the Chief Officers' Employment Committee as the body authorised by the Council to act as the relevant Investigation and Disciplinary Committee under the relevant statutory process. The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months beginning on the date of suspension. In the case of the suspension of the

Chief Finance Officer or the Monitoring Officer, the Head of Paid Service will make the suspension having consulted with the Leader of the Council. In the case of the Head of Paid Service, the Monitoring Officer will make the suspension having consulted with the Leader of the Council.

- (e) The Chief Officer (unless the employee is a Statutory Officer) will have a right of appeal in accordance with the appeals process set out in the Disciplinary Policy. The Appeal body for a Statutory Officer is the Standards and Personnel Appeals Committee for disciplinary matters falling short of any proposal to dismiss and Council if dismissal is being proposed.

6. APPOINTMENT OF POLITICAL ASSISTANTS

The appointment of any person as a political assistant must be done in accordance with the legislative requirements and the wishes of the relevant political group.

7. APPOINTMENT, DISMISSAL AND MANAGEMENT OF ALL OTHER EMPLOYEES

- (a) The appointment, dismissal and management of employees (except Chief Officers and Statutory Officers) including disciplinary action, will be carried out by properly authorised Officers of the Council in accordance with relevant policies and procedures and in compliance with statutory obligations.
- (b) Elected Members will not be involved in the appointment, dismissal or management of employees other than Chief Officers or Statutory Officers, except where their involvement is necessary for any investigation into alleged misconduct or as a Member of the Standards and Personnel Appeals Committee when hearing an appeal against dismissal in accordance with the Disciplinary Policy.

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CONSTITUTION

PART 5 – MEMBERS’ CODE OF CONDUCT

Page No.

Code of Conduct

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ASHFIELD DISTRICT COUNCIL

MEMBERS' CODE OF CONDUCT

Introduction

It is important that Councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. An individual Councillor's conduct affects the reputation of all Councillors.

As Councillors you represent local residents, work to develop better services and deliver local change. The public have high expectations of Councillors and trust Councillors to represent their local area taking decisions fairly, openly and transparently. Councillors are expected to maintain high standards and demonstrate good conduct, challenging where behaviour falls below expectations. As an Ashfield District Councillor, you are a representative of this Authority and the public will view you as such, therefore your actions impact on how the Authority as a whole is viewed and your action can have both positive and negative impacts on the Authority.

Councillors should be able to undertake their democratic role without being intimidated, abused, bullied or threatened by anyone, including the general public.

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

Everyone in public office at all levels should uphold the Seven Principles of Public Life, also known as the "Nolan Principles". This Code is based upon the Nolan Principles which are set out below:

The Seven Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Interpretation

In this Code the following definitions apply:

“A Councillor” means a Member or Co-opted Member of the Authority

“A Co-opted Member” means a person who is not a Member of the Authority but who is a member of:

- a) Any committee or sub-committee of the Authority; or
- b) Represents the Authority on, any joint committee or joint sub-committee of the Authority

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

"Meeting" means any meeting of:

- a) The Authority;
- b) The Executive of the Authority;
- c) Any of the Authority's or its Executive's committees, sub-committees, joint committees, or joint sub-committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

A 'Sensitive Interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

"The Authority" means Ashfield District Council.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, the Authority's officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The use of support, training and mediation prior to action being taken using the Code is to be encouraged. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General Principles of Councillor Conduct

Building on the Nolan Principles, the following general principles apply to the role of Councillor.

In accordance with the public trust placed on Councillors, on all occasions Councillors should:

- Act with integrity and honesty;
- Act lawfully;
- Treat all persons fairly and with respect; and
- Lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking the role of Councillor, Councillors should:

- Impartially exercise the responsibilities of a Councillor in the interests of the local community;
- Not improperly seek to confer an advantage, or disadvantage, on any person;
- Avoid conflicts of interest;
- Exercise reasonable care and diligence; and
- Ensure that public resources are used prudently in accordance with the Authority's requirements and in the public interest.

Scope

This Code of Conduct applies to you as soon as you sign the Declaration of Acceptance of the Office of Councillor or attend your first meeting as a Co-opted Member and continues to apply until you cease to be a Councillor or Co-opted Member.

You **must** comply with this Code whenever you are acting in your official capacity which includes when:

- (a) You conduct the business of the Authority; or
- (b) You act as a representative of the Authority; or

- (c) Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor or as a representative of the Authority;

This Code does not have effect in relation to your conduct other than where it is in your official capacity.

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

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

When acting as a Councillor, you are expected to uphold high standards of conduct and show leadership at all times.

The Members' Social Media Policy is appended to the Members' Code of Conduct as **Appendix F**.

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

Obligations

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

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

Respect

1. When acting in your role as a Councillor:
 - 1.1 You treat other Councillors and members of the public with respect.
 - 1.2 You treat local authority employees, employees and representatives of partner organisations and those volunteering for the Authority with respect and respect the role they play.

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

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

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

Bullying, Harassment and Discrimination

- 2 When acting in your role as a Councillor:
 - 2.1 You do not bully any person.
 - 2.2 You do not harass any person.
 - 2.3 You promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

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

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

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

Impartiality of Officers of the Council

- 3 As a Councillor
 - 3.1 You do not compromise or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Authority.

Officers work for the Authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Councillors can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, Councillors must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and Access to Information

4 As a Councillor:

4.1 You do not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Authority; and
 - (iii) you have consulted the Monitoring Officer prior to its release.

4.2 You do not prevent another person from gaining access to information to which that person is entitled by law.

4.3 You do not improperly use knowledge gained solely as a result of your role as Councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.

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

Disrepute

5 As a Councillor:

5.1 You do not conduct yourself in a manner which could reasonably be regarded as

bringing your role or the Authority into disrepute.

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

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

Use of Position

6 As a Councillor:

6.1 You do not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

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

Use of Local Authority Resources and Facilities

7 As a Councillor, when using or authorising the use by others of the resources of the Authority:

7.1 You act in accordance with the Authority's reasonable requirements including the requirements of the Authority's ICT policy, a copy of which has been provided to you and which you are deemed to have read;

7.2 You make sure that such resources are not used improperly for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed; and

7.3 You have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

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

- Office support;
- Stationery;
- Equipment such as phones, and computers;
- Transport;
- Access and use of local authority buildings and rooms.

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

The Council has an approved Use of Resources Protocol. The Use of Resources Protocol provides rules on the use of Council resources for councillors. The key principle underlying the Use of Resources Protocol is that public office and public resources should not be used to further purely private or party-political purposes.

The Use of Resources Protocol is appended to the Members' Code of Conduct as **Appendix E**.

Complying with the Code of Conduct

- 8 As a Councillor:
 - 8.1 You will cooperate with any Code of Conduct investigation and/or determination;
 - 8.2 You do not intimidate or attempt to intimidate any person who is or is likely to be:
 - (a) a complainant;
 - (b) a witness;
 - (c) involved in the administration of any investigation or proceedings, in relation to an allegation that a Councillor (including yourself) has failed to comply with the Authority's Code of Conduct;

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

Sanctions

If you are found to have been in breach of this Code, the Hearing Sub-Committee may impose one or more of the following sanctions:

- a) Censure or reprimand the Councillor;
- b) Publish its findings in respect of the Councillor's conduct;
- c) Report its findings to Council or to the Parish Council, or both for information;
- d) Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- e) Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular portfolio responsibilities;
- f) Recommend to Council that the Councillor be replaced as Executive Leader;

- g) Instruct the Monitoring Officer, or recommend that the Parish Council, to arrange training for the Councillor;
- h) Remove, or recommend to the Parish Council that the Councillor be removed, from all outside appointments to which he/she has been appointed or nominated by the Authority or by the Parish Council;
- i) Withdraw, or recommend to the Parish Council that it withdraws, facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
- j) Exclude, or recommend that the Parish Council exclude, the Councillor 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 Sub-Committee has no power to suspend or disqualify a Councillor or to withdraw Member's allowances or special responsibility allowances.

Training

- 9 As a Councillor:
 - 9.1 You must attend the mandatory training set out in Appendix D and any other training the Authority may deem is required from time to time.
 - 9.2 You must attend the training detailed in 9.1 as soon as reasonably practicable:
 - (a) after your election; and
 - (b) after your re-election; and
 - (c) after your appointment to a relevant Committee or Sub-Committee; and
 - (d) as required after changes in legislation, policy or procedure affecting the relevant Committee or Sub-Committee outlined above; and/or
 - (e) as frequently as set out in Appendix D.
 - 9.3 You must attend training if you are instructed to do so by a Standards Hearing Sub-Committee. If you fail to do so after 3 months and/or having been offered training on two occasions, the fact of your failure will be reported to the Standards and Personnel Appeals Committee.
 - 9.4 It may not be necessary for you to complete some of the training requirements set out in Appendix D. This is only if you can evidence to the Monitoring Officer or Assistant Director – Democracy that you have completed similar training within a reasonably recent timescale. It is always mandatory to complete Committee specific training following appointment for Planning Committee, Licensing Committee, Chief Officers' Employment Committee, and the Standards and Personnel Appeals Committee, in accordance with the frequency set out in Appendix D.

9.5 A record of training completed by Members is kept by Democratic Services.

Pre-determination or Bias

10.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as Councillor, however do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

10.2 When making a decision, do consider the matter with an open mind and on the contents before the meeting at which the decision is to be taken. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) your Authority's Chief Finance Officer; or
- (b) the Monitoring Officer;

where that officer is acting pursuant to his or her statutory duties.

Interests

11 As a Councillor:

11.1 You must register and disclose your interests in accordance with the requirements set out more fully below.

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

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

11.2 Registration of Disclosable Pecuniary Interests

- a) Within 28 days of becoming a Councillor, or your re-election, or re-appointment to office, you must register with the Monitoring Officer the interests of yourself and those of your partner (if you are aware of your partner's interests) which fall within the categories set out in Appendix A.
- b) You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

- c) Where you have a Sensitive Interest, you must notify the Monitoring Officer with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

11.3 Non participation in case of disclosable pecuniary interest:

- a) where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests, you must verbally declare the existence and nature of the Interest at the meeting (unless the interest is a Sensitive Interest in which event you need not disclose the nature of the interest). You must not participate in any discussion on the item of business or vote on the matter and must leave the meeting unless you have been granted a dispensation. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
- b) Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your Executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

You should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in Appendix A, is a criminal offence under the Localism Act 2011.

11.4 Disclosable Personal Interests

- a) Where a matter arises at a meeting which directly relates to one of your Disclosable Personal Interests (as set out in Appendix B), you must disclose the interest on the register of interests and make a verbal declaration of the existence and nature of that interest at the meeting. You may speak and vote on the item and remain in the meeting during the item.

11.5 Non-Registerable Interests

You have an “**Other Interest**” in an item of business of the Authority where:

- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you, or a member of your family, or a person with whom you have a close association to a greater extent than it would affect the majority of the inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority’s administrative area; or
- (b) it relates to or is likely to affect any of the interests listed in Appendix A to this Code, but in respect of a member of your family (other than your spouse, civil partner or person with whom you are living as spouse or civil partner) or a person with whom you have a close association

and that interest is not a Disclosable Pecuniary Interest.

- (c) Where a matter arises at a meeting which directly relates to one of your Non-Registrable Interests you must make a verbal declaration of the existence and nature of that interest at the meeting. You may speak and vote on the item and remain in the meeting during the item.

11.6 There are some decisions that your Authority will need to make that could affect every Councillor. A list of these is set out at Appendix C. **You may** take part in these decisions **unless** you fall into one of the exceptions set out in the list.

Gifts and Hospitality

12 As a Councillor:

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

12.2 You are required to declare and register any gifts and hospitality accepted in excess of an estimated value of £50.00 (Fifty Pounds).

12.3. You are required to declare gifts and hospitality in excess of an estimated value of £50.00 (Fifty Pounds) but which were declined.

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

SCHEDULE OF DISCLOSABLE PECUNIARY INTERESTS

Subject	Prescribed Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c52).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies	<p>Any tenancy where (to M's knowledge):</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

APPENDIX B

SCHEDULE OF DISCLOSABLE PERSONAL INTERESTS

You have a Disclosable Personal Interest in any business of your Authority where it relates to or is likely to affect:

- a) and body which is a:
 - (i) private club or society, such as the Freemasons; or
 - (ii) a recreational club; or
 - (iii) a working men's club; or
 - (iv) a private investment club.

APPENDIX C

DECISIONS AFFECTING ALL COUNCILLORS

Where the decision referred to in Rule 11.4 above relates to one of the functions of the Authority set out below, and the condition which follows that function does not apply to you when making that decision, you may participate in the decision:

- (i) housing, where you are a tenant of your Authority *unless* those functions relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education or are a parent governor of a school, *unless* it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to Members;
- (v) any ceremonial honour given to Members;
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

APPENDIX D

MANDATORY TRAINING

Training	Scope	Frequency
Planning Committee	Planning legislation and case law. Local Plan policies. Procedures. Role on Planning Committee. Role of a Member of Local Planning Authority Planning Code of Good Practice Relationship to Members' Code of Conduct Development proposals and Interests under Members' Code of Conduct Fettering Discretion in the Planning Process Lobbying of and by Councillors Contact with applicants, developers and objectors Role of Officers Decision Making Public Speaking at Meetings Site Visits How to determine Planning Applications	Prior to sitting on Planning Committee minimum of every two years. Refresher training may be given more frequently.
Licensing Committee and its Sub-Committees	Licensing legislation, policies and procedures relevant to the remit of the Committee and its Sub-Committees. General Principles of each Act Role of Members Ward Member Role Licensing Objectives Determining Licensing Applications	Prior to sitting on the Committee or its Sub-Committees minimum of every four years.
Chief Officers Employment Committee and the Interview and Appraisal Sub-Committee	Recruitment and selection. Appraisals Legislation, policies and practice within the remit of the Committee and its Sub-Committee	Prior to sitting on the Committee or its Sub-Committee occasional refresher training may be given.
Standards and Personnel Appeals and its Sub-Committees	Legislation, case law, policies and procedures relevant to the remit of the Committee and its Sub-Committees	Prior to sitting on the Committee or its Sub-Committees minimum of every four years.
Code of Conduct/ Ethical Governance	Understanding of the Members' Code of Conduct and the governance of the Council. Responsibilities and role as a Councillor. Outline of Constitution	At the point of election and on subsequent re-election(s).

	<p>Promoting and maintaining high standards of conduct by Members Code of Conduct (including Gifts and Hospitality) The Register of Interests Protocols Guidance Dispensations Political Publicity – rules Data Protection Freedom of Information</p>	
Equalities and Diversity	<p>To tackle discrimination and social exclusion, promote equality of opportunity and foster good relations between all.</p>	<p>After each election. Members can evidence to the Monitoring Officer or Assistant Director – Democracy the completion of similar training within a reasonably recent timescale.</p>
Safeguarding	<p>To provide guidance and advice to elected Members on;</p> <ul style="list-style-type: none"> • roles and responsibilities in relation to safeguarding children and vulnerable adults and • how Members should raise any concerns and receive assurance about children and adults who may be at risk. 	<p>Every 2 years. Members can evidence to the Monitoring Officer or Assistant Director – Democracy the completion of similar training within a reasonably recent timescale.</p>
Lone Worker	<p>Ensuring Members keep themselves safe</p>	<p>After election or re-election. Refresher (online) annually. Members can evidence to the Monitoring Officer or Assistant Director – Democracy the completion of similar training within a reasonably recent timescale.</p>
Fraud Awareness	<p>To raise awareness of where fraud may occur in District Councils and what actions should be taken.</p>	<p>After each election and bi-annually thereafter.</p>
Chairperson (if appointed as a Chair)	<p>To ensure that Members appointed to Chairmanships have the required knowledge, skills and attributes needed to become an</p>	<p>Following initial appointment to position. Members can</p>

	effective Chairman.	evidence to the Monitoring Officer or Assistant Director – Democracy the completion of similar training within a reasonably recent timescale.
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Ashfield

DISTRICT COUNCIL

APPENDIX E

Protocol for Use of Resources by Councillors

Version: 1.0
Approved by Council: 26 May 2022

1. INTRODUCTION

- 1.1 This protocol provides rules on the use of Council resources in relation to your role as a Councillor. The key principle underlying this protocol is that public office and public resources should not be used to further purely private or party-political purposes.

The Council provides a range of support services and facilities to enable Councillors to carry out their duties.

All Councillors must comply with the provisions of the adopted Members' Code of Conduct regarding the use of Council resources.

Council resources should be used exclusively for the purposes of Council business or to enable Councillors to carry out their Councillor role. Failure to comply with the rules set out within this protocol is likely to result in a breach of the Members' Code of Conduct.

- 1.2 As set out within the Members' Code of Conduct, as a Councillor, when using or authorising the use by others of the resources of the Council:
- 1.2.1 You act in accordance with the Authority's reasonable requirements including the requirements of the Authority's ICT policy.
 - 1.2.2 You make sure that such resources are not used improperly for political purposes unless that use could reasonable be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed.
 - 1.2.3 You have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 1.3 You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a Councillor. Examples include:
- Office support
 - Stationery
 - Equipment such as phones, computers
 - Transport
 - Access and use of local authority buildings and rooms
- 1.4 These are given to you to help you carry out your role as a Councillor more effectively and not to be used for business or personal gain. They are to be used in accordance with the purpose for which the have been provided as set out within this Protocol.
- 1.5 The rules regarding the use of these resources are set out in the Schedule within this protocol.

2. WHEN THIS PROTOCOL APPLIES

2.1 Councillors may use Council facilities and resources in connection with the following Council business:

- Matters relating to the decision-making process of the Council, e.g., Council, Cabinet, and committee meetings
- Representing the Council on an outside body
- Holding ward surgeries
- Meeting, communicating, and dealing with correspondence from residents, other Councillors, Officers, Government officials, MPs etc. in connection with Council business
- Matters for discussion by a political group of the Council, so long as it relates mainly to the work of the Council and not your political party or group

3. PRINCIPLES FOR USE OF RESOURCES

3.1 Councillors must be mindful of Council resources and must always seek to conduct business in the most cost-effective way. Councillors must have regard to the need to ensure prudent and reasonable use of resources and value for money.

Party political activities or individual campaigning **do not** form part of Council business and the Council's resources must **not** be used for these activities. This includes Council email addresses. The Council is prohibited by law from publishing any material which, in whole or in part, appears to be designed to affect public support for a political party or an individual Councillor.

Use of resources for the purpose of representing individuals or small groups of residents is acceptable. However, high volume use of resources including sending out circulars and conducting wide-scale consultation exercises is not acceptable, even though these may involve Council business.

In the interests of economy and the environment, Councillors are requested to use e-mail, or to hand-deliver, instead of using post wherever possible.

The Standards and Personnel Appeals Committee is responsible for oversight of use of resources.

SCHEDULE

4. IT EQUIPMENT

4.1 Each Councillor is provided with appropriate equipment for their full term of office. This currently consists of an iPad tablet device and keyboard.

4.2 On receipt of equipment, Councillors are required to confirm that they have read the Councillors' ICT Acceptable Use Guidance.

4.3 Technical support for the ICT equipment provided to Councillors by the Council is available through the Council's ICT helpdesk.

- 4.4 IT user training is available on request.
- 4.5 Councillors are required to return the supplied equipment if they cease to be a Councillor or at the end of their full term in office.

5. COUNCILLOR WEBPAGES

- 5.1 The Council's website includes contact details, photograph, committee memberships, attendance information, political affiliation, and register of interests.

6. SECURITY PASS

- 6.1 Each Councillor is issued with a photo security pass to be worn at all times when in the Council Offices.
- 6.2 Each card is individually programmed to provide access to particular areas in the Council Offices.
- 6.3 Each card is programmed to enable Councillors to scan, copy, and print from the multi-function devices situated around the Council Offices.

7. COUNCIL BUILDINGS AND ROOMS

- 7.1 Council buildings and rooms should only be used for the purpose of carrying out your role as a Councillor in relation to Council business.

This includes:

- Dealing with casework
- Meeting constituents or local partners
- Preparing for and attending Council meetings
- Meeting with Council Officers

8. INCOMING MAIL

- 8.1 Each Councillor has a pigeonhole/post tray located within relevant group areas, or within the Democratic Services Office, for Council paperwork or any incoming mail received by the Council.
- 8.2 Pigeonholes/post trays should be checked and items within collected regularly.
- 8.3 If Councillors are not expected to be at the Council Offices for some time, they should discuss any specific requirements with Democratic Services.

9. OUTGOING MAIL

- 9.1 In the interests of economy, Councillors are encouraged to use email or hand-deliver mail where possible.
- 9.2 Councillors who wish to send outgoing mail by post should hand the mail to Democratic Services.
- 9.3 The Council's pre-printed windowed envelopes **must** be used in order to enable mail to be processed in accordance with the Council's contractual arrangements with Royal Mail.
- 9.4 Unless there are exceptional circumstances, outgoing mail will be sent second class.

10. STATIONERY

- 10.1 A limited range of stationery is available from Democratic Services.
- 10.2 Stationery must not be adapted to include political logos.
- 10.3 The multi-function devices are regularly restocked with printer paper, Democratic Services should be contacted to re-stock, if necessary, rather than taking paper from other locations in the Council Offices.
- 10.4 Electronic versions of Councillor letterheads are available from Democratic Services.

11. PRINTING

- 11.1 Security passes enable Councillors to print, scan, and photocopy from the multi-function devices located around the Council Offices, including in the Members' Room. These are the only printing facilities available.
- 11.2 Councillors should be economical in their use of print.
- 11.3 Due to the costs associated with colour printing, Councillors should always print/copy in black and white unless colour is required to enable the document to be understood.
- 11.4 Each Councillor has a monthly print limit of £10, which is refreshed on the 1st of each month.

12. BUSINESS CARDS

- 12.1 Councillors can request a supply of 250 business cards through the Council's Communications Team.

13. CONFERENCES, SEMINARS AND TRAINING

- 13.1 Attendance at conferences, seminars, and training events for which a fee is payable or which will incur mileage or subsistence claims must be approved in advance by the Assistant Director - Democracy in accordance with the Members Development Policy and Members' Allowances Scheme.

14. CLOTHING

- 14.1 Members may occasionally be required to wear Council clothing such as Council branded coats, high visibility items, or other protective clothing when attending events or outside locations. In these circumstances, as set out within the Council's Provision of Corporate Clothing and Personal Protective Equipment Policy:

"Members will be provided with appropriate corporate clothing and PPE on an 'as needs' basis as required by the particular circumstances and duties/functions being undertaken. All items of corporate clothing and PPE issued to Members shall be returned to the Council upon completion of the relevant duty/function. This can be flexible, including single event use or longer-term use, such as a Member's term of office, as deemed appropriate."

- 14.2 Council branded clothing must not be worn for political campaigning or personal activities. Council branded clothing must only be worn at Council arranged events/photoshoots in relation to Council business.



Ashfield

DISTRICT COUNCIL

APPENDIX F

Members' Social Media Policy

Version: 4.0

Approved by Council: July 2023

1. INTRODUCTION

- 1.1. Social media is the term used for online tools, websites, and interactive media that enable users to interact with each other by sharing information, opinions, knowledge, and interests. This policy and guidelines cover social media issues over the internet and by email, smart phones, social networking sites, blogging, and tweeting.

Social media increases our access to audiences and improves the accessibility of our communication. It enables us to be more active in our relationships with citizens, partners, and stakeholders and encourages people to be involved in local decision making, enabling better engagement and feedback, and ultimately helping to improve the services we provide.

- 1.2. For the purposes of this policy, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, Instagram, TikTok, YouTube, LinkedIn, blogs, discussion forums, wikis, and any sites which may emerge after the creation of this policy where Ashfield District Council could be represented via online participation.
- 1.3. Ashfield District Council acknowledges social media as a useful tool. However, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the Council to security risks, reputational damage, or breach the Data Protection Act.

2. POLICY STATEMENT

- 2.1. This policy provides a structured approach to using social media and will ensure that it is effective, lawful, and does not compromise Council information or computer systems/networks.

Users must ensure that they use social media sensibly and responsibly, in line with corporate policy. They must ensure that their use will not adversely affect the Council or its business, nor be damaging to the Council's reputation and credibility or otherwise violate any Council policies.

3. PURPOSE

- 3.1. This policy applies to Councillors and Co-Opted Members. It gives guidelines on how to use social media, sets out how we can effectively manage social media usage, and indicates how any risks or pitfalls can be minimised or mitigated. The following risks have been identified with social media use (this is not an exhaustive list):

- Virus or other malware (malicious software) infection from infected sites.
- Disclosure of confidential information.
- Damage to the Council's reputation.
- Social engineering attacks (also known as phishing).

- Bullying or ‘trolling’. An internet ‘troll’ is a person who starts arguments or upsets people by posting inflammatory or off-topic messages online with the deliberate intent of provoking readers into an emotional response or otherwise disrupting normal discussion, often for their own amusement.
- Civil or criminal action relating to breaches of legislation.
- Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.
- Breach of the Members’ Code of Conduct through inappropriate use.

3.2. In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the Council, its employees, Councillors, partners, and the people it serves. As such this policy aims to ensure:

- A consistent and corporate approach is adopted and maintained in the use of social media.
- Council information remains secure and is not compromised through the use of social media.
- Users operate within existing policies, guidelines, and relevant legislation.
- The Council’s reputation is not damaged or adversely affected.

4. RESPONSIBILITIES OF COUNCILLORS

- 4.1. You are personally responsible for the content you publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action for which you will be personally liable.
- 4.2. Social media sites are in the public domain, and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.
- 4.3. Make use of stringent privacy settings if you do not want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.
- 4.4. Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the Council’s Data Protection Policy.
- 4.5. Safeguarding issues are paramount because social media sites are often misused by offenders. Safeguarding is everyone’s business – if you have any concerns about other site users, you have a responsibility to report these.
- 4.6. Do not publish or report on meetings which are private or internal (where no members of the public are present, or it is of a confidential nature), or exempt

reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985).

- 4.7. Copyright laws still apply online. Placing images or text from a copyrighted source (e.g., extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.
- 4.8. Do not send or post inappropriate, abusive, bullying, racist, or defamatory messages to members of the public, other Councillors, or officers either in or outside the work environment.
- 4.9. The Council will not promote Councillors' social media accounts during the pre-election period.
- 4.10. In any biography, the account should state the views are those of the Councillor in question and may not represent the views of the Council.
- 4.11. Do not use the Council's logo, or any other Council related material, on a personal account or website.
- 4.12. Social media must not be used for actions that would put Councillors in breach of the Members' Code of Conduct. For example, do not publish something on social media you would not say face to face, or at a public meeting.
- 4.13. Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.
- 4.14. Anyone receiving threats, abuse, or harassment via their use of social media should report it to their political group leader, the Monitoring Officer, and/or the Police.
- 4.15. It is recommended that you have separate social media profiles for your role as a Councillor or Co-opted Member and your private life.

5. CONDUCT

- 5.1. Councillors are reminded that in respect of social media, they are governed by the Members' Code of Conduct and relevant law. You are acting in your 'official capacity' and any conduct may fall within the Code whenever:
 - You conduct the business of the Authority; or
 - You act as a representative of the Authority; or
 - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor or as a representative of the Authority.
- 5.2. Breaches of this policy may amount to a breach of the Members' Code of Conduct.
- 5.3. Other violations of this policy, such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the Council, or the individual(s) involved.

- 5.4. The Council reserves the right to request the removal of any content that is deemed to be in breach of the Members' Code of Conduct.

6. PRINCIPLES FOR USE OF SOCIAL MEDIA

- 6.1. You should follow these five guiding principles for any social media activities:

1. **Be respectful** – set the tone for online conversations by being polite, open, and respectful. Use familiar language, be cordial, honest, and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.
2. **Be credible and consistent** – be accurate, fair, thorough, and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
3. **Be honest about who you are** – it is important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.
4. **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you cannot. Respond to questions and comments in a timely manner.
5. **Be confident** – do not be scared of participating. Follow these rules and seek further guidance if you need it. If you are about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

7. GUIDANCE ON CAPTURING SOCIAL MEDIA POSTS

- 7.1. Posts made using third party sites such as Facebook or Twitter are not held or within the control of the Council - posts can be deleted by site administrators without knowledge or consent of the Council. In exceptional circumstances, copies of posts may be made and retained by the Council, in line with relevant Council procedures. These copies will be held for a period dependent on the type of investigation they are subject to.
- 7.2. Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts before they might be deleted. Copies should be made and reported to the Monitoring Officer within the Council, as well as following the social media sites own reporting procedures where appropriate.

8. RELATIONSHIP WITH OTHER COUNCIL POLICIES

- 8.1. The Members' Social Media Policy should be read in conjunction with:

- The Members' Code of Conduct which regulates the standards of conduct of elected members of Ashfield District Council. The Members' Code of Conduct also outlines the arrangements for investigating and deciding upon complaints against members.

EXAMPLES OF THE USE OF SOCIAL MEDIA

Can I comment/respond to questions posted on my social media page regarding general local issues?

Yes. The Members' Social Media Policy is not intended to restrict the use of social media, it is a guidance tool to make Councillors aware of the risks and pitfalls. Social media is an excellent method for Councillors to interact with members of the public and should be encouraged.

Can I comment/respond to questions posted on my social media page regarding upcoming Council matters such as licensing or planning applications?

Councillors can take a view and express opinions or concerns, however, they must not show bias or pre-determination. Councillors are reminded to remain impartial and open minded and listen to all the facts before coming to a decision. Evidence of any kind of bias or pre-determination could leave the decision open to challenge.

I find comments on my social media page posted by a third party insulting and/or confrontational. How should I respond?

If at all possible, do not respond at all. Internet 'trolls' are people who often try to antagonise public figures on purpose to get a reaction.

If it is clear that the person is a serious, concerned member of the public then a suitably non-confrontational reply may be appropriate. Remember that you remain a representative of the Council online and should not do or say anything that you would not do face-to-face or in a letter.

If the post is potentially defamatory or illegal, then it should be reported to the site administrators and/or the police.

I discover information that is incidental to my role as a Councillor (for example, information relating to a planning application). Can I disclose this information via social media?

Yes, however, you should take great care in doing so. Posting information obtained as a Councillor will be seen as you acting in your official capacity as a Councillor even if this is on your personal account. You should also remember that publishing anything regarding forthcoming or on-going decisions could be seen as pre-determination or bias. If the information is confidential then releasing the information may be a breach of the Members' Code of Conduct.

Someone has posted a racially aggravated comment on my social media page, what can I do? Can I be held liable?

As soon as you become aware of the comment you should inform the site administrator. If you are exclusively in charge of the site, you should consider reporting the comment to the Police. You should keep evidence of the post and then ensure it is taken down. Providing a Councillor takes reasonable care and reports the potential offence quickly they are unlikely to be held liable for someone else's breaches.

I publish a post on my social media page regarding a matter that I will be making a decision on (such as a planning or licensing application). As this is my personal social media page, do the rules for pre-determination and bias still apply?

Yes, they do. The Members' Social Media Policy also extends to personal social media pages where the content/comment relates to Council matters. Councillors should take care when publishing information regarding a Council matter as this may leave the decision open to challenge.

Do any special rules apply to social media posts and blogs during a local election period?

During an election period, Councillors should take particular care as legislation relating to electoral matters will apply to the online publication of electoral material or statements relating to the election. For example, if you publish a statement on your personal social media page regarding another candidate, the Representation of the People Act 1983 may apply. Under this legislation it is a criminal offence to make or publish a false statement of fact about the personal character or conduct of an election candidate.

What happens if I breach the Members' Social Media Policy?

It depends upon the nature of the breach. However, punishment for a serious breach of the Policy may lead to a code of conduct complaint or even personal liability or criminal charges.

CONSTITUTION

PART 6 - MEMBER/OFFICER PROTOCOL

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PROTOCOL ON MEMBER/OFFICER RELATIONS

1. Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in a way which ensures the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive in most instances. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. The Protocol gives guidance on the respective roles and expectations of Members and Officers. The Protocol also gives guidance on what to do when things go wrong.
- 1.4 The Protocol reflects the principles underlying the respective Codes of Conduct which apply to Members and Officers. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 An effective working relationship between Members and Officers is crucial to the successful operation of the Council's business. Mutual trust and respect is key to achieving effective working relationships.
- 1.6 The Protocol should be read in conjunction with relevant legislation, national and local Codes of Conduct, the Council's Constitution and any guidance issued by the Standards and Personnel Appeals Committee and/or Monitoring Officer. Questions of interpretation shall be determined by the Monitoring Officer.
- 1.7 Most issues can be resolved informally, however, the Council will not condone misconduct or let it go unchecked.
- 1.8 Any allegations of breaches by Officers will be dealt with under the Council's Disciplinary Procedure. Where a Member identifies an alleged breach by an Officer they shall inform the Chief Executive (Head of Paid Service). If a Member has identified a breach by the Chief Executive the Member should report this to the Monitoring Officer.
- 1.9 If an Officer believes a Member has breached the Members' Code of Conduct, he/she should:
 - Not offer any opinion or judgment upon that conduct to the Member;
 - Advise the Monitoring Officer immediately of the circumstances, facts, his/her belief and rationale including supplying relevant documentation; and

- Not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.

These provisions are to protect both the Member and Officer and are to ensure any investigation can be carried out in an unbiased and unfettered manner.

2. Member/Officer Relations: General Points

2.1 Both Members and Officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their Committees and Sub-Committees.

2.2 At the heart of the Code of Conduct, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Members legally have no role in appointing, disciplining or dismissing officers except in respect of Chief Officers as outlined in the Employment Procedure Rules (Part 4 of the Constitution) and should not explicitly or implicitly suggest that this is the case.

2.3 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. An Officer has no means of responding to such criticisms in public.

2.4 Members should not abuse Officers, or question their impartiality in public, or through the press nor seek to undermine their position by abuse, rudeness or ridicule.

2.5 If a Member abuses Officers, or questions their impartiality in public, or through the press or seeks to undermine their position by abuse, rudeness or ridicule in a public meeting then Officers shall advise the Chairman that such behaviour is unacceptable and the Chairman shall inform the Member to desist. In accordance with Council Procedure Rule 25.3, if a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the Member be not heard further. If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary (Rule 25.5). If no motion is carried and if the unacceptable behaviour continues, the Officers shall leave the meeting after advising the Chairman. The Officer will advise the Chief Executive as soon as reasonably practicable of their reasons for leaving the meeting. In these circumstances, the Chairman will make a complaint to the Monitoring Officer.

- 2.6 If a Member abuses an Officer in a face-to-face private meeting, the Officer shall tell the Member to desist. If the Member continues, the Officer will terminate the meeting and inform the Chief Executive as soon as reasonably practicable of their reasons for doing so. If a Member is abusive in an e-mail or telephone conversation to an Officer, then the Officer is justified in not responding to the e-mail or in ending the telephone call. In both cases the Officer shall inform the Chief Executive of their actions and their reasons for doing so as soon as reasonably practicable.
- 2.7 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Chief Officer as appropriate. In these circumstances the Chief Officer will take appropriate action either by approaching the individual Member and/or Group Leader or by referring the matter to the Monitoring Officer as a Code of Conduct complaint.
- 2.8 Many complaints are capable of informal resolution without the need for formal action. In this regard political groups may consider appointing a group member to lead and be a contact for identification and resolution of such problems.
- 2.9 If a Member feels s/he has not been treated with proper respect and courtesy by an Officer or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, s/he should raise the matter with the Chief Executive. Any formal action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Policy and Performance and Capability Policy.
- 2.10 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section or Directorate in a manner that is incompatible with the overall objectives of this Protocol.
- 2.9 Members should take care not to disrupt the work of Officers. Members should (wherever reasonably possible) make appointments with Officers in advance so that the most appropriate Officers are able to deal with the Members' requests. Chief Officers may put in place arrangements for dealing with Members for the better, more efficient running of services.

3. Officer Support to Members: General Points

- 3.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to both the Executive and all Members in their several areas.
- 3.2 Certain statutory officers — the Chief Executive (Head of Paid Service), the Monitoring Officer and the Chief Financial Officer — have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 3.3 The following key principles reflect the way in which Officers relate to Members:
- All Officers are employed by, and accountable to the Council as a whole;

- Support from Officers is needed for all the Council's functions including Council, Overview and Scrutiny, the Executive, Committees, individual Members representing their communities etc.;
- Day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other Officers;
- All Officers will be provided with training and development to help them support the various Member roles effectively.

3.4 It is important that all Members, in exercising their functions as a Councillor, take all appropriate legal, financial and professional advice offered by an Officer.

3.5 It must be remembered that Officers within a Directorate are accountable to their Executive Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Executive Director.

4. Members' Role

4.1 Members have five main areas of responsibility:

- Determining the budget and policy framework of the Council and giving it political leadership and strategic direction;
- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
- Representing the Council externally;
- Representing the local community and acting as advocates for their constituents;
- Scrutinising the implementation and effect of their decisions.

5. Officers' Role

5.1 The role of Officers is to:

- Manage the organisation;
- Develop policy proposals which accord with the overall framework set by the Council;
- Implement policy;
- Give professional advice;
- Ensure the Council acts lawfully and with financial propriety;
- Take action under delegated powers.

6. Expectations

6.1 Members can expect from Officers:

- A commitment to the Council as a whole, and not to any political group;
- Respect, dignity and courtesy;
- An effective working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Timely response to enquiries and complaints;
- Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers;
- Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- Awareness of and sensitivity to the political environment;
- Training and development in order to carry out their role effectively;
- Integrity, mutual support and appropriate confidentiality;
- Not to have personal issues raised with them by Officers outside the agreed procedures;
- That Officers will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- That Officers will at all times comply with the relevant Codes of Conduct;
- Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority;

6.2 Officers can expect from Members:

- An effective working partnership;
- Respect, dignity and courtesy;
- An understanding of and support for respective roles, workloads and pressures;
- Leadership and direction in terms of the Council's duties and responsibilities;
- Integrity, mutual support and appropriate confidentiality;

- No bullying or to being put under undue pressure. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the power relationship between Members and Officers, and the potential vulnerability of Officers, particularly at junior levels;
- That Members will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- That Members will at all times comply with the relevant Codes of Conduct;
- Lawful actions;
- That advice and recommendations for the purpose of making informed decisions will be fully considered.

7. Personal Relationships

- 7.1 Mutual respect between Members and Officers is essential to good local government. Close personal familiarity in public between individual Members and Officers can damage this relationship and should be avoided as it can prove embarrassing to other Members and Officers.
- 7.2 Notwithstanding 7.1 above, the Council recognises that there may be close social or personal relationships between Members and Officers that have commenced before, or after, a Member is elected to the Council or before, or after, a person becomes employed by the Council. In a large organisation this may be inevitable. In order to maintain the integrity of the individuals concerned and the Council, such relationships should never be hidden. To do so can lead to suspicion and mistrust.
- 7.3 A Member must declare, in writing, to the Monitoring Officer and his/her Group Leader/Party Whip any relationship with an Officer which might be seen as influencing his/her work as a Member and the Officer must notify the Chief Executive in writing. This includes any family relationships.
- 7.4 The Group Leaders and the Chief Executive will endeavour to ensure that neither the Member nor the Officer are placed in a position where such relationship between the two will be seen to conflict with the provisions of this Code.

8. Officer Support: Members and Party Groups

- 8.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 8.2 Political party groups have statutory recognition and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political

neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

8.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

8.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;

- Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.

8.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) or the local Members' Code of Conduct and for this and other reasons, such as confidentiality of information and the handling of potentially exempt items of business, Officer attendance at such meetings must be agreed by the Chief Executive in advance.

8.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group. However, Members should be aware that this will not prevent Officers from disclosing such information to other Council Officers as far as is necessary to perform their duties.

8.7 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.

8.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s)/Members.

9. Officer Support: The Executive

- 9.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Written advice given by an Officer to the Executive should be available to all Members if requested.
- 9.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Chief Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgment of the author of the report. This is to be distinguished from a situation where there is a value judgment to be made. Any issues arising between an Executive Member and a Chief Officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 9.3 The Executive and its members have wide-ranging leadership roles. They will:
- Lead the community planning process and the search for Best Value, with input and advice from the Select Committees and any other persons as appropriate;
 - Lead the preparation of the Council's policies and budget;
 - Take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Council; and
 - Be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 9.4 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through the Principal Select Committee, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 9.5 Under Executive Arrangements, individual members of the Executive are able to formally take decisions. The Executive and its members must satisfy themselves that they are clear what exactly they can and cannot do.
- 9.6 The Council has put in place mechanisms which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual

matters) as well as consulting the Monitoring Officer where there is doubt about vires.

9.7 Officers will continue to work for and serve the Council as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, their political neutrality is not compromised.

9.8 In organising support for the Executive, there is a potential for tension between Chief Officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid the existence of such tensions and conflicts either real or perceived.

10. Officer Support: Overview and Scrutiny

10.1 Overview and Scrutiny is an important constituent part of effective democracy and the Council's Constitutional arrangements. Officers have a leading and significant role in making it effective. However, it is not Overview and Scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or Officers.

10.2 The Principal Select Committee, Inward Focus Select Committee, and Outward Focus Select Committee should not act as a "court of appeal" against decisions or to pursue complaints by individuals (Members, Officers or members of the public) as other procedures exist for this. These are internal, (for example, the Corporate Complaints Procedure), and external / statutory (for example, Local Government Ombudsman or appeal to the Courts). However:

- Select Committees may investigate the manner in which decisions are made but should not pass judgments on the merits of a decision in individual cases; and/or
- Can comment on the merits of a particular policy affecting individuals.

10.3 It would be unfair to invite someone to appear before a Select Committee without telling him/her in general terms what he/she will be asked, or not giving him/her adequate time to prepare. Questioning should not stray outside the subject area that the Committee had previously indicated.

10.4 The Overview and Scrutiny Procedure Rules, in Part 4 of the Council's Constitution, sets out guidelines for questioning Members, Officers and members of the public.

11. Support Services to Members and Party Groups

11.1 The only basis on which the Council can lawfully provide support services (for example, stationery, typing, printing, photo-copying, transport etc.) to Members relates to assistance for the discharging of their role as Members of the Council. Such support services must therefore only be used on Council business. They

should never be used in connection with party political or campaigning activity or for private purposes. Requests for assistance shall be made to the Assistant Director - Democracy.

12. Members' Access to Information and to Council Documents

- 12.1 Members can ask for information pursuant to their legal rights to information. This right extends to such information, explanation, and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the service Assistant Director or Executive Director. In cases of doubt, Members should approach the Monitoring Officer for assistance.
- 12.2 In terms of the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 12.3 Members will find set out in Appendix C guidance on their rights to obtain information. The guidance note set out in Appendix C maps the hierarchy of rights of Members to information, but should be read in combination with the contents of the Constitution, most particularly the Access to Information Procedure Rules which cover the statutory obligations of the Authority in terms of information and its relationship with the decision-making process.
- 12.4 Business of the Executive is covered by Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and
- Where there is a meeting (for example, Cabinet) and there is a document which is in the possession / under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection at least five clear days before that meeting;
 - Where the decision is made using delegated powers by an Executive Member or an Officer, the document shall be available after the decision is made;
 - This is not the case for exempt and confidential material in some circumstances.
- 12.5 Finally, any Council information provided to a Member is subject to the protections afforded by the Data Protection Act 1998 and must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasized in paragraph 2.5 of the Members' Code of Conduct:

2.5 **“Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) You have the consent of a person authorized to give it;
- (b) You are required by law to do so;
- (c) The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- (d) The disclosure is:
 - (i) Reasonable and in the public interest; and
 - (ii) Made in good faith and in compliance with the reasonable requirements of the Authority; and
 - (iii) You have consulted the Monitoring Officer prior to its release.”

Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 1998 may result in prosecution of the Council and/or any individual Officer or Member by the Information Commissioner and the imposition of significant monetary penalties.

12.6 Any Member request for personal information or personal data about an individual employee (rather than a general group of employees as a whole) should only be supplied where there is a demonstrable need for that Member to have the information at that level of detail in order to carry out their duties as a Member of the Council. Any such requests should be referred to and considered by the HR manager who may, if necessary, refer the request to the Monitoring Officer.

12.7 In cases where such information is to be released, the HR Manager will specifically remind the Member that the information is confidential, subject to the protection of the Data Protection Act 1998 and confirm the necessary measures for handling that data in order to keep it confidential and ensure that it is not further disclosed to any other person or body either within or external to the Council.

13. Correspondence and Advice

13.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. A system of “blind copies” should not be employed.

13.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate

in certain limited circumstances (for example, representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader, or the Group Leaders by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

13.3 Correspondence received from the public with a request that it is either copied to Members and/or forwarded to Members will, subject to any overriding legal considerations, be forwarded/copied.

13.4 Officers responding to Members queries should do so in a timely manner.

14. Publicity and Press Releases

14.1 Local authorities are accountable to their electorate. Accountability requires local understanding which is often achieved by the Authority issuing press releases or other forms of publicity.

14.2 Publicity and press releases issued by the Council must be published in accordance with the provisions of the Local Government Act 1986 (as amended) and the Code of Recommended Practice on Local Authority Publicity (which is attached as Appendix A). The legislation prohibits the Council from publishing material which appears to be designed to affect public support for a political party.

14.3 Further guidance on the legal constraints placed on local authority publicity during an election period is set out in Appendix B to this Protocol.

15. Involvement of Ward Members

15.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members, Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

16. Officer / Member Protocol

16.1 This version was approved by the Council on 16 May 2019 and will form part of the Constitution.

16.2 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

APPENDIX A

THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “*any communication in whatever form, addressed to the public at large or a section of the public*”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newssheets and maintenance of websites — including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

Principles

4. Publicity by local authorities should:
 - Be lawful;
 - Be cost-effective;
 - Be objective;
 - Be even-handed;
 - Be appropriate;
 - Have regard to equality and diversity;
 - Be issued with care during periods of heightened sensitivity.

Lawfulness

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.

6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.1. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (SI. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

Cost-effectiveness

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case, authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

Objectivity

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should

avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.

16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

Even-handedness

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. If views expressed by or attributed to individual Members do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties — for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.
21. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and

referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.

22. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
23. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
24. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

Appropriate Use of Publicity

25. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
26. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
27. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newsheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newsheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
28. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
29. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newsheets or similar publications published by the local authority, should do this on the front page of the publication.

Equality and Diversity

30. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local

- people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
31. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations. Care during periods of heightened sensitivity.
 32. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums — see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
 33. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.
 34. In general, local authorities should not issue any publicity which seeks to influence voters. However, this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

APPENDIX B

GUIDANCE ON PUBLICITY DURING AN ELECTION PERIOD

1. Introduction

This note gives guidance on publicity during an election period. It does not seek to explain in full the legal basis for publicity, or the legal restrictions, or The Code of Recommended Practice on Local Authority Publicity (“the Code”). It is assumed that officers responsible for publicity are aware of the general provisions. This advice deals only with the special circumstances in the period immediately before any election.

2. Election Period

The election period for any election is the time between when the Notice of Election is published and polling day itself. Caution should therefore be exercised throughout this period and the guidance below strictly adhered to.

3. What is Publicity?

Publicity is defined as “any communication, in whatever form, addressed to the public at large or to a section of the public.” This includes newspapers, press releases, newsletters, booklets, leaflets, posters, banners, badges, advertising, etc. Campaigns, conferences, seminars and exhibitions may also be regarded as publicity.

4. The Public

The public can be defined as the people at large or a section of them. Communications addressed to a defined group of people are not restricted. For example, a newsletter to Council employees or information provided for members of a voluntary organisation are not communications addressed to the public and are not subject to the restrictions.

5. Political Publicity Restrictions

Local authorities may not issue publicity which appears to be designed to affect public support for a political party.

Local authorities must have regard to the Code which provides (inter alia):

“The period between the notice of election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members of groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a

genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election."

6. Checklist

- **Does the publicity relate to a matter of political controversy?**

Such matters should be avoided during the election period if possible. If publicity is unavoidable — such as to explain a new Council policy or scheme — it should be factual, objective and balanced. Style is important. If comment is necessary, it should be accurate and not prejudiced. It should not attack any political party or person associated with such a party or be identifiable as the view of a particular party. Issues should not be over simplified.

- **Does it refer to a political party?**

Do not refer to political parties. Parliament, the Government, the Opposition or the Council may be referred to as the source of decisions, policies or action.

- **Is there reference to a politician?**

It would be preferable for any press release comment on behalf of the authority to come from an officer rather than a Member. Particular care should be taken to avoid mention of any Member or Member of Parliament who is seeking re-election. If it is absolutely necessary, such as where there is an official event or opening, it would be sensible to try to ensure that the corresponding opposition Members are given equal publicity. Care should be taken even when referring to Members not standing in the election as they are likely to be associated with a particular political party.

- **What is the likely effect on the public?**

In the event of a legal challenge, the test will not be the intention of the authority in issuing the publicity but whether the material appears to be designed to affect support for a political party. Consider the overall effect or impact of the publicity before releasing it.

7. Assistance to Other Organisations

Material published by other bodies, such as voluntary organisations, with financial or other assistance granted by the Council may also breach the prohibitions.

8. Further Advice

If in doubt, please consult the Code (DoE Circular 20/88 as amended) and if further advice is required contact either the Monitoring Officer.

APPENDIX C

MEMBERS' ACCESS TO INFORMATION

Introduction

1. The rights of access to information by Members is a complex mix of legislation available to Members and the public alike, legislation specific to local government and “common law rights” given to Members by the Courts. This Guidance endeavours to provide some guidelines for Members through this “maze”. Members may also seek advice from the Principal Solicitor or Monitoring Officer.
2. For general rights of access available to the public, please see the Access to Information Procedure Rules as set out in the Council’s Constitution.

What is the Hierarchy of Rights?

3. The law relevant to access to information by Members includes the following:
 - 3.1 **The Freedom of Information Act 2000.** This makes non-personal information freely available to all, with only limited exceptions.
 - 3.2 **The General Data Protection Regulation 2018 and the Data Protection Act 2018.** These relate to personal information, and generally makes this non-disclosable except in certain circumstances.
 - 3.3 **Local Government Legislation**
 - Access to Information provisions of the **Local Government Act 1972.** This gives the public access to Committee Minutes and Agenda, and to background material relevant to those documents.
 - **Local Government (Executive Arrangements) (Meetings and Access to Information) Regulations 2012)** ensures that Members are entitled to material relevant to public/private meetings of the Leader and Cabinet (and decision making by individual Executive Lead Members). However, these rights do not apply to draft documents, to the advice of a political advisor or to most exempt / confidential information (unless such information is needed for the work of a Select Committee).
 - 3.4 **Common Law Rights** (derived from Court judgements) give Members the right to inspect Council documents insofar as this is reasonably necessary to enable a Member to perform his/her duties as a Member — this is known as the “need to know” basis.
 - 3.5 Members do not have any right to “a roving commission” through Council documents — mere curiosity is not sufficient.

4. Navigating the Hierarchy of Rights Freedom of Information Act 2000

- 4.1 In broad terms, if the information being sought by a Member is non-personal, then the Freedom of Information Act 2000 allows access to most Council documentation. The first port of call for information under the Freedom of Information Act is the Council's Publication Scheme. This is located on the Council's website and sets out most of the Council's published material. This information can be accessed and used without any further reference to the Council. The remainder of this note assumes that the information being sought by a Member is not available under the Publication Scheme.
- 4.2 In certain circumstances, access to documentation via the Freedom of Information Act may be exempt, although most of the exemptions are subject to a "public interest test". So, for example, releasing commercially sensitive information to a member of the public is not likely to be in the public interest. Whereas (subject to the usual rules of confidentiality), it is likely to be in the public interest to release such information to a Member.
- 4.3 Examples of exemptions under the Freedom of Information Act are:
- Work in progress (draft reports, for example) need not be disclosed.
 - Information subject to a data-sharing Protocol should not be released until all organisations have each agreed to disclosure. This is to ensure that crime and disorder and fraud investigations, for example, are not prejudiced.
 - Commercially sensitive information.
 - Where, in the opinion of a designated officer (the Monitoring Officer) disclosure of information would or would be likely to inhibit the free and frank provision of advice, the free and frank exchange of views for the purposes of deliberation, or would otherwise prejudice or would be likely otherwise to prejudice the effective conduct of public affairs. This exemption is also subject to the public interest test.
- 4.4 If the rights outlined above are not sufficient to provide a Member with the information he/she needs, then it is necessary to look to other provisions set out below.

General Data Protection Regulation 2018 and the Data Protection Act 2018

- 5.1 If the information sought by a Member relates to an identified living individual, then the **General Data Protection Regulation 2018 and the Data Protection Act 2018** applies.
- 5.2 There are 2 classes of personal data — "normal" personal data and "special categories" of personal data. Special categories of personal data include:
- Racial or Ethnic Origin
 - Religious or philosophical beliefs

- Trade Union membership
 - Physical or Mental health
 - Genetic or biometric data for the purpose of uniquely identifying a natural person
 - Sexual life or orientation
 - Political opinions.
- 5.3. Where “normal” personal data is involved, the basis for processing under the GDPR should be identified. Most often this basis is Public Task. However, there are other basis’ available as necessary.
- 5.4 Members have the same rights as Council employees to access personal data and the Member must have a need to know and not just be curious.
- 5.5 The Council has a duty to ensure that personal data disclosed to Members using the above procedures is used strictly for the purposes for which it is disclosed and that Members will keep the information secure and confidential (and then disposed of in a similarly careful manner).
- 5.6 Members must observe the Code of Conduct and all the provisions of the Constitution. Officers will automatically assume that Members will treat personal information in accordance with the previous paragraph.
- 5.7 Where “special categories” of personal data is involved (see paragraph 5.2 above) then more rigorous procedures are necessary and:
- Explicit consent of the person concerned must be obtained; or
 - One of the other basis’ for processing personal data under the GDPR must be satisfied; or
 - If this is not practicable, Members must complete a form under the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002.
- 5.8 If the rights outlined above are not sufficient to provide a Member with the information s/he needs, then it is necessary to look other provisions below:

Access to Information Provisions of the Local Government Act 1972/Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

- 6.1 Where a Member cannot obtain the disclosure of information under the Freedom of Information Act then the information may still become available to Members at a later date via Committee agenda, and the right to see background material associated with such an agenda. Once a matter has reached the stage where it is before a Council/Committee/Cabinet, then members of that

Council/Committee/Cabinet would have a “need to know” all relevant information; and other Members would be able to use the usual Access to Information provisions. However, the above rights do not apply to draft documents, to the advice of a political advisor or to most categories of exempt/confidential information (unless the Select Committees require such exempt/confidential information as part of actions/decisions it is scrutinising).

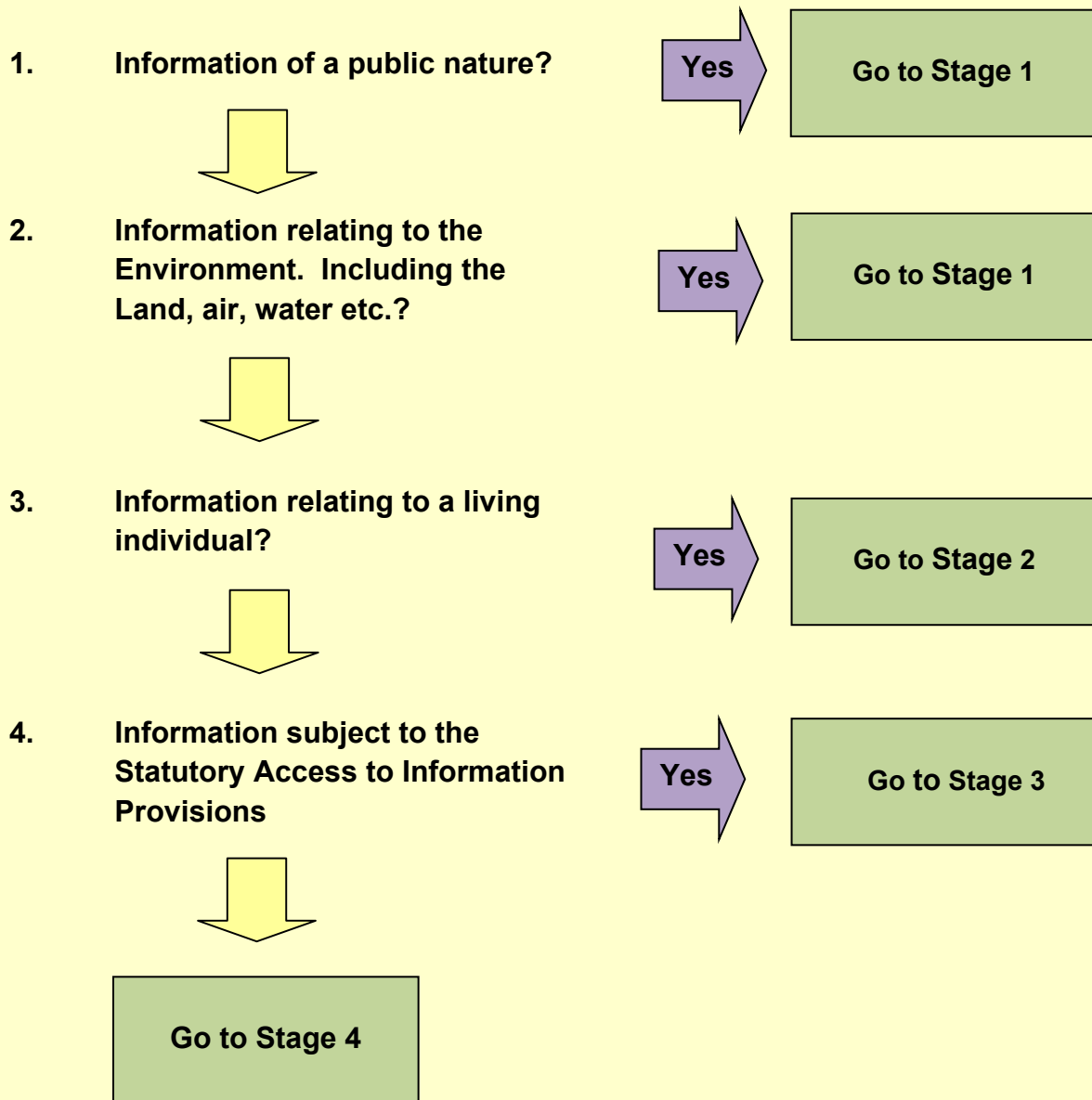
General

- 7.1 Material from the Legal Section (where the Legal Section is providing legal advice to one of its in-house clients at the Council) may be non-disclosable due to legal professional privilege.
- 7.2 Information supplied under the **General Data Protection Regulation 2018 and the Data Protection Act 2018** must not be used or disclosed for political purposes.
- 7.3 Requests for information under the control of Officers should normally be made to the relevant Assistant Director/Executive Director.
- 7.4 Requests for information under the control of the Leader and Cabinet should normally be made to the Leader and/or the relevant Executive Lead Member.
- 7.5. Members must not put undue pressure on Officers to release information to which the Member is not entitled to have access.
- 7.6 Should an Assistant Director or Executive Director need advice as to whether information can be released to a Member s/he should contact the Principal Solicitor or Monitoring Officer.
- 7.7 The additional access to information rights given to Members are to allow them to do their jobs as Members. Confidential or exempt information should only be used in appropriate circumstances, in accordance with the proper performance of their duties as Members. Information should only be passed between Members if both Members can demonstrate a “need to know”.
- 7.8 Any complaints by a Member about the non-disclosure of information should be made in writing to the Monitoring Officer whose decision shall be final as far as the Council is concerned. However, if the Member remains dissatisfied, the Member may be able to refer the matter to the Information Commissioner.

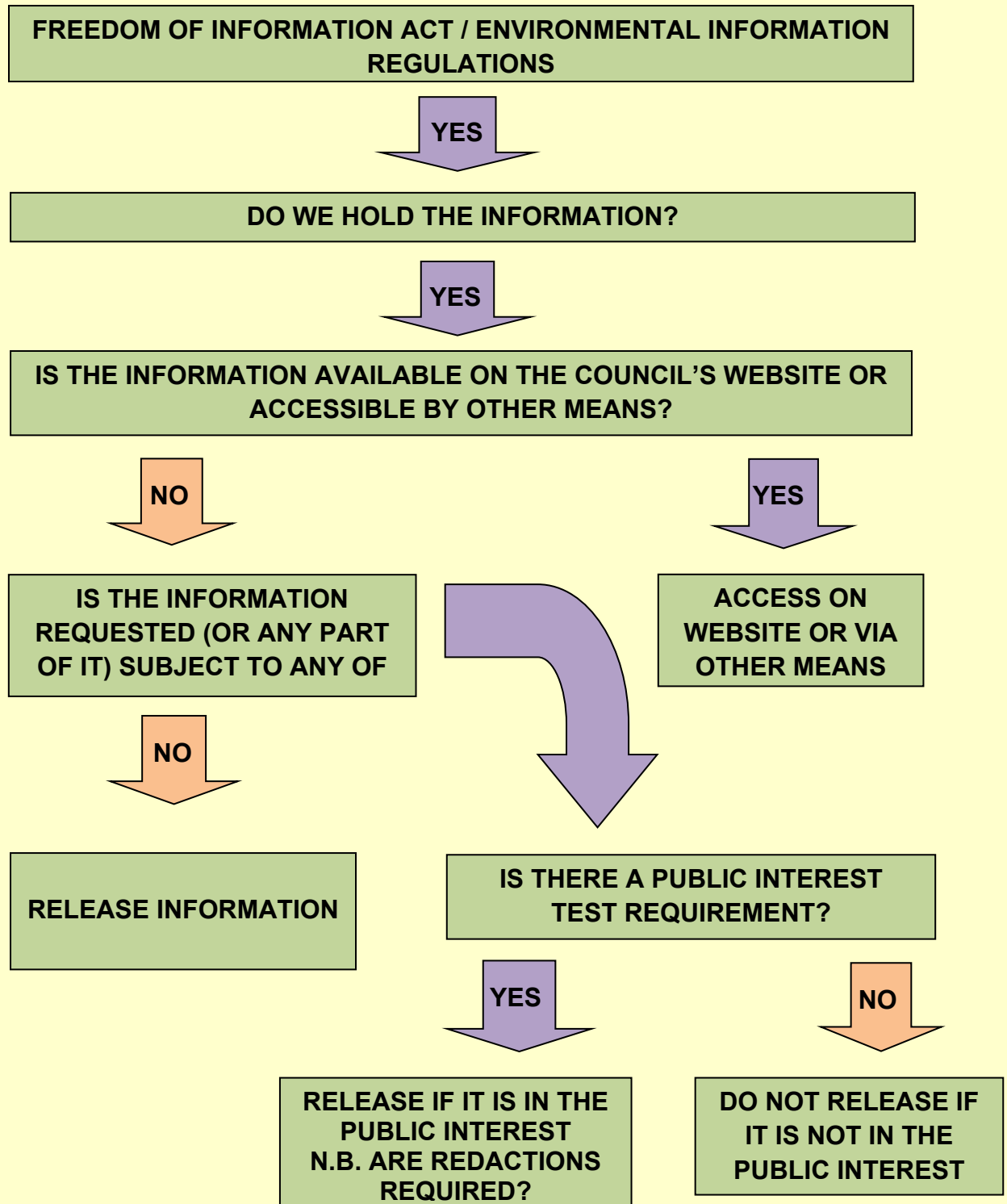
APPENDIX D

Members Access to Information

What information are you requesting?



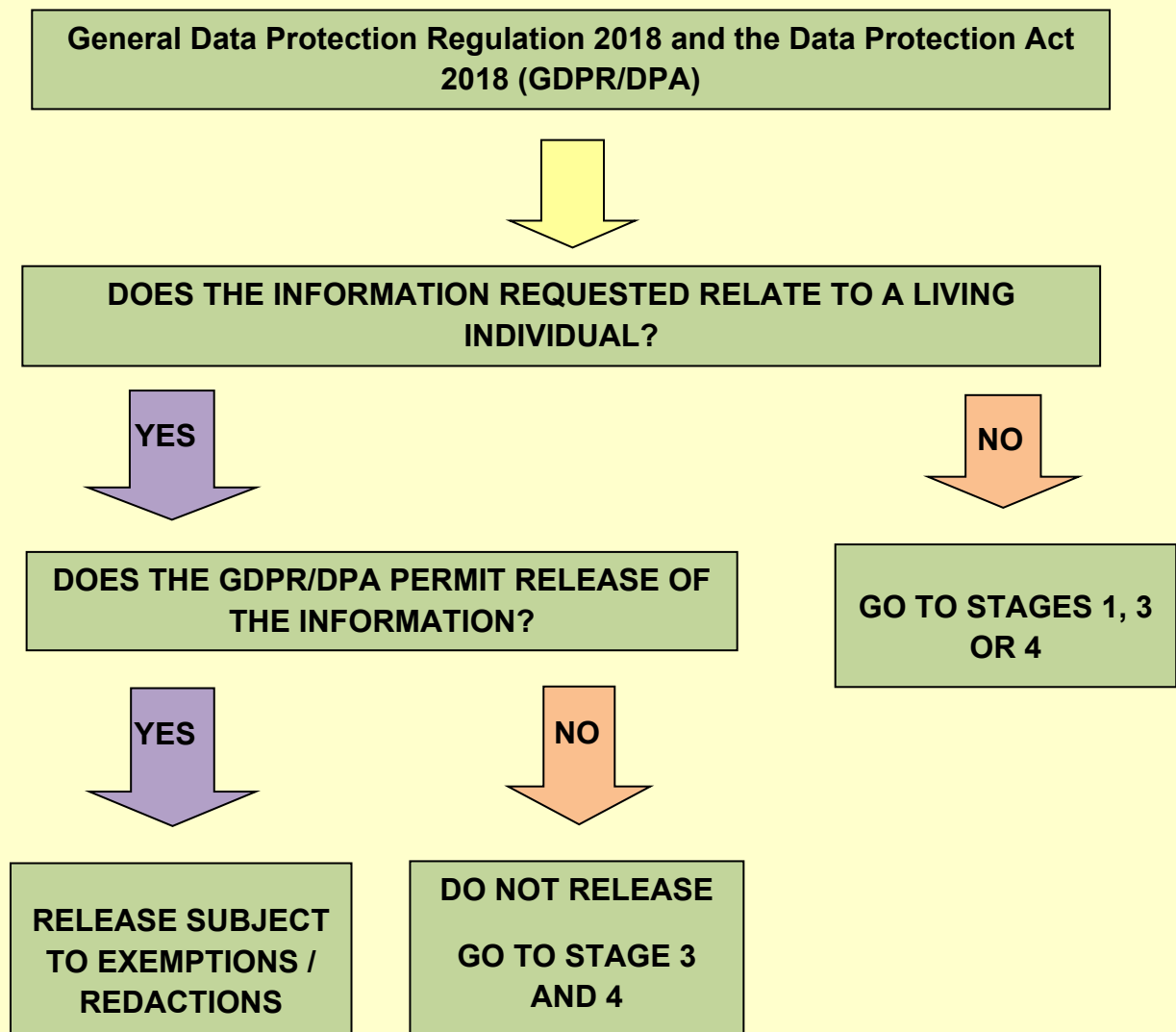
Stage 1



Key Exemptions (there are further exemptions)

- Defence (s26)
- The economy (s29)
- Law enforcement (s31)
- Audit Functions (s33)
- Commercial Interests (s43)
- Legal professional privilege (s42)

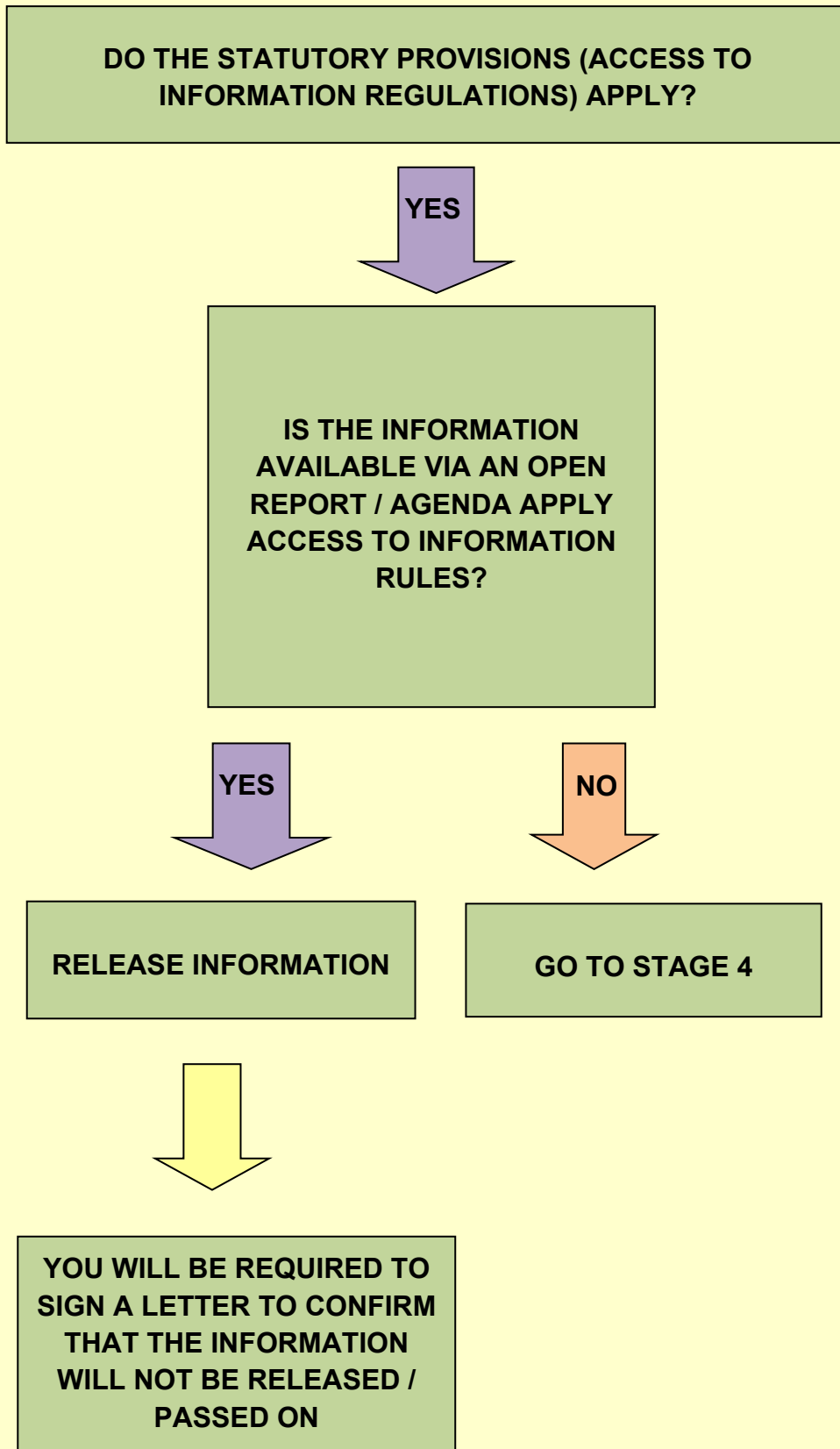
Stage 2



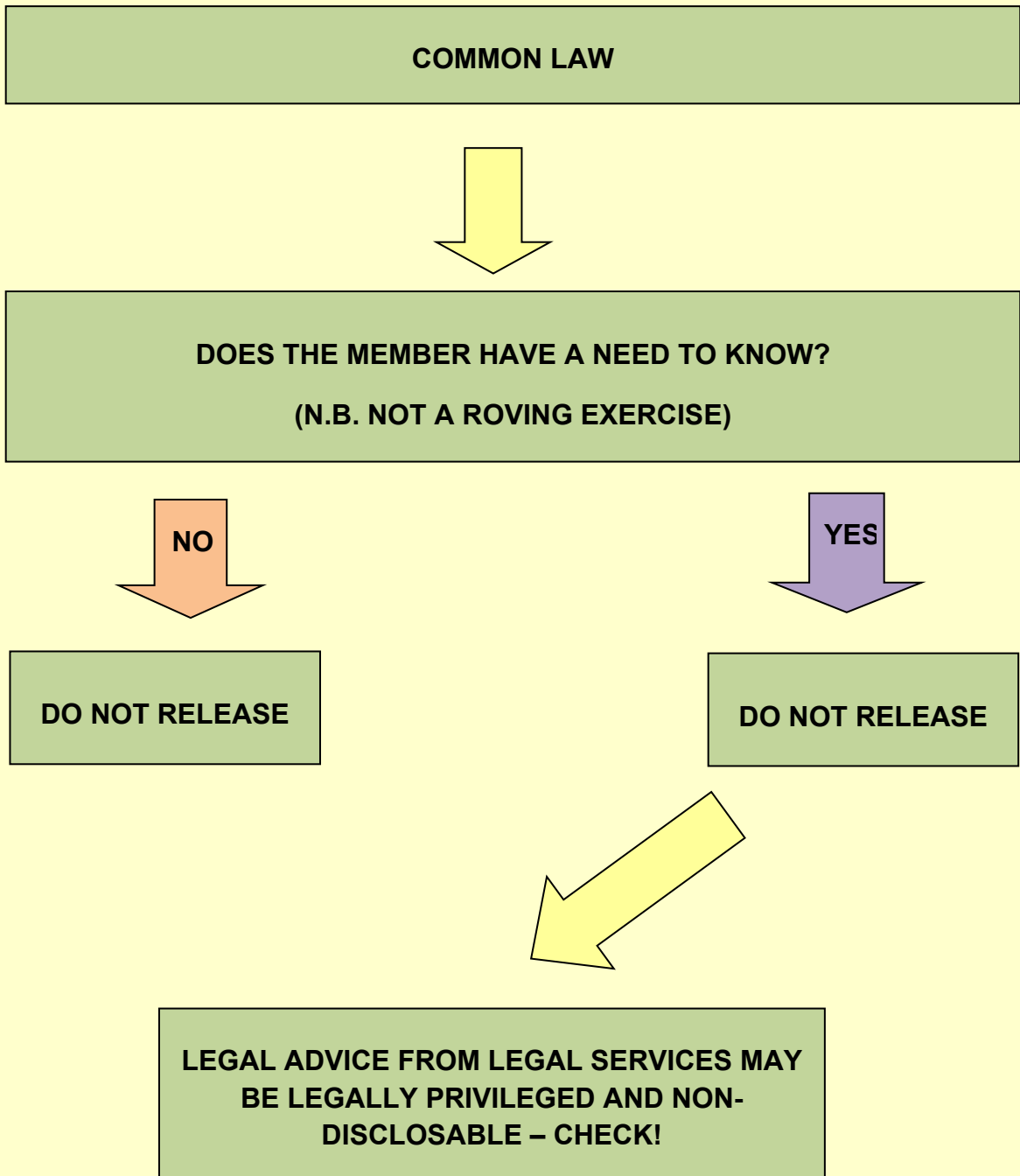
Key **GDPR/DPA** permitted reasons for disclosure include:

- Prevention of Crime and disorder
- Taxation
- Regulatory activity
- Disclosures required by law
- Legal advice and prospective proceedings

STAGE 3



STAGE 4



N.B. Members must only use information for the purpose for which it was obtained. It is provided in confidence and subject to the **General Data Protection Regulation 2018** and the **Data Protection Act 2018** provisions and therefore should not be disclosed to others.

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CONSTITUTION

PART 7 - MEMBERS' ALLOWANCES SCHEME

Page No.

Members' Allowances Scheme

7-1 - 7-7

Members' Allowances Scheme

The Ashfield District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003, having established and consulted an Independent Remuneration Panel hereby makes the following scheme:

Citation

1. This scheme may be cited as the Ashfield District Council Members' Allowances Scheme and shall have effect from 25 May 2023 and subsequent years.

Interpretation

2. In this scheme, "Councillor" means a Member of the Ashfield District Council who is a Councillor;

"total estimated allowances" means the aggregate of the amounts estimated by the Chief Finance Officer, at the time when a payment of basic allowance and special responsibility allowance is made, to be payable under this scheme in relation to the relevant year, and for this purpose any election under paragraph 11 shall be disregarded;

"year" means the 12 months ending with 31st March.

Basic Allowance and Performance Special Responsibility Allowance

3. (1) Subject to paragraph 9 for each year a basic allowance of £7,884.17 shall be paid to each Councillor.

Other Special Responsibility Allowances

4. For each year a special responsibility allowance shall be paid to those Councillors who have the special responsibilities in relation to the Authority that are specified in Schedule 1 to this scheme.
 - (a) Subject to paragraph 9 the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
 - (b) In the case of the Leader and Deputy Leader of the Council, they shall not be entitled to receive an allowance for being Chairman or Vice-Chairman of the Executive.
 - (c) No Member shall receive more than one Special Responsibility Allowance.

Inflation

5. For a period of four years or until any earlier review:
 - (a) The Member's basic, special responsibility allowances and the co-optees allowance shall be increased in accordance with the annual percentage salary increase for local government staff (at spinal column 49) implemented from the start of the municipal year;
 - (b) The Dependent Carer's Allowance in accordance with (i) the minimum/living wage in respect of childcare applicable to the age of the

carer and (ii) hourly wage rate at a maximum at the level of the National Living Wage, currently £10.42 per hour (April 2023) in respect of Social/Medical care;

- (c) The car mileage allowance rates in accordance with current HMRC AMAP rates;
- (d) The bicycle allowance in accordance with the current HMRC AMAP rate.
- (e) Subsistence Allowances indexed to the same rates that are applicable to Officers.

Childcare

- 6. (1) Councillors shall be entitled to claim a Dependent Carer's allowance for childcare whilst on approved duties.
- (2) Where because of carrying out approved duties Councillors place their children in a nursery or similar establishment between the hours of 8 a.m. and 6 p.m. then a Dependent Carer's Allowance will be paid at a maximum at the level of the National Living Wage, currently £10.42 per hour (April 2023).
- (3) Payments for childcare shall be at a maximum at the level of the National Living Wage, currently £10.42 per hour (April 2023).
- (4) Payments will not be paid for childcare provided by members of the Councillor's own household or near relatives.
- (5) All claims must be supported by receipts.

Dependent Carer's Allowance

- 7. (1) Councillors shall be entitled to claim for other dependents where there is medical or social work evidence that such care is required whilst a Councillor is on approved duties.
- (2) Payments for the care of other dependents shall be at a maximum at the level of the National Living Wage, currently £10.42 per hour (April 2023).
- (3) Payment of dependent carers allowance shall be limited to one dependent carer's allowance per household except in special cases to be determined by the Council's Audit Committee.
- (4) Any allegation of abuse of the dependent carer's allowance shall be referred to the Council's Audit Committee for adjudication.

Renunciation

- 8. A Councillor may by notice in writing given to Democratic Services elect to forego any part of his/her entitlement to an allowance under this scheme.

Part Year Entitlements

9. (1) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (2) If an amendment to this scheme is made which affects payment of a basic allowance, a special responsibility allowance or an equipment allowance in the year in which the amendment is made, then in relation to each of the periods:
- (a) Beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or
 - (b) Beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) within the year.

The entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- (3) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.
- (4) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a Councillor does not subsist throughout a period mentioned in sub-paragraph (2), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a Councillor subsists in that period bears to the number of days in that period.
- (5) Where a Councillor has during part of but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he/she has such special responsibilities bears to the number of days in that year.
- (6) Where this scheme is amended as mentioned in sub-paragraph (2), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance,

that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

Claims and Payments

10. A claim for travel and subsistence under this scheme shall be made in writing within two months of the date on which the duty in respect of which the entitlement to the travel and subsistence arises.
11. (1) Payments shall be made:
 - (a) In respect of basic and special responsibility allowances, subject to sub-paragraph 9(2), in instalments of one-twelfth of the amount specified in this scheme on the 15th of each month;
 - (b) In respect of travel and subsistence on the 15th of each month in respect of claims received up to the day 14 days before that date.
- (2) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more or less than the amount to which, by virtue of paragraph 9, he or she is entitled, the payment shall be such amount as will ensure that no more or no less is paid than the amount to which he or she is entitled.

Travelling and Subsistence Allowances

12. (1) The payment of travelling and subsistence allowances is conditional upon the particular duty being approved in advance by the Council for duties outside of the Ashfield District. Members cannot claim travel and / or subsistence allowance for Approved Duties within the District. It is not possible to give retrospective approval for travel and / subsistence allowance, and in case of any doubt it will be essential to obtain the prior approval of Democratic Services).
- (2) Claims for travel (including a bicycle allowance of 20p per mile) and subsistence should not exceed the standard allowances claimable by employees but should include actual and reasonable incidental expenses such as car parking charges.
- (3) Mileage claims for Approved Duties outside of the Ashfield District shall be restricted to the mileage from the Councillor's home or from the District Council's Main Office, whichever is the less.
- (4) Travel expenses may be claimed for all Approved Duties outside of the Ashfield District at the HMRC AMAP rates as follows:

Vehicle	Business Miles – First 10,000 miles £ per mile	Business Miles – Over 10,000 miles £ per mile
Cars & Vans	45p	25p

Motorcycles	24p	24p
Bicycles	20p	20p

Where a Member carries in their car another Councillor to an Approved Duty outside of the Ashfield District then they are entitled to claim an allowance of 5p per mile per passenger.

- (5) If an overnight stay is involved, then where possible, the Council shall reserve and pay directly for the accommodation; for other approved overnight stays, a maximum allowance of £115 per night (inclusive of VAT) will be made; out of pocket expenses shall be payable at the rate of £3.63 per night or £14.55 per week, (reflecting rates paid by other local authorities).
- (6) Specific provision for attendance at approved annual conferences are as follows:
 - (a) Recovery of actual costs incurred for overnight accommodation and evening meals;
 - (b) Payment of out of pocket expenses at the rate of £10.00 per day.
- (7) Where the period of absence gives an entitlement to more than one meal, then allowances can be aggregated over the period in question.
- (8) For overseas journeys, Councillors shall be entitled to claim actual and reasonable expenses having regard to the country visited.
- (9) In all cases claims must be supported by receipts.

Notes:

1. The allowances quoted in this scheme are shown at their 2023/24 level.

SCHEDULE 1

1. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

Leader of the Council	£23,301.36
Deputy Leader of the Council	£17,476.03
Executive Lead Member	£13,980.82

Chairmen of:

Principal Select Committee	£9,320.55
Inward Focus Select Committee	£6,990.41
Outward Focus Select Committee	£6,990.41
Planning Committee	£9,320.55
Local Plan Development Committee	£6,990.41
Audit Committee	£4,660.27
Standards and Personnel Appeals Committee	£4,660.27
Licensing Committee	£4,660.27

Vice Chairmen of:

Principal Select Committee	£3,495.21
Planning Committee	£3,495.21
Local Plan Development Committee	£1,980.61
Inward Focus Select Committee	£1,980.62
Outward Focus Select Committee	£1,980.62

Leader of the Main Opposition Group	£5,825.34
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If there are two Main Opposition Groups of equal size, then the Main Opposition Group Leader's Special Responsibility Allowance of £5,825.34 is divided equally between each of the Main Opposition Group Leaders. The Allowance would be divided equally three ways in the event that there were three Main Opposition Groups of equal size, and so on.

Leader of other Opposition Groups £364.96 per member (subject to achieving the threshold of having at least four Group Members).

2. The following are the co-opted allowances for co-optees appointed to the Audit or Standards & Personnel Appeals Committees: £364.56 (for up to a maximum of 4 co-optees).

Independent Person (Dealing with allegations of Member misconduct) £1,237.57.

Reserve Independent Person (Dealing with allegations of Member misconduct) £618.79.

SCHEDULE 2

TRAVEL AND SUBSISTENCE DUTIES

- (a) Travel and Subsistence Allowance can be claimed for Approved Duties outside of the Ashfield District (For example, meetings with representative groups of other Council's or Government Departments, representing the Council at sub-regional, regional or national events).
- (b) To qualify for travel and subsistence, duties must receive confirmation from Democratic Services that attendance at a meeting outside of the Ashfield District is recognised as approved before the claim is made or authorised by Democratic Services. Retrospective approval cannot be given. However, if it is clear that a duty previously existed as approved but had been "missed", this can be corrected. Current Subsistence rates for attending approved duties outside the District are:

- Breakfast £4.31
- Lunch £5.93
- Tea £2.34
- Evening Meal £7.35

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PART 8 – SENIOR MANAGEMENT STRUCTURE

Page No.

Senior Management Structure

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Senior Management Structure

September 2023



Chief Executive
Theresa Hodgkinson



Executive Director
Governance
(and Monitoring Officer)
Ruth Dennis



Executive Director
Transformation
Craig Bonar



Executive Director
Place
John Bennett



Executive Director
Operations
Paul Parkinson

Assistant Director
Democracy
Mike Joy

Corporate Resources Director
(and Section 151 Officer)
Pete Hudson

Assistant Director
Planning
Christine Sarris

Assistant Director
Neighbourhoods
Alastair Blunkett

Assistant Director
Legal
Louise Ellis

Assistant Director
Customer Experience
Rosie Taylor-Caddy

Assistant Director
Strategic Housing
Phil Warrington

Assistant Director
Housing Management
Nicky Moss

Assistant Director
Corporate Health & Safety
Scott Tilley

Assistant Director
Digital
Gavin Harris

Assistant Director
Regeneration
Sarah Daniel

Assistant Director
Housing Operations
Chris Clipstone

Central Midlands
Audit Partnership
(Shared Service)

Assistant Director
Policy & Performance
Jo Froggatt

Assistant Director
Assets
Ian Bailey

HR & Payroll
(Shared Service)
Karen Barke

Assistant Director
Revenues & Benefits
Tammy Fox

CONSTITUTION

PART 9 – CODE OF CONDUCT FOR EMPLOYEES

DECEMBER 2017

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Code of Conduct for Employees

1. Introduction

- 1.1 The Council exists for the benefit of the local community and so employees are expected to provide the highest possible standards to ensure public confidence in its activities. Employees of the Council are therefore required to conduct themselves appropriately whilst undertaking Council business.

2. Objectives

- 2.1 The objective of this code is to outline the standards expected of all employees within the Council and to provide guidance on the conduct that is expected.

3. Scope

- 3.1 This Code of Conduct covers all employees of the Council including permanent, temporary and casual employees.
- 3.2 The Code of Conduct is additional to national conditions of service, local agreements, the Council's Standing Orders and Financial Regulations and any other Council or departmental policies that may be issued or amended.
- 3.3 This code will be reviewed regularly to ensure that it continues to be relevant and up to date.

4. Employee Responsibilities

- 4.1 Employees should consider this code carefully and comply with it fully as it forms part of their terms and conditions of employment. If an employee does not understand any aspect of the code, or requires further clarification about any of the information, they should speak with their manager or contact Human Resources.
- 4.2 Employees should be aware that any breach of this code, or its supporting policies and guidance, may result in action being taken under the Disciplinary Policy.

5. Manager Responsibilities

- 5.1 Managers should ensure employees within their team understand the Code of Conduct and should discuss it with any new starters as part of the local induction to ensure that all employees are aware of the code.

6. General Conduct and Relationships

- 6.1 Employees should always be aware of their responsibilities to the local community and should treat all members of the public, service users, partners and colleagues with respect and courtesy at all times. Likewise, employees should never abuse, threaten or strike any member of the public or a colleague and should also take care never to damage property belonging to a member of the public, or the authority or a colleague.

- 6.2 Orders and contracts, grants and planning decisions must be decided on their merits and in line with Council procurement policies. Favourable treatment must not be shown to businesses in which employees have an interest or are run by friends, partners or relatives. Likewise, employees should take all reasonable steps to ensure that an impression is not created that they are using their position within the Council to promote a private or personal interest.
- 6.3 Similarly, managers should ensure that recruitment is conducted in accordance with the Council's Recruitment and Selection Policy. Where a manager is recruiting for a post where one of the applicants is a relative, or they have a close personal relationship outside of work with them, they should ensure that this does not affect the recruitment. For instance, by requesting another manager (who does not have a relationship with the applicant) to support the process.
- 6.4 Managers should also ensure that they make Human Resources aware of any situation involving an employee which could result in a conflict of interest. For example, if a manager is conducting a disciplinary investigation where allegations have been made against someone who is a relative or with whom they have a close personal relationship outside of work. In such circumstances appropriate arrangements will be made such as appointing another manager as an investigating officer. Likewise, where a manager has a relationship with a member of their team, another manager could be involved in performance management / appraisal processes to ensure they are conducted fairly.
- 6.5 Some employees will be required to provide advice to Members. Mutual respect between employees and Members is essential to good local government and close personal familiarity between Members and employees can damage the integrity of the Council and prove embarrassing to other employees and Members and should therefore be avoided. The Member/Officer Protocol within the Council's constitution provides guidance in respect of conduct and relationships.

Customers and Service Users

- 6.6 Employees should ensure that they establish and maintain clear and professional boundaries in their relationships with customers and service users and must not use their position to enter into relationships that exploit service users sexually, emotionally, socially, financially or in any other manner.
- 6.7 Employees should ensure that they use sound professional judgement when supporting service users with specific and often personal needs, or where the employee is in a position of trust, to ensure that contact with service users remains appropriate and that personal and professional boundaries are clearly defined.

7. Use and Disclosure of Confidential Information

- 7.1 It is generally accepted that open government is best but due to the nature of its business and its relationship with service users, other organisations and members of the public, the Council deals with highly confidential and sensitive information affecting policies, transactions and employees. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. In addition, the Council may decide to be transparent about other types of information not covered by legislation. Employees should

ensure that they are clear which information the Council is able to provide as a matter of course in relation to their area of work and which information should remain confidential, or is exempt from public access and should act accordingly. Where employees are uncertain regarding disclosure of information, they should check with their line manager or appropriate senior manager.

- 7.2 Employees may not use any information obtained in the course of their employment for personal gain or benefit and should also not pass such information on to others who may use it inappropriately.
- 7.3 Conflicts of interest may also arise where employees receive information as part of their duties before it is made public. The Council will ensure, wherever possible and appropriate, that information becomes public knowledge at the earliest possible stage to minimise conflicts of interest. However, employees should ensure that they deal with such information with honesty and openness and discuss with their manager any conflicts of interest.
- 7.4 Employees have a duty to maintain confidentiality and must not disclose any information gained in the course of their employment to any third party for any unauthorised reason. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as an authorised disclosure.
- 7.5 Confidential and sensitive data includes all information whether electronic, paper based or verbal information. Employees should also ensure that they comply with the requirements of the Data Protection Act and Freedom of Information Act when dealing with information. Any queries in relation to these acts should be referred to the Legal team.

8. Use of Council Resources

- 8.1 Any materials, equipment or resources that are the property of the Council should only be used by employees in the course of the duties of their role. Employees should not inappropriately use resources such as vehicles, equipment and stationery.

9. Political Neutrality

- 9.1 It is expected that employees follow the policies of the Council and do not allow their own personal or political views to affect or interfere with the work they undertake. In addition, employees should support all Members equally, regardless of their own political views, and not just those of the controlling group. In some circumstances employees may be required to advise political groups and in these circumstances they should do so in a way that will not compromise their political neutrality.
- 9.2 Employees appointed to a post as political assistant in accordance with the Local Government and Housing Act 1989 are exempt from these political restrictions. However, the other provisions of this Code of Conduct would still apply to these employees.
- 9.3 Where an employee's post has been determined as politically restricted this will be included in his/her job description and contract of employment.

10. Gifts and Hospitality

- 10.1 The acceptance of gifts and/or hospitality should be treated with caution as there is a delicate balance between the acceptance or refusal of hospitality or tokens of good will on certain occasions. Employees should make a judgement between the risk of causing offence by refusal and risking improper conduct by acceptance.
- 10.2 The receipt of items, with a value of less than £25 will not require disclosure. Items with a value of over £25 must be declared by employees completing a Gift / Hospitality Form.
- 10.3 Offers of hospitality or invitations to social occasions from those who do business with the Council, or have an interest in its decisions, where the value of the hospitality is less than £25 do not require disclosure. Hospitality received with a value over £25 must be declared by the employee completing a Gift / Hospitality Form.
- 10.4 Copies of the form are available on the intranet or by contacting the Democratic Services Team. When a form has been completed, the employee should forward it to a manager to approve the form who will indicate either that the acceptance of the gift / hospitality does not contravene this Code of Conduct, or alternatively that the gift / hospitality has been declined. Completed forms should then be returned to the Monitoring Officer for recording on the Gifts / Hospitality Register.
- 10.5 In all cases of acceptance of gift or hospitality, it is the duty of the employee to ensure that personal integrity, and therefore the integrity of the Council, is not put at risk. If an employee has any queries about registering a gift / hospitality they should speak with their manager, a senior manager or the Monitoring Officer.

11. Press and the Media

- 11.1 Employees should not deal directly with the press or media unless required to do so due to the nature of their role (i.e. employees within marketing and communication roles) or because they have been expressly authorised to do so by a senior officer.
- 11.2 All enquiries for information or comment on issues affecting the work of the Council should be referred to the Corporate Communications team. Employees should contact the team if they have any queries relating to media / press enquiries.

12. Dress Code

- 12.1 There is an expectation that employees are smart, tidy and suitably dressed in order to undertake the duties and responsibilities of their role and are dressed in keeping with the customer service initiatives within the Council. This includes wearing appropriate safety clothing and equipment in accordance with Health & Safety regulations (refer to individual PPE risk assessments).
- 12.2 Particular consideration/attention should be made in warm summer months to ensure that employees dress is appropriate for work as opposed to leisure.

12.3 The Council values and welcomes the diversity of its workforce and employees are free to observe ethnic and religious dress requirements whilst ensuring that this does not affect their own health and safety, or that of other colleagues or service users.

13. Employee Photographs

13.1 Employees will be required to provide a photograph or have their photograph taken so that it can be used for business purposes such as the intranet and internal email system. This photo will also be used to create an identification badge.

14. Criminal Convictions

14.1 If an employee is charged with a criminal offence or is cautioned in respect of a criminal offence, he/she should notify the HR Manager as soon as possible so that any possible impact on the role he/she undertakes / his/her employment at the Council can be determined.

14.2 Any employee who is required to drive as part of their employment is disqualified from driving; (irrespective of the vehicle and whether or not driving on Council business at the time) must within 2 days inform both his/her line manager and HR Manager. The impact on the role will be considered in line with relevant policies.

15. Intellectual Property

15.1 All creative designs, writings, drawings and inventions which are produced by employees through their employment remain the property of the Council.

16. Whistleblowing

16.1 The Council is committed to high standards of openness and accountability. If employees have concerns or become aware of activities that they believe are illegal, improper, unethical or in any other way inconsistent with this Code of Conduct or the principles of honesty and openness they should report these in accordance with the Council's Whistleblowing Policy, which is available on the Council's website.

17. Equality & Diversity

17.1 Employees should ensure that they demonstrate a commitment to the Council's equality and diversity policies and treat all members of the local community, Elected Members, service users and colleagues with fairness and equity. A copy of the Council's Corporate Equality and Inclusion Policy is available on the intranet.

18. Safeguarding Children and Vulnerable Adults

18.1 The Council has policies relating to the protection of children and vulnerable adults and employees should ensure that they are clear of their responsibilities for safeguarding and promoting the welfare of vulnerable groups. All employees should be vigilant for signs of neglect or abuse and report any concerns to their manager or follow the processes detailed in the Safeguarding Children and Vulnerable Adults Policy and Procedures (available on the intranet).

19. Corruption

- 19.1 Employees should be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for taking, or not taking, a particular course of action or showing favourable or disfavourable treatment to any person within the course of their role.
- 19.2 For further information regarding the receipt of gifts please also refer to Section 10 - Gifts and Hospitality.

20. Money Laundering

- 20.1 The Proceeds of Crime Act places responsibility on Councils to identify and report known, or possible, money laundering activities. Where employees are aware of such activities, or suspect that money laundering may be taking place, they should report this to the Corporate Resource Director. Employees should not discuss reporting the issue with the suspected perpetrator(s) as this could affect any subsequent investigation.

21. Additional Paid or Voluntary Work

- 21.1 Any employee undertaking additional work either on a paid or voluntary basis must provide details of the proposal to the appropriate senior manager who will either
- (i) Confirm that the Authority has no issue with the proposal or
 - (ii) Approves the proposal subject to conditions or
 - (iii) Advises the employee that the additional work may conflict with the Council's interests
- 21.2 In case of (i) or (ii) under 20.1 the employee needs to complete a Declaration of Interests form (please see Section 23 for more information).

22. Preparation of Plans/Advice linked to Ashfield District Council Services

- 22.1 An employee should not undertake any work within Ashfield District Council boundaries, that has a direct link to the Authority's services and functions e.g. preparation of plans, green deal etc. This work can only be undertaken for clients outside the district boundaries.

23. Extramural Activities; Lecturing, Freelance Writing

- 23.1 Employees in the Council may be involved in:-

Delivering or contributing to presentations, seminars etc. which promotes objectives, services and/or functions of the Council. In addition, an employee may be given the opportunity to contribute to local authority publications or those of related professional bodies.

- 23.2 These activities will normally be regarded as part of an employee's role within the Council and therefore their official duties. In these circumstances the work involved in being part of such events will typically be completed during office hours and no fee should therefore be paid to the employee.
- 23.3 Occasionally, however, employees may receive invitations to lecture in other circumstances or may be commissioned to write articles for local government press or professional journals. Alternatively, an employee may decide to produce a book; deliver a presentation or appear on the radio / television. In these circumstances where the lecture or writing etc. is not within the scope or remit of the employee's role within the Council, any preparatory work should not be completed during working hours. Consideration should be given to the guidance contained in 20.1 Similarly, if an employee is delivering a lecture or appearing on radio / television during office hours they should seek approval from the relevant senior manager. Time may be provided either with or without pay (depending on the circumstances) and the Council may request that the whole, or a prescribed proportion, of any fee received by the employee is paid back to the Council.
- 23.4 If an employee is undertaking extramural activities, delivering lectures, conducting radio / television appearances etc., they should not use any confidential information or quote from documents copyrighted by the Council without agreement from his/her senior manager. Employees may use information which is already within the public domain or use knowledge or experience which they have gained in the course of their role within the Council (subject to relevant policies / legislation for example Data Protection Act).
- 23.5 Those employees who are employed within posts that are designated as politically restricted should bear in mind that they should not speak to the public at large (for example by delivery of a lecture or by a radio / television appearance) or publish any written work which could affect public support for a particular political party.
- 24.6 Where an employee is delivering lectures, writing articles, conducting radio / television appearances etc. he/she should ensure that he/she outline that any views that he/she is expressing are not the views of the Council, unless he/she has the approval of the relevant senior manager to indicate otherwise.

24. Declaration of Interests

- 24.1 How employees spend their time out of work is obviously their own personal business, but whilst employed by the Council they should ensure they don't put themselves in a situation where their work role and private interests conflict. Where there is a possible conflict of interest, this should be declared using a Declaration of Interests Form (available on the intranet). Further guidance is available on the form to clarify how to complete it. Also refer to 6.2
- 24.2 Employees are required to declare any financial, or non-financial interests, that they consider could conflict with the Council's interests. These may include: -
- Any previous relationship, e.g. as an employee of a company that the Council contracts with.

- Involvement in a company (i.e. employee, director or owner) that does, or could, do business with the Council.
- A family member / partner / spouse who has a company that does, or could, do business with the Council.
- Details of any additional employment / voluntary work or business interests that could conflict with the interests of the Council.
- Family members who are Elected Members of the Council or close personal relationships with Elected Members that could be perceived to cause a conflict.
- Secondary paid or unpaid employment including voluntary or fee-paying work.
- Drivers of official council vehicles must complete “other work” declaration (paid work for other companies/self-employed) along with driving licence check. (please refer to the Driving Policy for ADC Vehicles).

- 24.3 Please note that the above list is not exhaustive, and if an employee has any queries about whether or not an interest should be declared he/she should discuss this with his/her manager, Human Resources or the Monitoring Officer.
- 24.4 Employees may not become trustees or board members of organisations which receive any form of funding from the Council unless they have the approval of the appropriate senior manager. Any requests should be submitted in writing and senior managers may discuss such requests in consultation with the Monitoring Officer.
- 24.5 All Declaration of Interest forms should be signed and agreed by the line manager and relevant senior manager, a copy should be forwarded to Human Resources to be stored on the employee’s personal file.
- 24.6 An employee will have the right of appeal to the Chief Executive following the decision on a Declaration of Interest form.
- 24.7 All employees will be asked to complete a Declaration of Interest when they start their employment with the Council and where employees have no interests to declare they should indicate this on the form and submit a nil return. Employees should then submit a new form where their circumstances change which mean they have interests to declare. It is the responsibility of all employees to ensure that they complete a form when their circumstances change.

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CONSTITUTION

PART 10 - CODE OF CONDUCT AND PROCEDURES PLANNING SERVICE

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CODE OF CONDUCT AND PROCEDURES

In respect of the

PLANNING SERVICE

Ashfield District Council
May 2019

FOREWORD

The Council is very much aware of the substantial, and often conflicting, pressures under which Ashfield operates its planning service. It is keen to ensure that the manner in which the Authority operates the planning decision process is open, understandable and fair to all parties involved.

This code has been drawn up in order to regulate and assist elected Members and Officers in carrying out their duties and to inform all involved as to the procedures to be followed.

An external audit of our new system was undertaken by the District Audit, and the Council is pleased to note that they consider our system to be “robust in many ways” and “that there are examples of good practice being used’. Their report also concludes that “although the Council is pro-active and open in its approach, some procedures could be strengthened”. I believe that the amended Code meets this objective.

1. PURPOSE AND STATUS OF THE CODE

- 1.1. This Code has been adopted by Ashfield District Council to regulate and assist Members and Officers in the administration of the planning function. It will guide Members and Officers of the Council in dealing with planning related matters and will also inform potential developers, interested parties and members of the public as to the procedures which will apply.
- 1.2. The local administration of the planning system is always under close scrutiny nationally. Following the code should avoid allegations of improper conduct or practice. This Code sets out Ashfield's practice and procedures that will apply to both Councillors and Officers who will become involved in operating the planning system.
- 1.3. This Code of Conduct will supplement the Council's Code of Conduct contained in the Constitution, and the Code of Professional Conduct of the Royal Town Planning Institute. This Code will provide specific guidance on the standards to be applied in relation to planning related issues.
- 1.4. Planning law requires Members of Local Planning Authorities to determine all planning applications in accordance with the statutory development plan, i.e. our Local Plan, unless material considerations indicate otherwise.
- 1.5. Any reference in the Code to planning applications includes all forms of planning applications for planning consent including, but not limited to, householder, full planning, outline planning, reserve matters, permission in principle listed building, advertisement consent, lawful development certificates, prior notification, removal/variation of conditions, tree preservation orders, and notification of proposed works to trees in a conservation area.
- 1.6. Members also have a duty to take into account any representations made in respect of planning applications, permissions in principle, and as part of the Development Plan preparation process.
- 1.7. The Council has a Local Plan Development Committee for the purpose of overseeing the development and review of the Local Plan for Ashfield. The Committee will discuss both planning strategy and the potential location of development sites. Whilst the group does not have any formal decision making responsibilities and will therefore act as an advisory body to the Council, clearly it will be discussing highly sensitive information which must be treated as confidential.
- 1.8. It is recognised that Members will be approached individually by developers or their agents and by other parties involved in the development process, such as action groups and neighbours, and this Code will assist Members in dealing with such approaches.
- 1.9. Whilst this Code is of an advisory nature, it needs to be recognised that failure to follow the advice without good reason could be taken into account in investigations into possible mal-administration or have implications for the standing of Councillors and professional Officers. The Code will be publicised and made publicly available, and is incorporated into the Council's Constitution.

2. THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1. Councillors and Officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2. A successful relationship between Councillors and Officers needs to be based upon mutual trust and understanding of each other's positions. It is necessary to ensure that all act in a way, which is not only fair and impartial but is clearly seen to be such.
- 2.3. Both Councillors and Officers are already guided by general Codes of Conduct. The Council's Code of Conduct sets out the duties and responsibilities of Councillors. It is recognised that whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must therefore represent their constituents as a body and vote in the interests of the whole District.
- 2.4. The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake, and opposing views are often strongly held by those involved. Whilst Councillors should take account of those views, they should not favour any person, groups, Companies or locality, or put themselves in a position where they appear to do so. Councillors who do not feel they can act in this way should consider whether they should serve on the Planning Committee or on the Local Plan Development Committee. Further guidance is available from the Assistant Director - Planning on this matter if required.

3. MEMBER TRAINING

- 3.1. Planning legislation and guidance can be complex and it is recognised that training is essential. Training seminars, complemented as necessary by updating reports, will take place for all Planning Committee and Local Plan Development Committee Members and will deal with the full planning process, including the development plan, development management decisions and enforcement issues, etc.

POLICY 1: The council will ensure that members receive initial training prior to serving on the planning committee, or the Local Plan Development Committee. In addition, members shall be updated regularly as to any changes which take place in legislation, policy guidance or procedures.

4. GIFTS AND HOSPITALITY

- 4.1. On occasion, elected Members and planning Officers may be offered gifts or hospitality by an applicant or prospective applicant. Acceptance of such is not acceptable (other than minor refreshments) and it is of utmost importance that impartiality and the semblance of such is maintained.

POLICY 2: Councillors and officers shall not accept any gift or hospitality (other than minor refreshments) and will record all offers in a register to be kept by the council's monitoring officer. This policy applies in a planning

context and is additional to the rules applicable to gifts and hospitality under the council's code of conduct.

5. DECLARATION AND REGISTER OF INTERESTS

- 5.1. The declaration and registration of interests is of obvious importance to the integrity of the planning process, for both Members and Officers. The Council's Code of Conduct set out requirements and guidance on declaring interests and the consequences of having such interests. These must be followed scrupulously. It is essential that not only should impropriety be avoided but also that there should be no appearance of, or grounds for suspicion of, improper conduct.

POLICY 3: A register of members' interests is maintained by the council's monitoring officer. In addition, under this code if the breach is in a planning context the standards and personnel appeals committee shall consider making representation to the council as to the suitability of individual councillors to continue to sit on the planning committee, or the Local Plan Development Committee.

- 5.2. Under the Council's Code, interests are categorised as Disclosable Pecuniary or **Personal Interests and/or Non-Registrable Interests** . Some such interests could arise through family, friends, clubs, voluntary bodies, etc.

Disclosable Pecuniary or Personal Interests

A Disclosable Pecuniary or Personal Interest is an interest in relation to a Member if it is of a description set out in the Code of Conduct for Members within Part 5 of this Constitution and either: -

- a) It is an interest of the Members'; or
- b) It is an interest of (i) the Member's spouse or civil partner (ii) a person with whom a Member is living as Husband and Wife, or (iii) a person with whom a Member is living as if they were Civil partners and the Member is aware that that other person has the interest.

Where a matter arises at a meeting which relates to a Disclosable Pecuniary Interest, the Member shall declare the interest and not participate in a discussion or vote on the matter and must withdraw from the meeting room or chamber during the whole consideration of the item unless a dispensation have been sought and granted.

Non-Registrable Interests

You have a Non-Registrable Interest in an item of business of the Council where: -

- a) A discussion in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you, or a member of your family, or a person with whom you have a close association, to a greater extent than it would affect the majority of the inhabitants of the ward or electoral area for which you have been elected or otherwise of the Council's administrative area; or

- b) It relates to or is likely to affect any of the interests listed in the Schedule of Disclosable Pecuniary Interests in the Code of Conduct, but in respect of a member of your family (other than your spouse or civil partner) or a person with whom you have a close association

and that interest is not a Disclosable Pecuniary or Personal Interest.

The following decisions affect every Member. You may take part in these decisions unless you fall into one of the exceptions set out in the list:

- i) Housing, where you are a tenant of your authority unless those functions relate particularly to your tenancy or lease;
- ii) School meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- iii) Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- iv) An allowance, payment or indemnity given to members;
- v) Any ceremonial honour given to members; and
- vi) Setting council tax or a precept under the Local Government Finance Act 1992.

- 5.3. The declaration of interest demands the exercise of well-informed judgement and training seminars are made available for all Members by the Monitoring Officer. In this way, Members may gain a better understanding of whether an interest is sufficient to prevent him or her taking part in decisions relating to planning matters.

POLICY 4: Councillors and officers will not use, and will clearly demonstrate that they have not used, their position to further a private or personal interest, rather than the general public interest, or give grounds for such suspicion. Whilst guidance will be given through seminars, the responsibility for declaring an interest lies with the individual concerned.

- 5.4. Planning applications or representations for development as a part of the Development Plan process, submitted by Councillors, and their close friends or relatives, can give rise to suspicions of impropriety. Whilst it is legitimate for such proposals to be submitted, it is vital that they are handled in a way that gives no grounds for accusations of favouritism.

POLICY 5: Councillors who make their own planning submissions, act as agents for others, object to or support planning proposals, in relation to which they may be seen to have some form of interest shall play no part in the decision making process for that proposal. The Council's Monitoring Officer shall be informed as to such proposals and any planning application shall be decided by the planning committee process.

- 5.5. It is important that Officers of the Council should not act as agents for the submission of planning applications in Ashfield, other than those associated with their Council duties. It is particularly important that in the event of Officers within the Planning Teams either submitting planning applications in relation to their own property or making any representations relating to developments affecting their property that they will need to adhere to procedural control.

POLICY 6: Officers of the Council will not act as agents for the submission of applications, or representations

Regarding any planning matters within Ashfield. In the event of any submissions from officers within the planning teams for their own property, they will inform the Council's Monitoring Officer and play no part in the decision making process. Planning applications falling into this category will be determined by the planning committee.

6. LOBBYING OF ELECTED MEMBERS

- 6.1. It is recognised that lobbying is a normal and perfectly proper part of the political process. As the Nolan Report states, "it is essential for the operation of the planning system that local concerns are properly aired. The most effective and suitable way that this can be done is via the local representatives".
- 6.2. However, such lobbying can, unless care and common sense are exercised, lead to accusations such that the impartiality and integrity of a Council is called into question. When being lobbied, Councillors and Members of the Planning Committee or the Local Plan Development Committee, in particular, should take care in expressing an opinion which may be taken as indicating that they have already made their minds up on an issue before they know all the evidence and arguments.

POLICY 7: Members of the committee or group, on being lobbied, should restrict themselves to procedural advice, including suggesting that those lobbying should write to the Assistant Director - Planning in order that their opinions can be taken into account. In the event of members expressing an opinion, they should make it clear that they are stating a preliminary view only and that it will only be possible to reach a final decision after having considered all the relevant evidence and arguments.

- 6.3. A Planning Committee Member who represents a ward affected by a controversial application may decide to go public in clear support of a particular outcome. In such cases, it will be very difficult for that Member to argue at the Committee meeting that he/she has carefully weighed up all the evidence and arguments presented - perhaps in some respect for the first time. Although the Members may not have a disclosable pecuniary or personal interest, in the above circumstances such a Member should not take part in the decision making process.

POLICY 8: Any Planning Committee member, who publicly expresses support or opposition to any planning application prior to formal determination, will make an open declaration. The member is entitled to address the committee but must leave the room and not take part in the decision making process.

POLICY 9: Planning committee members should avoid organising support for, or opposition to, any planning application.

- 6.4. It is considered necessary that Members should make records as to any meetings or discussions they may have in connection with any planning matters. Standard forms will be supplied for record purposes and should be returned to the Assistant Director - Planning.

POLICY 10: Councillors will prepare notes of any meetings or discussions they may have in relation to lobbying on planning matters. Such notes will be placed in the relevant planning file as a matter of public record.

7. PRE-APPLICATION DISCUSSIONS

a) OFFICERS

- 7.1. Discussions between a potential applicant and a Council Officer prior to submission can be of considerable assistance to both parties and is positively encouraged by the Council. However, care is needed, as it is easy for this process to be seen, especially by objectors, as lobbying.
- 7.2. There is a paid, pre-application discussion process, with clear guidelines. The guidelines apply to any discussions which take place prior to actual determination of any planning application.

POLICY 11: Planning Officers will meet and discuss prospective submissions with applicants and/or their agents. Advice will be given as to relevant planning policies and any material considerations and suggestions as to how a submission may be improved, as appropriate.

POLICY 12: It will always be made clear that advice given will not bind the council in its ultimate decision and that any views given are personal and provisional. Officers should also make it clear as to their role in the decision making process.

POLICY 13: A written note shall be made of all meetings and a follow up letter sent whenever documentary material has been left for consideration. For public record.

b) ELECTED MEMBERS

- 7.3 Elected Members should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should advise prospective applicants to contact a Planning Officer for advice on both merits and procedures. In the event of Members meeting applicants or agents to discuss planning proposals they should ensure that a Planning Officer is also present, who will be responsible for detailed records of the meeting.

POLICY 14: Members of the Planning Committee shall not discuss planning applications with applicants or agents unless a planning officer is also present.

The fact that Councillors have discussed a planning proposal with applicants, agents, or objectors must be made clear at the determination stage. It is still possible to participate in discussions and voting on a subsequent proposal if it is clear that the councillor retains an open mind.

POLICY 15: Notes of any pre-application, or post-submission, discussions involving elected members will be recorded on the planning file as a background paper for the purposes of the access to information act, and in those cases involving Planning Committee decisions the member will disclose the fact to the meeting.

8. LOCATION OF MEETINGS WITH INTERESTED PARTIES

- 8.1. Whenever possible pre-application meetings, or meetings during the processing of applications will be carried out on Council premises. There may of course be occasions when a meeting on an application site may be the most sensible way forward. In any event records of such will need to be maintained on the planning file in accordance with GDPR.

Policy 16: It is essential that all formal decisions are made on council premises. Details of any meetings off council premises will need to be recorded on the planning file and will include locational facts.

9. DECISION PROCESS

- 9.1. Ashfield determines a high proportion of applications under delegated authority. It is nevertheless essential to seek continual improvement in processes, procedures and ultimately the quality of service to the community. Best practice and relevant advice promotes “by exception” approach effectively meaning decisions are delegated save for exceptional circumstances.

POLICY 17: A Planning Committee agenda system is operated in accordance with the rules listed below. Those applications not required to be determined via the committee system will be dealt with by the Assistant Director - Planning - or his/her designated deputies.

- a) All Members of the Planning Committee will receive a copy of the list of planning applications registered in the previous week.
- b) If Members wish to make any comment on any application on the list, they will need to do so either in writing or via e-mail to the Assistant Director - Planning and the Planning Administration team. Any subsequent request for call in to Planning Committee must be received within the time line indicated particular on the weekly list and must give material planning reasons for call in. There will be different timescales for different types of application.
- c) On receipt of comments in accordance with point (b), the Member will be contacted by the Assistant Director - Planning, the Planning Team Leader or the responsible Case Officer. In cases where Member and views of the Assistant Director - Planning or the Executive Director of Place on the proposals differ and agreement cannot be reached or a Member still insists on its inclusion on the Planning Committee Agenda, that particular planning application would be the subject of a report to the first available Planning Committee. It is expected that the Member referring an application to Planning Committee will address the Committee outlining the relevant issues. Due to time constraints, and an automatic presumption in favour of the development in the event of a late response, it may not be possible to take certain types of

applications (e.g. telecommunications, and agricultural development) or a permission in principle to Planning Committee e.g. telecommunications, and agricultural development, in such a case the Chair and/or Vice Chair of the Planning Committee will be advised and the proposal dealt with via the delegation process.

- d) Planning applications which have not been the subject of written or e-mail comments from Members within the prescribed period will be determined by the Assistant Director - Planning, or designated deputy in accordance with the Planning Scheme of Delegation except:
1. One which any Member of the Council requests in writing, giving a material planning reason for their call-in, which is received within 21 days of the circulation of details of the application, should be the subject of consideration by the Planning Committee.
 2. Would be a significant departure from the adopted Development Plan.
 3. In the opinion of the Assistant Director - Planning or those with such delegated authority is:
 - Potentially controversial
 - Likely to be of significant public interest
 - Is subject to significant material objections which have not been addressed, resolved or mitigated against to his/her satisfaction
 4. Is submitted by, or on behalf of, a Councillor of the Authority (or their spouse/partner) or by any member of staff of the Place and Communities Directorate (or their spouse/partner) that relate to property/land in their ownership.
 5. Is submitted by/on behalf of the Council for its own development, except for the approval of routine minor developments (to be determined by the Assistant Director - Planning or Executive Director of Place).
 6. All determinations of applications, and other related matters by way of delegated powers are subject to the following limitations:

No planning application, or other related matter shall be determined under delegated powers prior to the completion of all necessary statutory publicity and consultation arrangements.
 7. All Planning Decisions will be published on a monthly basis and distributed to all members.
- e) Any Member appointed to the Planning Committee and present at a meeting must hear all of the debate on any application before reaching a decision. Therefore, any Member finding it necessary to leave the meeting room during the course of debate or arriving in the meeting after the commencement of the discussion will be required to abstain from voting on the application.

10. PUBLIC INVOLVEMENT IN THE PROCESS

- 10.1. In order to make the development management system as acceptable and user friendly to the public as possible, and to make the system more supported by its users, it is, of course, essential that members of the public are as fully involved as possible in the process.
- 10.2. The establishment of public consultation procedures on application proposals is essential, in accordance with clear guidelines. Compulsory publicity requirements exist for planning applications and the Council has adopted a formal policy in respect of this. Full details of such are included in Appendix 1 to this Code.
- 10.3. Under the provisions of the Planning (Compulsory Purchase) Act 2004 the Council prepares a Statement of Community Involvement which covers the consultation proceedings to be adopted on the new Development Plan Documents, Supplementary Planning Documents, and other planning applications.

POLICY 18: Public Consultation on all Planning applications will be carried out in accordance with the council's publicity policy and adopted statement of community involvement as appropriate and recorded and retained as updated by GDPR.

- 10.4. The District Council has introduced a facility whereby members of the public and applicants, or their agents, can address the Planning Committee in the cases when the application is included on the agenda. Formal procedures have been adopted to regulate this issue and the "Have your say on planning applications" document that details the procedure is available on the Council's website or on request from the Planning Administration Team. The document is attached at Appendix 2.

POLICY 19: The opportunity for applicants, local residents, parish councils and neighbourhood forums to make a verbal presentation to the planning committee exists in all cases on the planning committee agendas. A formal code of practice had been agreed for the benefit of those involved. Speakers will be expected to adhere to these provisions, which are detailed in our "Have your say on planning applications" document.

- 10.5. The Committee process is recorded and retained in accordance with GDPR.

11. COUNCIL DEVELOPMENT

- 11.1. Whilst it is perfectly legitimate for the Council to submit planning applications for its own development, or in respect of land that it owns, such can easily give rise to suspicions of impropriety. Such will be dealt with in exactly the same way as other submissions.

Policy 20: Proposals for a Council's own development will be treated in the same way as those by private developers.

12. SITE VISITS

- 12.1. Committee site visits should only be used in exceptional circumstances, as they can cause both delay and additional costs. (However, it is accepted that such can be a useful element in the decision making process. Particularly if taken in advance of a Planning Committee.) They have to be carefully organised and subject to formal procedures. A visit should only be necessary if the impact of the proposed development is difficult to visualise, if there has been a good reason why the comments of the applicant or objectors cannot be expressed adequately in writing, or the proposal has been particularly contentious.
- 12.2. Records of any site visits will be kept on the planning files.
- 12.3. In the event of Planning Committee Members wishing to call a site visit in relation to an application included on the Planning Committee agenda, he/she must notify the Assistant Director - Planning or the Planning Team Leader.

In the event of a Planning Committee Member not being able to attend the formal site visit, he or she can still visit the site individually to assess the circumstances. However, care needs to be taken to avoid being lobbied during such. If lobbying does take place then Members are reminded of the relevant policies contained within this Code.

The following rules will apply to the undertaking of Site Visits.

POLICY 21: Site visits will be attended by Planning Committee members and planning officers only, save for “call in” applications where the member making the request will be invited. Formal site visits will be arranged to take place prior to the planning committee meeting due to consider the application.

POLICY 22: Planning Committee members, who cannot attend a specific site visit, if they consider it to be appropriate, can visit the site prior to any consideration by the planning committee. Such visits shall be undertaken in accordance with policies relating to lobbying.

It is of course still possible that following debate regarding a planning application at Committee, Members will identify a requirement to visit a site in order to fully assess the impact of a proposal, or to resolve any areas of a disagreement. Under the circumstances it may be decided to defer consideration for a formal site visit.

POLICY 23: Exceptionally site visits may be agreed by the Planning Committee considering the application. In these cases, the justification for such will be minuted, and the application will be reconsidered at the next planning committee meeting.

- 12.4. It is of importance that Members attending site visits are seen to be acting impartially and it is therefore considered to be necessary to have an agreed protocol. This will incorporate the following elements.

POLICY 24: Whilst accepting that where members need to enter onto private land that the applicant or his/her representative may need to be present, members shall not listen to any representations concerning the application

whilst undertaking the site visit, either from the applicant, or from any other interested parties, including objectors or supporters of any application.

POLICY 25: In exceptional circumstances the Chairman, (or in his/her absence the Vice-Chairman) shall, after consultation with the Assistant Director - Planning, have the right to invite persons, in relation to specialist matters, to the site visit as felt to be appropriate in order to answer such questions as members may wish to raise.

POLICY 26: A Member of the Council, who is not a member of Planning Committee, may participate in site visits only with the prior consent of the Chairman (or in his/her absence the Vice-Chairman) of the Planning Committee (see Policy 21 in relation to the right of attendance by the member calling in an application).

POLICY 27: The site visit itself will be an opportunity for Members to inspect the site in order to assess the impact of the planning application and to assist Members in their formal deliberations at Planning Committee. The site visit itself has no mandate regarding any formal decision, and members should use such as an information gathering exercise only.

13. OFFICER'S REPORTS TO COMMITTEE

- 13.1. It is of importance that the Assistant Director - Planning shall submit full reports, together with recommendations on all planning proposals considered by the Planning Committee. This will include a written summary of all representations received prior to the preparation of the Committee agenda. The following policies will apply to this process.

POLICY 28: The Officer report shall represent the professional views of the Assistant Director - Planning, and Members should not attempt to influence such in any way.

POLICY 29: Reports shall be accurate and cover, amongst other things, a summary of all comments received, details of development plan policies and of site or related planning history, and any other materials considerations. They should contain a written recommendation of action clearly justified by the technical appraisal. In the event of a recommendation contrary to the development plan the material considerations which justify this will be clearly stated.

POLICY 30: Oral reporting shall only be used to update a report, and carefully minuted with reference to the speaker and a summary of the matters referred to.

14. LATE INFORMATION

- 14.1. Amended plans submitted to overcome an identified objection or because of a change of intention by a developer, can only be taken into account if they are received in time for the amendment to be fully assessed by the Council's officers. Further consultation may be necessary. Only minor amendments can be taken into account after the Agenda has been printed.

POLICY 31: Amended plans, received after publication of the committee agenda, incorporating substantial amendments to a proposal will not be taken account of in reaching a formal decision

- 14.2. The Authority sometimes receives letters, for example from objectors, relating to applications, after the publication of the Planning Committee agenda. Whenever possible they will be dealt with by way of a verbal report to the Committee. However, items received at a very late date cannot be assessed, and a cut-off point is considered to be reasonable.

POLICY 32: The Council's policy for dealing with late items relating to planning applications to be determined by the committee system shall be as follows:

- a) Comments received after preparation of the Committee agenda, will be the subject of a verbal summary by the Assistant Director - Planning.
- b) Late items received after 10.00 a.m. on the day prior to the day of the relevant Committee meeting will not be referred to, and no action taken thereon.

COUNCIL MEETINGS

These should be conducted as per agreed standards as detailed in the constitution.

CIRCULATION OF UNOFFICIAL DOCUMENTS AT PLANNING COMMITTEE

- 14.3. Members should not attempt to report to Committee with new information that may have been given to them, by applicants or a third party, which has not already been submitted to the Assistant Director - Planning. In the event of Members obtaining this type of information they should ensure that such is passed on to the Assistant Director – Planning at the earliest opportunity to enable such to be properly assessed and taken account of. Not to do so could perhaps lead to the Committee being misled, or the decision being challenged.

POLICY 33: The only information which may be taken into account in determining a planning application is that formally submitted to the Assistant Director - Planning.

15. THE PLANNING DECISION

- 15.1. Given that the point at which a planning decision on any application or taken by the Planning Committee cannot occur before the Committee meeting, when all information is available, any political or other meeting prior to the Committee meeting should not be used to decide how Councillors vote. The view of the Ombudsman is that the use of such procedures would amount to maladministration, and there is also the possibility of a legal challenge being made.

POLICY 34: Planning decisions will only be reached by the determining Planning Committee, or by the officer delegation process.

16. ROLE OF COUNCILLORS NOT ON PLANNING COMMITTEE

- 16.1. It is recognised that elected Members not on Planning Committee may wish to speak at the Committee meeting. In these cases the prior approval of the Chairman or in his/her absence the Vice-Chairman of the Planning Committee will need to be obtained. Any such Members will not be able to participate in the formal decision process itself and they should avoid the situation where they are seen to be lobbying fellow Councillors.

POLICY 35: Councillors not on the Planning Committee will exceptionally, and with the prior consent of the Chairman, (or in his/her absence the Vice-Chairman) be allowed to make representations to the Planning Committee.

17. DECISIONS CONTRARY TO OFFICER RECOMMENDATIONS AND/OR THE DEVELOPMENT PLAN

The law requires that where the development plan is relevant decisions should be taken in accordance with it unless material considerations indicate otherwise. Applications not in accordance with the development plan will be advertised as such. If it is recommended by the Assistant Director - Planning to approve such an application the material considerations leading to this conclusion should be identified in the Committee report and how they justify overriding the development plan clearly demonstrated. The application may need to be referred to the Secretary of State.

POLICY 36: Where the Planning Committee is mindful to approve a planning application which constitutes a major departure from the development plan or any significant departure to green belt policy, the application will be referred to the Secretary of State prior to the issuing of the decision.

- 17.1. If the Planning Committee makes any decision contrary to the Officer recommendations, a detailed minute of the Committee's reasons for such will be made, and a copy placed on the planning file.
- 17.2. Where a Planning Appeal results and such is dealt with by way of Public Inquiry the Council will require an elected Member to act as a witness.

POLICY 37: In all cases where the decision of the Planning Committee conflicts with a recommendation from the Assistant Director - Planning, the reasons for the decision shall be minuted. The authority's minutes shall include the names of those proposing and seconding the motion to determine the application and those voting for that motion, those voting against and those abstaining.

POLICY 38: In the case of the holding of a Public Inquiry following a decision by the planning committee to overturn a recommendation by the Assistant Director - Planning, evidence will be given by an elected member. The chairman of the planning committee will invite the member proposing the motion against the Assistant Director - Planning's recommendation to perform this duty.

18. PLANNING AGREEMENTS/PLANNING OBLIGATIONS

- 18.1. Planning agreements have been used by the Council for many years, both to secure off-site infrastructure and in connection with our open space, and transport improvement commuted payments policies. The Local Plan includes relevant policies. It is considered that details as to the basis and nature of such agreements should be fully available to the public, in order to maintain an open system.
- 18.2. Developers making commuted payments should be entitled to information as to both the projects to which their contribution will be used, and when projects are undertaken, in order to operate a transparent system.

19. RECORD KEEPING AND PUBLIC ACCESS TO INFORMATION

- 19.1. In order that complaints may be fully investigated, and in any case as a matter of good practice, record keeping should be complete and accurate. Every planning application file will contain an accurate record of events throughout its life subject to GDPR. It should be possible for someone not involved to understand what the decision was and how it was reached and the file will be made available for inspection to members of the public by prior appointment.

POLICY 40: All Planning applications files will contain a complete and accurate record of relevant issues, consultations and discussions, and will be available for public inspection with a prior appointment. (subject to GDPR)

20. COMPLAINTS

- 20.1. Any complaint received in writing about the way in which a planning application, or other planning matter has been dealt with in terms of procedures or fairness will be looked into fully through the appropriate procedures. The fact that someone may disagree with a decision the Council has reached, is not in itself a complaint which will necessitate investigations, although Officers will endeavour to explain the reasons for the Council's decision in any particular case.

POLICY 41: Any written complaints regarding the way in which a planning decision has been reached will be investigated under the council's complaints procedure.

APPENDIX 1

PUBLICITY POLICY FOR PLANNING APPLICATIONS AND PERMISSION IN PRINCIPLE

1. MAJOR DEVELOPMENT

Major Development includes:-

- a) 10 or more dwellings or, if this is not known, where the site area is 0.5 hectares or more; and
- b) For all other uses, where the floor space to be created is 1,000 square metres or more, or the site area is 1 hectare or more.

For developments falling within the "Major Developments" category, the Council will advertise the application in a local newspaper, and either by a site notice or through neighbour notification.

2. MINOR DEVELOPMENT

This relates to all development other than major development and the Council will either post a site notice or undertake neighbour notification.

3. PERMISSION IN PRINCIPLE

Permission in principle can be granted for residential development of land through:

- a) Sites brought forward by the Council for permission in principle from Part 1 of the Brownfield Register, or
- b) An application for permission in principle on residential site of nine dwellings or less. (In force from 1st June 2018).

4. OTHER PUBLICITY ARRANGEMENTS

The Government has revoked article 11 of the General Development Order which previously required applicants to advertise "bad neighbour" uses, e.g. Scrap Yards, Coal Storage, etc. That responsibility is now passed to the Local Planning Authority and in paragraph 14 of Circular 15/92, the Government expects Authorities to advertise the following types of development:-

- a) Those affecting nearby property by causing noise, smell, vibration, dust or other nuisance;
- b) Those attracting crowds, traffic and noise into a generally quiet area;
- c) Those causing activity and noise during unsocial hours;
- d) Those introducing significant change, for example the erection of particularly tall buildings;

- e) Those resulting in serious reduction of loss of light or privacy beyond adjacent properties;
- f) Those affecting the setting of an Ancient Monument or archaeological site;
- g) Those proposals affecting trees, subject to Tree Preservation Orders.

In such circumstances, the application will be publicised by way of an advertisement in a local newspaper, and either by a site notice or through neighbour notification.

5. LISTED BUILDINGS AND DEVELOPMENT IN CONSERVATION AREAS

It will also continue to be necessary to advertise both in the local newspaper, and by means of a site notice, any development affecting a Listed Building or the character or appearance of a Conservation Area and any development which affects a public right of way.

6. AMENDMENTS TO PLANNING APPLICATIONS

- a) Minor amendments, such as altered windows, or material details, etc. to be dealt with without further publicity.
- b) For amendments, other than minor amendments, such as an increased development, change in dwelling type, etc. - a new planning application will be requested and consultation undertaken in accordance with the Council's policy.
- c) The categorisation of amendments shall be at the discretion of the Assistant Director - Planning or the Development Team Leader.

7. DEFINITION OF NEIGHBOURS

In terms of defining the extent of neighbour notification, this will vary according to the type of development involved, as follows:-

Type A Extensions/Plant/Alterations/Minor Operations - Residential and Commercial

- a) For Extensions/Plant/Alterations/Minor Operations on the rear of a property, consult those properties adjoining the side and rear boundaries;
- b) For Extensions/Plant/Alterations/Minor Operations on the side of a property, consult the properties directly to the rear, the property or properties adjoining the boundary adjacent to the extension and those directly across a highway, if such exists;
- c) For Extensions/Plant/Alterations/Minor Operations on the front of a property, consult those properties adjoining the side boundaries and those directly across a highway if such exists;
- d) For Extensions/Plant/Alterations/Minor Operations on the periphery of a property or site, consult those properties adjacent to the development.

Type B New Development - Residential and Commercial

For new development, on an undeveloped site, consult all those properties adjoining the application site including any directly across any highway.

Type C Changes of Use

For change of use applications, consult all those properties adjoining and adjacent to the site including those directly across a highway.

Type D Other Development

For all other types of application, it is considered appropriate to consult those properties which adjoin the application site, which, at the discretion of the Assistant Director - Planning or the Planning Team Leader, may also include those across a highway.

In all cases, consultation to adjoining properties shall relate to occupied residential or commercial properties and not to the owner of land or buildings.

Type E Permission in Principle

There is no requirement in the PiP Order to consult neighbours. The requirements are to publish on the website and put up a site notice for not less than 14 days. (PiP Order Article 5G (3)).

HAVE YOUR SAY ON PLANNING APPLICATIONS

INTRODUCTION

The District Council is committed to extending Public Involvement in the Planning Process. The Council currently consults local residents and commercial enterprises on planning applications by individual consultation letter, the placing of a notice on site and by advertising the application in the press.

Any comments received are then taken into account in dealing with planning applications. This means that the Council decides many of the less contentious planning applications by a scheme of delegation. The Assistant Director - Planning or designated officers determine the vast majority of applications. The more complex proposals and applications that cannot be considered under the scheme of delegation are referred to the Planning Committee which meets approximately every 4 weeks.

The Council provides an opportunity for public speaking on those applications determined by the Planning Committee. This leaflet explains the issues and procedures which you need to be aware of if you wish to speak to the Planning Committee.

Can I Speak to the Committee?

If you have written to the Council either supporting or opposing a planning application which is to be considered by the Planning Committee, and your comments have been received prior to the agenda being published, then you will be invited by letter to speak.

Only one speaker in support, a resident or the applicant/agent, and one resident opposing the proposal will be able to speak. Where there is more than one person opposing or supporting the proposal it will be necessary for each group to appoint a single spokesperson. If you are a representative of a parish council or neighbourhood forum which has made a representation you will be provided with the opportunity to speak. If the application has been dealt with by way of delegation then the opportunity does not arise.

What Can I Speak About?

The Council can only consider "material considerations" when deciding planning applications. Examples of these are planning policies in the Ashfield Local Plan Review (2002), government advice and policy, the impact on your residential amenity, highway safety and traffic, noise and disturbance, smell, design and external appearance, the impact on Listed Buildings, Conservation Areas and trees etc.

You should not make reference to non-planning issues such as private property rights, covenants, competition, moral issues, loss of view and property value, as these cannot be taken account of. If you feel you need advice on what issues are relevant in deciding planning applications then please contact one of the Planning Officers in the Council's Development & Building Control Section.

How Do I Arrange to Speak?

As an applicant or a resident who has written to the Council about an application you will be informed, in writing, if a particular application is to be considered at a Planning Committee. You will normally have about a week's notice of the Committee meeting. You will then need to register your wish to speak with the Democratic Services Team by telephoning 01623 457317 by 4pm two working days before the Committee. Alternatively, you can Email your request to speakplanning@ashfield.gov.uk.

However, you must leave both a telephone number and your postal address. If the "slot" has already been allocated then you will be referred to the allocated speaker to enable you to make a satisfactory arrangement.

Late requests to speak will not be considered. The Planning Committee meetings are usually held in the Council Chamber, Kirkby in Ashfield and will start at 10:00am. You should arrive by 9:45am and confirm your intention to speak to the Democratic Services Officer who will be present. You must have confirmation that you have been allocated a slot to speak.

How long will I be able to speak for?

Each registered speaker will be allowed a maximum of 5 minutes and this will be carefully controlled by an Officer of the Council. If you take longer than 5 minutes then you will be asked to draw your comments to an end.

When Can I Speak?

Planning Applications are considered just after the meeting commences. Normally the Chairman will introduce each planning application and an officer will outline the proposal and advise the Committee of any late information. You will then be invited to address the Committee from the front of the Chamber.

In cases where both an objector and the applicant wish to speak the Committee will listen to the speaker objecting to the proposal first followed by the applicant or agent. Facilities are available for you to electronically display any supporting evidence if you so wish; but any other form of illustrative material is discouraged. You will not be able to hand out documents, illustrations etc. at the meeting.

Once representations have been made there will be no further opportunity to speak. You will not be able to ask Councillors any questions or join in the debate after your presentation but Committee Members will be offered the opportunity to clarify any matters raised by yourself if required. An objector however, cannot ask questions of the applicant and vice versa. If you require any information on speaking to the Planning Committee then do not hesitate to contact the Democratic Services Team on 01623 457317.

Please bear in mind if you refer to non-planning matters the Chairman may ask you to stop. Furthermore, it is always wise to choose your words carefully, and to avoid any reference to other people which could be defamatory.

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