

**NORTH NORFOLK DISTRICT COUNCIL Constitution.**

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## **CHAPTER 1**

### **INTRODUCTION & BASIC PRINCIPLES**

#### **Part 1. The Council's Constitution**

- 1.1 The Constitution sets out how North Norfolk District Council operates and how (and by whom) decisions are made.
- 1.2 The purpose of the Constitution is to:
- Explain how the Authority operates
  - Enable decisions to be made openly and efficiently
  - Ensure that people making decisions are clearly identifiable and accountable
  - Ensure that decision makers are held to public account
  - Help guide Officers and Members to do their work effectively and lawfully
  - Encourage the active participation of local people in decision making.

#### **Part 2. The Council (Full Council)**

- 2.1 The Council has 40 Councillors also known as "Members". Every four years all of the seats on council will be up for election. Only those registered to vote, or those occupying land or premises as an owner or tenant, or those residing in the area, or those who work in the District are eligible to stand for office as a Councillor.
- 2.2 All Councillors meet together as Full Council. Meetings of Full Council are normally open to the public. At these meetings, Councillors decide the main Council policies and set the budget and Council Tax each year. Full Council elects the Leader and the Leader appoints the members of the Cabinet. Full Council also appoints Councillors to committees which deal with non-Cabinet functions such as planning and licensing.
- 2.3 Full Council is also the only body which can review and change this Constitution.

#### **Part 3. Members of the Council**

- 3.1 Councillors' (or Members') role is
- To act as the ultimate policy makers in Full Council meetings

- Represent their communities and bring their views into the Council's decision making processes
  - Help constituents with particular problems, issues or grievances
  - Have regard for the wider interests of the District as well as for electors in their wards (whether those electors voted for them or not)
  - To be involved in decision making on matters like planning and licensing
  - Holding Cabinet ('the Executive') to account
  - To represent the Council on other bodies
  - To maintain high standards of personal conduct
- 3.2 All Councillors receive a basic allowance. This basic allowance and any special responsibility allowances are set by Full Council following recommendations of an independent panel (the Independent Remuneration Panel) The detailed arrangements are set out in the Members' Allowances Scheme [Chapter 11].

#### **Part 4. The Chairman and Vice Chairman**

- 4.1 The Chairman is elected at Annual Council in May and a candidate is selected on a yearly rotating basis between the Administration and the Main Opposition Group. The Chairman has the following functions at Council meetings:
- To chair the meeting
  - To interpret and apply the Council Procedure Rules [Chapter 2, Part 2]
  - To enable all Councillors to contribute to debates and hold the Cabinet to account
- 4.2 The Chairman is regarded as the first citizen of the District and represents North Norfolk at civic and ceremonial functions.
- 4.3.1 Where the Chairman of the Council is required to rule as to the construction or application of this constitution or as to any proceedings of the Council, questions may be asked of the Chairman in this respect at any meeting of the Council, however, their ruling will be final.
- 4.4 Full Council shall also appoint a Vice Chairman who shall have all the powers and duties of the Chairman when the Chairman is unable to act.

## **Part 5. Council Structure**

- 5.1 In broad terms the Council is arranged into “Executive” and “Non-Executive” sections. The law states that certain functions must be carried out by Full Council and others by the Executive (Cabinet); some functions are designated as being “local choice functions” whereby the Council itself decides who does what. The roles at North Norfolk District Council are set out in Chapter 3 Part 1 of this constitution.
- 5.2 Committees are required to be politically balanced i.e. membership must reflect the overall party political make-up of the Council. This rule does not apply to Cabinet which can be made up of Members from a single party. This is designed to ensure that there is strong decision making and clear accountability.

## **Part 6. The Cabinet (the Executive)**

- 6.1 The Cabinet constitutes the “Executive” part of the Council and is responsible for most of the decisions which affect local services. Before key decisions (see 12.2b below) are made they must be publicised 28 clear days in advance of the meeting, unless they are urgent decisions. The purpose of this is to give notice to the public and the rest of the council of proposed decisions and to enable comments and if necessary objections to be submitted. Unless they are urgent, most decisions cannot be implemented immediately; this is to enable non-executive members to review those decisions before the council is committed to them.
- 6.2 The Cabinet must always make decisions which are in line with the council’s overall policies and budget set at meetings of Full Council. If it wishes to make a decision which is outside the policy or budget framework, then this must be referred to Full Council to decide.

## **Part 7. Overview & Scrutiny Committee**

- 7.1 By law Full Council is also required to appoint one or more “Overview & Scrutiny” Committees which monitors the Cabinet’s work, reviews the council’s overall performance and contributes to the development of new ideas and policy. It must also scrutinise crime and disorder matters.
- 7.2 North Norfolk has a single Overview & Scrutiny Committee for this purpose. The Committee allows the public to have a greater say in local matters by holding investigations into matters of concern or interest. Such may lead to reports and recommendations advising and informing the Cabinet and Full Council on its strategy, policy, spending and services.
- 7.3 The Overview & Scrutiny Committee also holds the Cabinet to account. The Committee or individual members can “call-in” a decision of Cabinet which has been made but not implemented. They can ask Cabinet to reconsider the decision or ask that the matter be looked at by Full Council.

- 7.4 In addition, Cabinet can request that the Overview & Scrutiny Committee review proposed decisions and issues of policy. Officers of the Council and co-optees can make suggestions for particular topics to be scrutinised.
- 7.5 A Cabinet member is not allowed to be a member of an Overview & Scrutiny Committee. In addition, no Member can be involved in scrutinising any decision in which he or she has played a direct part.

## **Part 8. Other Committees**

- 8.1 The Council also has a number of other committees which deal with particular matters including Development Committee (dealing with planning applications and matters), Licensing Committee, Governance Risk & Audit Committee, Employment & Appeals Committee and Standards Committee.
- 8.2 The detailed powers and functions of Council, Cabinet and Committees are set out in Chapters 2, 3, 4 and 5 of this Constitution.

## **Part 9. Open Government, Governance and Probity**

- 9.1 The Council is committed to principles of openness and transparency. Full Council, Cabinet and Committee meetings will normally be open to the public except where personal, legally sensitive or confidential issues are on the agenda for discussion. If Members at a meeting wish to exclude the press and public then they must vote to upon this and reasons should be given.
- 9.2 Members are required to observe their code of conduct and other protocols and procedures set out in Chapter 7 of this Constitution. The council has a Standards Committee, comprising elected members of the council. The Standards Committee's role is to help maintain high standards of behaviour and to investigate complaints against Members. Where Members have any doubts about those standards of behaviour, they should consult the Monitoring Officer in the first instance. All advice given will be in writing wherever possible.

## **Part 10. Officers**

- 10.1 Council staff (officers) provide information, support and advice to Members, implement decisions and run the day to day business of the council. Some officers have a specific duty under the law to ensure that the council acts lawfully and uses its resources responsibly. All officers are subject to a disciplinary code. Another code of practice governs the relationships between officers and Members.
- 10.2 The Officer structure and the powers given to particular office holders are set out in Chapter 6.

## **Part 11. Rights of the Public**

11.1 North Norfolk District Council welcomes and encourages public participation in its work.

11.2 The public has a range of rights in relation to the council. These include the right:

- Of local people registered on the electoral roll for the area to vote on Council elections.(i)
- To petition the Council.
- To see agendas, reports and appropriate background papers.
- To attend meetings of Full Council, Cabinet and Committees, including any joint Committees with another Council.
- To ask, with appropriate notice, a question of any public committee.
- To be notified in advance in order to have input into key decisions.
- To see minutes and other records of decisions made by Full Council, Cabinet and Committees.
- To inspect the council's accounts and give their views to the council's auditor.
- To ask to 'call-in' (review) a decision made by Cabinet (see Chapter 4, paragraph 8.6(e).
- To take part in investigations or reviews of services carried out by the Overview & Scrutiny Committee.

11.3 It should be noted that while Members have the same rights, generally, as members of the public, they also have additional rights in relation to access to information (see Chapter 8).

## **Part 12. Principles of decision making**

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

(a) proportionality (i.e. the action must be proportionate to the desired outcome);

(b) consideration of professional advice from officers;



- (c) respect for human rights (see below for further details);
- (d) proper regard to the duties in the Equality Act 2010;
- (e) a presumption in favour of openness; and
- (f) clarity of aims and desired outcomes.

## 12.2 Types of decision

(a) Decisions reserved to Full Council. Decisions relating to certain functions listed in Chapter 2 will be made by the Full Council and not delegated.

(b) Key decisions.

(i) A key decision is a decision which is likely: -  
to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.

(ii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Chapter 3 of this Constitution.

(iii) The Council has decided that expenditure or savings of **£100,000** or more shall be regarded as significant for the purposes of paragraph (i) above, save where such expenditure or saving is specifically identified in the Council's Budget

## 12.3 Decision making by Full Council

Full Council meetings will follow the Council Procedures Rules set out in Chapter 2 of this Constitution when considering any matter.

## 12.4 Decision making by Cabinet (the Executive)

Cabinet will follow the Cabinet Procedures Rules set out in Chapter 3 of this Constitution when considering any matter.

## 12.5 Decision making by Overview & Scrutiny Committee

Overview & Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Chapter 4 of this Constitution when considering any matter.

## 12.6 Committees and working parties established by the Council

Other Council committees and working parties will follow those parts of the Council Procedures Rules set out in Chapter 2 of this Constitution as applicable.

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

The Council, a committee, a Member 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.

## **Part 13. Legal, Finance and Contract Matters**

### **Financial management**

13.1 The management of the council's financial affairs will be conducted in accordance with the financial rules set out in Chapter 9 of this Constitution.

### **Contracts**

13.2 Every contract made by the Council will comply with the Contract Procedure Rules set out in Chapter 9 of this Constitution.

### **Legal Matters**

#### **13.3 Legal proceedings**

The Assistant Director for Finance, Assets & Legal (or other person as authorised by them) may 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 Assistant Director for Finance, Assets & Legal considers that such action is necessary to protect the Council's interests.

#### **13.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Monitoring Officer / Assistant Director for Finance, Assets & Legal or other person authorised by them, 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 local authority shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the Common Seal of the Council attested by at least one officer.

#### **13.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director for Finance, Assets & Legal. 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 Assistant Director of Finance, Assets & Legal should be sealed. The affixing of the Common Seal will be attested by the Assistant Director of Finance, Assets & Legal or some other person authorised by him/her.

#### **Part 14. Changes to the Constitution**

- 14.1 Full Council has responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Such monitoring and review shall take place at least annually and be reported to Full Council.
- 14.2 Subject to the exceptions set out below, changes to the Constitution will only be effective if approved by the Full Council.
- 14.3 Amendments to the Constitution will normally only be considered by Full Council following a report and recommendation from the Standards Committee or Constitution Working Party and having received the advice of the Monitoring Officer.
- 14.4 The member body recommending changes to the Constitution, whether it is the Constitution Working Party or the Standards Committee, will have regard to advice from the Monitoring Officer on any proposals relating to the Constitution. The Monitoring Officer may submit a report direct to Full Council in any case where his/her advice is not accepted by the member body.
- 14.5 The Monitoring Officer may make changes to the Constitution to give effect to any decisions of the Council and changes in the law and to make minor amendments such as to correct errors and to ensure that the Constitution is maintained and up-to-date. Any such changes will be communicated to all Members of the Council.

#### **Part 15. Suspension and Publication of the Constitution**

##### **15.1 Suspension of the Constitution**

(a) Limit to suspension. The Basic Principles of this Constitution contained in this Chapter may not be suspended. The Rules specified below may be suspended by Full Council, a Committee or Working Party to the extent permitted within those rules and the law.

(b) Procedure to suspend. A motion to suspend any rules will not be moved without notice unless at least two thirds of the whole number of councillors (27) are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Chapter.

(c) Rules capable of suspension. The Council Procedure Rules may be suspended in accordance with Rule 23 of Chapter 2.

## 15.2 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 Chapter 1, Part 1.

## 15.3 Publication

(a) The Monitoring Officer will give a copy (either printed or electronic) of this Constitution to each member of the authority upon receipt of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Monitoring Officer will ensure that copies are available for inspection at council offices and other appropriate locations, and on the Council's website and can be purchased by members of the local press and the public on payment of a reasonable fee.

(c) The Monitoring Officer shall ensure that the Constitution is made widely available within the area and is updated as necessary.

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<sup>i</sup> A person can vote in local government elections if they have registered to vote in time for the election and are:

- 18 years of age or over on polling day
- a British citizen living in the UK
- a qualifying Commonwealth citizen living in the UK
- a citizen of the Irish Republic living in the UK
- a European Union citizen living in the UK
- registered to vote as a Crown Servant
- registered to vote as a service voter

Qualifying Commonwealth citizens are those who have leave to enter or remain in the UK or do not require such leave.

A person cannot vote in local government elections if they are a British citizen living abroad and are registered as an overseas elector.

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## CHAPTER 2

### FULL COUNCIL

#### Part 1. The Full Council

##### 1. Composition

- 1.1 The Council comprises 40 Councillors who are elected together every four years.

##### 2. Powers Reserved to Full Council

- 2.1 The Council has the following functions:

- a) Adopting and changing the Constitution, including the terms of reference of committees of council; deciding on their composition; making appointments to them and appointing chairmen and vice-chairmen
- b) Adopting or approving the Policy Framework
- c) Adopting or approving the Budget, including the Capital Programme, determining borrowing limits and setting the Council Tax.
- d) Electing or removing the Leader of the Council
- e) Appointing representatives to outside bodies (except where this is an Executive function)
- f) Adopting or approving a scheme for Members' allowances following a report of an independent panel
- g) Changing the name of any electoral area in the District
- h) Making, amending, revoking or adopting byelaws or promoting or opposing the making of local legislation or personal bills
- i) Approving any application to the Secretary of State in respect of a housing land transfer
- j) The setting of rent levels for Council housing
- k) Considering and approving the final accounts and financial statement of the Council
- l) Appointing or dismissing the Head of Paid Service
- m) Appointing or dismissing other Chief Officers (as defined in the Council's Scheme of Delegation), although elements of this function may be exercised, if the Council so resolves, by an Employment and Appeals Committee consisting of at least the minimum number of Members of the Council necessary to comply with the political balance requirements of the Local Government and Housing Act 1989 (unless the Council resolves otherwise without dissent).

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- n) The adoption of any corporate policy or strategy except as otherwise specifically provided in the Terms of Reference of Committees or the Council's Scheme of Delegation.
  - o) The taking of any decision or expressing a view leading to the alteration of any Local Government boundary affecting the District, any Electoral Ward or area or the number of Members of the Council
  - p) Consideration of responses to reports by the Local Government Ombudsman on the advice of the Overview & Scrutiny Committee
  - q) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Chapter 8 of this Constitution, making decisions about the discharge of an Executive Function where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget
  - r) All other functions which the Council lawfully decides should be undertaken by itself rather than Cabinet (the Executive) and which are set out in this chapter of the Constitution
  - s) All other matters which, by law, are reserved to Council

### **3. Council meetings**

- 3.1 Full Council meetings will be conducted in accordance with the Council Procedure Rules in Part 2 of this section of this Constitution. Full Council meetings will be chaired by the Chairman (or Vice-Chairman where appropriate).
- 3.2 A Full Council meeting shall be conducted in person at the Council offices or other specific location,

### **4. Responsibility and delegation of functions**

- 4.1 Full Council may arrange for the discharge of any of its functions by a Committee of the Council, a Sub-Committee of the Council or by an Officer, subject to certain functions such as setting the Budget and Council Tax, decisions that depart from the Budget and Policy Framework or appointing the Head of Paid Service and other decisions which are reserved by statute exclusively to Full Council. Similarly, a Committee may delegate any of its functions to a Sub-Committee or an officer, and a Sub-Committee may delegate any of its functions to an officer.

### **5. The Policy Framework**

- 5.1 The Policy Framework means the plans and strategies which have been approved by the Council to comprise the Policy Framework, and includes the following:
  - (a) Asset Management Plan
  - (b) Performance Plan

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- (c) Capital Strategy
  - (d) North Norfolk Local Development Framework
  - (e) Financial Strategy
  - (f) Growth Strategy
  - (g) Strategic Housing Policy
  - (h) Economic Development Plan
  - (i) Licensing Authority Policy Statements

## 6. The Budget

- 6.1 The Budget means the Authority's Budget as approved by a resolution of Full Council and includes the allocation of financial resources to different services and projects, proposed contingency funds (reserves), the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

**Note:** *For the avoidance of doubt, it is confirmed that just as the Council retains ultimate responsibility for the actions of all its Committees, it also retains the ability to exercise any of its powers whether or not such power is also delegated to a Committee or Officer save where legislation provides that the Cabinet or some other body shall have sole responsibility. However, the Council will not exercise a power delegated by these Terms of Reference without first certifying that such an exceptional step is required in the best interests of the Council. The Council's ability to exercise its powers will not override or supersede any decision or action already taken by resolution of any Committee or Officer acting under properly delegated authority.*

## **Part 2. Council Procedure and Rules**

### **1. Types of Council Meeting**

- 1.1 There are three types of council meeting:
- (a) The Annual meeting
  - (b) Ordinary meetings
  - (c) Extraordinary meetings
- 1.2 These meetings will be conducted in accordance with the procedure rules set out in this part of the Constitution.

### **2. Annual Meeting of the Council Time and Place**

- 2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.
- 2.2 Subject to Rule 2.1 above, the Annual Meeting shall be held at such date, time and place as the Council may resolve or, in default of such resolution, as may be determined by the Democratic Services Manager and notified in writing to all Members.
- 2.3 The Annual Meeting of the Council shall take place at 6.00 pm in the Council Offices at Holt Road, Cromer unless otherwise determined.

#### **Business**

- 2.4 The annual meeting will:
- (a) Elect a person to preside if the Chairman and Vice Chairman are not present
  - (b) Receive any apologies for absence from members
  - (c) Approve correct minutes
  - (d) Elect a Chairman for the ensuing municipal year
  - (e) Consider urgent business
  - (f) Elect a Vice Chairman for the ensuing municipal year
  - (g) Receive any declarations of interest from Members
  - (h) Elect a Leader of the Council [see note below]
  - (i) Receive any announcements from the Chairman or the Leader
  - (j) Establish the following and their size and terms of reference:
    - (i) At least one Overview and Scrutiny Committee for the purposes of section 21 of the Local Government Act 2000



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- (ii) A Standards Committee for the purpose of the Localism Act 2011
  - (iii) A Committee for the purposes of the Licensing Act 2003
  - (iv) Development Committee(s)
  - (v) Governance Risk & Audit Committee
  - (vi) Such other Committees as may be necessary for the proper discharge of the functions of the Council
- (k) Note the allocation of seats on Committees and Sub-Committees to members of political groups and those seats to be filled by Members who are not in any political group, and appoint Members to those allocated Committee seats in accordance with the nominations of the political group Leaders, and appoint Members to the remaining Committee seats from among those Members who are not in any political group
- (l) Appoint any co-opted members to other Committees as appropriate
  - (m) Determine to which Committees substitute members may be appointed and appoint substitute members in accordance with the nominations of political group leaders
  - (n) Appoint such Chairmen and Vice-Chairmen of Committees as it falls to Council to appoint
  - (o) Receive nominations for, and make appointments to, those outside bodies to which the Council is entitled to appoint except where that right of appointment is exercisable only by the Cabinet
  - (p) Consider any business set out in the notice convening the meeting

**Note:** *From May 2011, Rule 2.4 (h) above will apply only at the annual meeting following an election, or following the removal or death or incapacity or resignation of the Leader.*

### **Order of Business**

- 2.5 The order of business at the Annual Meeting may be varied, except in respect of Rules 2.4 (a) to (g) above.

## **3. Ordinary Meetings**

### **Time and Place**

- 3.1 Ordinary meetings of the Council will take place at 6pm in the Council Offices at Holt Road, Cromer unless otherwise determined.
- 3.2 There will normally be seven ordinary meetings of Council in each municipal year. However, the Democratic Services Manager may cancel or postpone an ordinary meeting prior to the issue of public notice of the meeting where, after consultation with the Chairman or Vice Chairman, he/she considers that there is insufficient business to transact or where an event occurs which he/she

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considers would make it inappropriate to hold the meeting on the intended date.

### **Business**

3.3 Business at ordinary meetings will be to:

- (a) Appoint a person to preside if neither the Chairman nor Vice Chairman is present or able to act
- (b) Receive any apologies for absence from Members
- (c) Approve as a correct record the minutes of the last meeting
- (d) Consider any matter which, by reason of special circumstances (to be specified in the minutes of the meeting), the Chairman considers to be a matter of urgency
- (e) Receive any declarations of interest from Members
- (f) Receive any announcements from or on behalf of the Chairman or the Leader
- (g) Deal with any business deferred from the last Council meeting
- (h) To receive reports from Portfolio Holders
- (i) Answer questions from members of the public in the order in which they were received
- (j) Answer questions received from Members in the order in which they were received
- (k) Receive petitions from Members and from members of the public in accordance with the authority's Petition Scheme
- (l) Receive updates, briefings, reports and recommendations from the Cabinet or from members of the Cabinet
- (m) Receive any reports from the Overview & Scrutiny Committee, the Standards Committee or other Committees of the Council
- (n) Receive reports from Officers
- (o) Consider motions from Members in the order in which they were received
- (p) Receive reports from Members and Officers attending as the Authority's representatives on outside bodies about the business of joint arrangements, boards and partnership bodies and external organisations
- (q) Hold an Adjournment Debate if appropriate
- (r) Other business, if any, specified in the summons.

### **Order of Business**

3.4 The order of business set out on the agenda will be set by the Democratic Services Manager as Proper Officer, subject to paragraphs 3.5 and 3.6 below.

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- 3.5 Where the Proper Officer considers that the report or consideration of any item or items of business is likely to disclose confidential or exempt information, he/she may group any such items together on the agenda for convenience.
- 3.6 The Chairman at his/her discretion, or Full Council by a resolution passed on a motion (which need not be in writing) may vary the above order of business at an ordinary meeting of the Council, except in respect of Rules 3.3 (a) to (e).

### **Opposition Business**

- 3.7 Each opposition or minority Group will have the opportunity at up to three ordinary meetings of Council in each civic year to propose a single item of business on the following procedural basis:
- (a) Opposition Group Leaders may submit a notice of opposition business in writing to the Democratic Services Manager for the next ordinary Council meeting at least seven clear days before the date of the meeting to which it is addressed.
- (b) The written notice must identify the nature of the item to be discussed and the nominated representative of the political group who will present the business to Council, to which the Leader or appropriate Portfolio Holder will respond.
- (c) The written notice must relate to a matter which affects the Council or the District and must relate to a matter in respect of which the authority has a relevant function or legitimate local interest.
- (d) The Council may vote on the substance of the debate particularly where recommendations have been made for future actions. The time allotted for opposition business will be no more than 30 minutes.

### **3.8 Public Questions/ statements**

Members of the public must notify the committee clerk 24 hours in advance of the meeting by email or telephone of their intention to ask a question or make a statement and at that time provide a copy of the proposed question or statement. Statements must not exceed 3 minutes. The Monitoring Officer may reject a question if it is not about a matter for which the Council has a responsibility or which particularly affects the Council. It may also be rejected if it is defamatory, frivolous or offensive or requires the disclosure of confidential or exempt information. If the Monitoring Officer rejects a question or statement then s/he will notify the Group Leaders of the subject matter of the question and the reasons for rejection.

If a question has been asked, one supplementary question will be allowed on the day (must not exceed one minute). If an answer cannot be provided at the meeting a written response will be provided.

Different deadlines apply for speakers at Development Committee (see Chapter 5 Part 3)

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## **4. Extraordinary Meetings**

### **Calling extraordinary meetings**

- 4.1 Those listed below may require the Proper Officer (who for this purpose shall be the Chief Executive) to call extraordinary Council meetings in addition to ordinary meetings:
- (a) The Council by resolution
  - (b) The Chairman
  - (c) A Statutory Officer of the Authority
  - (d) Any five Members may together call the meeting and the Democratic Services Manager shall make arrangements accordingly provided they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Chairman and he/she has refused to call a meeting or has failed within seven days of the presentation of the requisition to call a meeting.
- 4.2 Upon receipt of such requirement, the Democratic Services Manager shall arrange a meeting of Council to be held within 20 working days of receipt by her/him of the request.

### **Time and Place**

- 4.3 All Extraordinary Meetings of the Council shall take place at 6.00 pm in the Council Offices at Holt Road Cromer unless otherwise determined.

### **Business**

- 4.4 Business at Extraordinary Meetings of the Council shall be restricted to the following:
- (a) To appoint a Member to preside at the meeting if neither the Chairman nor the Vice Chairman is present and able to preside
  - (b) To receive apologies for absence from Members
  - (c) To receive any declarations of interest from Members
  - (d) To consider any business set out in the notice convening the meeting
  - (e) Consider any matter which, by reason of special circumstances (to be specified in the minutes of the meeting), the Chairman considers to be a matter of urgency

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## **Order of Business**

- 4.5 Where the Proper Officer considers that the report or consideration of any item or items of business is likely to disclose confidential or exempt information, he/she may group any such items together on the agenda for convenience.
- 4.6 The Chairman may vary the above order of business at an Extraordinary meeting of the Council, except in respect of Rule 4.4 (a) to (c).

## **5. Notice, Summons and Cancellation of Meetings**

- 5.1 The Democratic Services Manager will give notice to the public of the date, time and place of any meeting in accordance with the Access to Information Rules.
- 5.2 At least five clear days before a meeting, the Democratic Services Manager will send a summons signed by him or her electronically to every Member of the Council or by an alternative appropriate method, as requested by the member (as outlined by the Local Government (Electronic Communications) (England) Order 2015. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.
- 5.3 The Democratic Services Manager may cancel any meeting of Council by prior written notification to every Member and by public notice where he or she is of the opinion, after consultation with the Chairman and Vice Chairman, and with all leaders of declared political groups and the spokesperson of the non-grouped Members or each such Member (if they have no spokesperson) that it would be inappropriate to proceed with the meeting for any reason.

## **6. The Person Presiding**

- 6.1 In this procedure, reference to the Chairman shall include reference to the person presiding at the meeting or part of the meeting where the Chairman and/or the Vice Chairman, is absent or unable to act, and the person presiding shall have all the powers of the Chairman for the purpose of the conduct of the meeting or item of business.
- 6.2 This Rule applies when neither the Chairman nor the Vice Chairman are present or able to act in respect of any meeting or particular item of business, and it is necessary to elect a person to preside in their absence.
- 6.3 The Chief Executive or in his/her absence an officer on behalf of the Chief Executive shall exercise the powers of the Chairman in respect of the election of a Member to preside (but shall not have a first or casting vote) and shall invite nominations from Members and conduct an election for a person to preside at the meeting or in respect of the particular item, as necessary.

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- 6.4 Where there is an equality of votes on such election, the Chief Executive or his/her representative may adjourn the meeting for up to 15 minutes. If after such adjournment there is still an equality of votes the matter shall be determined by the drawing of lots.

## **7. Record of Attendance**

- 7.1 All Members present during the whole or any part of a meeting must sign their names on the attendance sheet provided before the conclusion of the meeting.

## **8. Quorum**

- 8.1 The quorum of a meeting will be one third of the number of members of the Council (i.e. 13 Members, where there are no vacancies amongst the Members).
- 8.2 If, once a meeting has started, the Chairman is aware that a quorum may not be present; he/she shall count the number of Members present and, if a quorum is not present, declare inquorate. The Chairman shall then adjourn the meeting for not more than 15 minutes to attempt secure a quorum or adjourn the meeting to a date, time and place determined by the Democratic Services Manager.

## **9. Duration of Meetings**

### **Termination of Meetings**

- 9.1 If the business of the meeting has not been concluded by three and a half hours after its start, the Chairman must interrupt the meeting. The Member speaking must cease speaking forthwith and the Chairman will then immediately and without debate take a vote on the item under discussion (including any amendment) and shall then dispose of the remaining business in accordance with Rule 9.2 below.

### **Disposal of remaining business**

- 9.2 Subject to Rule 9.3 below, if there are other motions or recommendations on the agenda that have not been dealt with, they are deemed formally moved and seconded and shall be put to the vote without debate.
- 9.3 Where a notice of motion submitted under Rule 13 falls to be dealt with under Rule 9.2, the Member giving the notice may either:
- (a) speak to the motion for not more than three minutes before the motion is put to the vote without debate; or
  - (b) require that the motion is deferred to the next available meeting and dealt with as business deferred from the previous meeting.

- 9.4 During the process set out in Rule 9.2, the only motions which may be moved are:
- (a) that a matter be delegated or referred to an appropriate body or individual for decision or report;
  - (b) that a matter be deferred to the next Meeting;
  - (c) to move a motion that may be moved during debate, under Rule 15.
- 9.5 Voting shall be in accordance with these Rules including those relating to recorded votes.

### **Close of the meeting**

- 9.6 When all motions and recommendations have been dealt with, the Chairman will declare the meeting closed.

## **10. Interests of Members**

- 10.1 Members must declare any interest which they have in any matter which is included in the agenda for the meeting, in accordance with the Members' Code of Conduct and at the item of business on the agenda relating to the declaration of Members' interests.
- 10.2 When declaring interests, Members must also disclose the nature of that interest.
- 10.3 In addition, if during the consideration of any matter, a Member realises that he/she has an interest which he/she has not declared in the matter under consideration, he/she shall declare that interest immediately. Where a Member arrives after the start of the meeting, the Member must make such declarations of interest as soon as possible after arrival and the Chairman shall permit them to do so at the earliest opportunity.

### **Withdrawal from the meeting for Disclosable Pecuniary Interests**

- 10.4 Where a Member has a disclosable pecuniary interest in any matter, he/she must withdraw from the meeting, including withdrawal from the public gallery, for the duration of the consideration of the matter.
- 10.5 Where Members have any doubts about whether they have a disclosable pecuniary interest, they should consult the Monitoring Officer in the first instance. All advice given should be in writing wherever possible.

## **11. Minutes**

### **Signing the minutes**

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- 11.1 The Chairman will, at the next suitable meeting, move that the minutes of the previous meeting be signed as a correct record. The only issue in respect of the minutes that can be discussed is their accuracy. If approved by the meeting, the Chairman will then sign the minutes.

**There is no requirement to sign minutes of the previous meeting at an extraordinary meeting**

- 11.2 This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next following ordinary meeting (being a meeting called otherwise than under paragraph 3 of schedule 12 of the Local Government Act 1972) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

**Form of Minutes**

- 11.3 The minutes of the Council meeting will not be in the form of a transcript. The minutes shall record all motions and amendments in the exact form in which the Chairman put them to the meeting. Reasons for making decisions will also be recorded.

**12. Questions by members**

- 12.1 Members of the Council may ask questions of the Leader and Cabinet during Portfolio Holder reports on the agenda of ordinary meetings of the Council on any matter of Council business or on issues which affect the Council's area.

- 12.2 Members of the Council may ask questions of the Chairman of a Committee at Ordinary Meetings of the Council on any matter of Council Business or on issues which affect the Council's area.

- 12.2 At a meeting no Member may ask more than one question (and a supplementary question) unless the time taken by members' questions does not exceed 30 minutes in total in which case second questions will be taken in the order that they are received.

- 12.3 The Monitoring Officer may reject a question if it:-

- i) Is not about a matter -
  - a) for which the Authority has a responsibility or
  - b) which particularly affects the Council.
- ii) Is defamatory, frivolous or offensive;



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- iii) Requires the disclosure of confidential or exempt information
- 12.4 Written replies will be given to questions by the relevant Member of the Cabinet or Committee Chairman, or their nominee, but shall not be the subject of any further debate. When a reply cannot conveniently be given at the Council meeting, a written answer will be circulated to the questioner within ten working days of the meeting.
- 12.5 The person who is asked the question may decline to answer but that fact shall be recorded in the Minutes of the meeting.
- 12.6 A member who has put a question 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 the supplementary question on any of the grounds in Rule 12.3 above.
- 12.7 Unless the Chairman of the Council decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Subcommittee. Once seconded, such a motion will be voted on without discussion.

### **13. Petitions**

- 13.1 The Council has adopted a scheme whereby the public can petition the Council in respect of issues which are of concern.
- 13.2 All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what the Council plans to do with the petition. The Council will treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.
- 13.3 Petitions can be submitted to a meeting of the Full Council or addressed to the Council online.
- 13.4 The Council's rules for submitting petitions are set out in its Petitions Scheme.

### **14. Notices of Motion**

- 14.1 Except for motions which can be moved without notice under Rule 15 below, any Member may submit a notice of motion in writing to the Democratic Services Manager for the next ordinary Council meeting, or extraordinary meeting where the meeting is or is to be convened to consider the subject matter of the notice of motion, at least seven clear working days before the date of the meeting to which it is addressed. A notice of motion must be in writing and signed by the proposer or proposers and may be accompanied by

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- a statement of not more than 200 words setting out the reason for the proposed motion.
- 14.2 A notice of motion must relate to a matter which affects the Council or the District and must relate to a matter in respect of which the Authority has a relevant function or legitimate local interest.
- 14.3 A notice of motion may be in more than one part and contain more than one recommendation, but must all relate to the same subject matter.
- 14.4 The Chief Executive may reject a notice of motion if, in his/her opinion:
- (a) it does not comply with the requirements of this Rule
  - (b) the notice of motion is defamatory of an individual, offensive, or otherwise infringes the proper conduct of local government
  - (c) the recommendation in the notice of motion would be unlawful
  - (d) the notice of motion is substantially the same as a question which has been previously received and answered within the past six months, and there has been no significant and relevant change of circumstances since the previous question was answered
- 14.5 Where the Chief Executive rejects a notice of motion, he/she shall inform the Member submitting the notice of motion as soon as practicable and shall not include the rejected notice of motion in the public record or agenda.
- 14.6 The Democratic Services Manager shall record all such notices of motion (not including a rejected notice) in the order in which they are received and such record shall be open to public inspection on request.
- 14.7 The Proper Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received, save that:
- (a) where two or more notices of motion are received from a particular Member for the same meeting, that Member's second notice of motion shall be included after all other Members' first notices of motion, that Member's third notice of motion shall be included after all other Members' second notices of motion, and so on.
  - (b) where he/she considers that the notice of motion, statement or consideration of the notice of motion is likely to result in the disclosure of confidential or exempt information, in which case he/she may group such notices of motion together with other items of business which are, in his/her opinion, likely to involve the exclusion of press and public during their consideration.
- 14.8 Full Council shall not debate any motion which would give rise to a significant change to the income of the Council, to its expenditure or to contract terms, unless it has received a report from the Chief Financial Officer or the Monitoring Officer, as appropriate, setting out the legal or financial effect of the motion.

- 14.9 Where a Member submits a notice of motion which would require an accompanying report under Rule 14.8, he/she shall at the same time provide the Chief Financial Officer and /or the Monitoring Officer with sufficient supporting information to enable them to prepare such accompanying report.
- 14.10 A motion which would require an accompanying report under Rule 14.8 cannot be moved without such accompanying report being made available to all members of Council. The motion shall stand adjourned without debate to the next available meeting of Council.
- 14.11 The time limit for moving and debating all motions upon notice shall be 30 minutes.

#### **Automatic reference to the Cabinet or a Committee**

- 14.12 If the subject matter of a motion is within the remit of the Cabinet or a committee, upon being moved and formally seconded, it shall stand referred without discussion to the Cabinet or relevant committee(s) as the Council may determine, for consideration and report to the Council as soon as practical.
- 14.13 Full Council may permit a motion to be dealt with at the meeting at which it is brought forward, provided that the subject matter is urgent or that it is appropriate to deal with the matter, subject to proper information regarding the matters referred to above.
- 14.14 If the motion has been moved only formally the mover shall be entitled to speak in introducing it when it is considered by Full Council either at the same meeting (if agreed as above) or at the next meeting when the report of the Cabinet or a committee is also submitted.

#### **Motions Affecting Persons Employed by the Council**

- 14.15 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until Full Council or Committee as the case may be, has decided whether or not the power to exclude the public under section 100 (A) (2) of the Local Government Act 1972 shall be exercised.

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

- 14.16 A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except upon a recommendation from the Leader or Cabinet for a variation of the approved budget or policy framework, or where the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to

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comply with law, as a result of a change of law or material change of circumstances.

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

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

## **15. Motions without Notice**

- 15.1 The following motions may be moved without notice:

- (a) To appoint a person to preside at the meeting or part of the meeting at which the motion is moved
- (b) In relation to the accuracy of the minutes
- (c) To change the order of business in the agenda
- (d) To refer something to an appropriate body or individual
- (e) To elect a Leader
- (f) To appoint a committee or Member arising from an item on the summons for the meeting
- (g) To receive reports or adoption of recommendations of the Cabinet and other committees or Officers and to pass any resolutions following from them
- (h) To withdraw a motion
- (i) To amend a motion
- (j) To proceed to the next business
- (k) That the question be now put
- (l) To adjourn a debate
- (m) To adjourn a meeting
- (n) To suspend a particular Council procedure rule for a period not exceeding the duration of that meeting
- (o) To exclude the public and press in accordance with the Access to Information Rules
- (p) To not hear further from a Member named under Rule 21.4 or to exclude them from the meeting under Rule 21.5
- (q) To move an urgent motion where the Chairman has given consent under Rule 15.2
- (r) To give consent where that consent is required by these Rules.
- (s) To require that a report be made to a future meeting where the person responsible has declined or failed to arrange for a report

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**Note:** *Rule 14.1 (e) above will apply only at the annual meeting following an election, or following the removal or death or incapacity or resignation of the Leader.*

15.2 The Chairman shall, notwithstanding this Rule, have the absolute discretion in exceptional circumstances to accept urgent written notices of motion that cannot reasonably await the next meeting of the Council save for motions of no confidence.

## **16. Motions of No Confidence**

16.1 Motions of no confidence in any office holder shall require to be carried by a majority of the Members of the whole Council (i.e. 21 Members) in order to be approved.

16.2 Motions proposing that a vote of no confidence be taken in respect of any office holder may not be treated as an urgent matter by the Chairman under Rule 3.3(d).

## **17. Reports and Recommendations**

17.1 The following persons may make a report and recommendations to the Council:

- (a) The Chairman
- (b) The Leader
- (c) Portfolio Holder
- (d) The Chairman of any standing committee
- (f) The Head of Paid Service
- (g) The Monitoring Officer
- (h) The Chief Financial Officer
- (i) Any other Officer, reporting in accordance with statutory responsibilities
- (j) A Member or Officer reporting as the Council's representative on any statutory body, partnership, company or authority.

17.2 Except in cases of urgency, such person shall report by delivering the report and recommendation to the Proper Officer at least 10 clear Working Days before the meeting.

17.3 Any person having such right to report (or any other person nominated by them) shall have the right to address Full Council for three minutes on the matter of any report and shall answer any questions from Members thereon. The time limit for addressing Full Council may be extended at the Chairman's absolute discretion.

17.4 Cabinet Members shall be responsible for presenting their own reports to Council. Officers will not normally be required to speak at Council meetings

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except to address a report of which they are the author under 17.3 or otherwise to advise the meeting at the request of the Chairman.

## **18. Rules of Debate**

- 18.1 All motions, including amendments, must be proposed and seconded by Members, or deemed to be so under these Rules, before they may be debated and voted upon.
- 18.2 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. Where the meeting is being held remotely, the Chairman may instead require sufficient time for it to be transcribed into writing by him/her or provided to him/her before it is discussed.
- 18.3 A Member seconding a motion shall indicate his/her intention to second the motion immediately following the proposal of the motion, and may then elect to speak immediately following the proposer, or to reserve his/her speech until later in the debate.
- 18.4 The Chairman in his/her absolute discretion shall decide which Member is to speak. Only one Member may speak at any one time, unless a Member wishes to interrupt to make a point of order or in personal explanation, subject to the permission of the Chairman.
- 18.5 Reports and recommendations from Cabinet, committees, sub-committees and Officers shall be deemed to have been proposed and seconded, and the proposer's speech may be taken (for Cabinet) by the Leader or another Cabinet Member deputed by the Leader or (for Committees and Sub-Committees) by the Chairman, or in his/her absence the Vice-Chairman, or in both their absence by a Member of the Committee or Sub-Committee chosen by the Chairman.
- 18.6 If the subject matter of the motion is within the remit of the Cabinet or a committee, upon being moved and formally seconded, it shall stand referred without discussion to the Cabinet or relevant committee, as the Council may determine, for consideration and report to the Council as soon as practical.
- 18.7 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 18.8 No speech may exceed five minutes without the consent of the Chairman except that at the Meeting of Council at which the Authority's Budget is proposed, the Leader (or Member of Cabinet deputed by the Leader) shall be allowed 20 minutes to set out his/her priorities or to propose the Budget, and a further 10 minutes to respond. The Leader of the Opposition shall be allowed 20 minutes to reply to a Leader's opening speech and a further ten minutes to the response.

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- 18.9 In the event of the absence of the Leader or the Leader of the Opposition, the Chairman shall invite the Deputy Leader or another Cabinet Member (for the Leader) or another Member of the same political group (for the Leader of the Opposition) to exercise the rights of speech of the Leader or the Leader of the opposition.

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

- 18.10 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) To second formally a motion or amendment, having reserved the right to speak later
  - (b) To speak once on an amendment moved by another Member
  - (c) To move a further amendment if the motion has been amended since he/she last spoke
  - (d) 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)
  - (e) In exercise of a right of reply
  - (f) On a point of order
  - (g) By way of personal explanation.

#### **Amendments to motions**

- 18.11 An amendment to a motion must be relevant to the motion and may be in either or both of the following forms:
- (a) To refer the matter to an appropriate body or individual for consideration or reconsideration; or
  - (b) To leave out words and/or add and/or insert words as long as the effect of so doing is not to negate the motion.
- 18.12 Any amendment must be in writing and submitted to the Proper Officer by no later than noon on the day of the meeting, except:
- (a) with the consent of the Chairman, including amendments proposed during the meeting,
  - (b) amendments to motions which have been moved without notice, or
  - (c) amendments to recommendations arising from Officers' reports.
- 18.13 Amendments shall be taken in the order in which they have been moved (unless the Chairman determines otherwise for the efficient running of business). Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

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18.14 If an amendment is not carried, other amendments to the original motion may be moved.

18.15 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.

18.16 After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, putting it to the vote.

### **Alteration of motion**

18.17 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.

18.18 A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. If the seconder is not present, another Member may second the altered motion on his/her behalf. The meeting's consent will be signified without discussion.

18.19 Only alterations which could be made as an amendment may be made.

### **Withdrawal of motion**

18.20 A motion may be withdrawn by the person giving notice provided that such notice is in writing and is submitted to the Proper Officer before the agenda is published.

18.21 A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. If the seconder is not present, another Member may consent to the withdrawal on his/her behalf. 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.

### **Right of reply and order of debate**

18.22 The mover of a motion has a right to reply at the end of the debate on a motion immediately before it is put to the vote.

18.23 If an amendment is moved the debate shall proceed in the following manner:

(a) The mover of the motion shall speak

(b) The seconder of the motion shall speak unless he or she has reserved their right to speak later

(c) The mover of the amendment shall speak



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- (d) The seconder of the amendment shall speak unless he or she has reserved their right to speak later
  - (e) There shall follow such other number of speakers as the Chairman considers appropriate
  - (f) If the seconders of the substantive motion and the amendment reserved their speeches, they shall then speak
  - (g) The mover of the amendment shall have a right of reply
  - (h) The mover of the substantive motion shall have the final right of reply
  - (i) A vote shall be taken on the amendment
  - (j) A vote shall be taken on the motion.

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

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

- (a) to withdraw that motion
- (b) to amend that 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) to exclude the public and press in accordance with the Access to Information Rules
- (h) not to hear further a Member named (Rule 21.4), or to exclude them from the meeting (Rule 21.5)

### **Closure motions**

18.25 A Member may move, without comment, any one of the following motions at the end of a speech of another Member:

- (a) to proceed to the next business
- (b) that the question be now put
- (c) to adjourn a debate
- (d) to adjourn a meeting

18.26 If a motion to proceed to next business is seconded and the Chairman considers that 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. If the procedural motion is carried the meeting will proceed to the next item of business without any further debate.

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18.27 If a motion that the question be now put is seconded and the Chairman considers that the item has been sufficiently discussed, he/she will put the procedural motion to the vote.

18.28 If the procedural motion is passed the Chairman will give the mover of the original motion a right of reply before putting his/her motion to the vote.

18.29 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman considers that the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **Point of Order**

18.30 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 Procedure Rules or the law. The Member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

### **Personal explanation**

18.31 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member

## **19. Voting**

### **Majority**

19.1 Unless this Constitution provides otherwise, 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.

19.2 Votes on a motion of no confidence in any elected office holder must be passed by a majority of the Members of the whole Council.

### **Motions in several parts**

19.3 Where a motion is in several parts, the vote shall be taken on the whole motion, unless the Chairman at his/her discretion determines that each part shall be taken separately, or the meeting so resolves in the interests of clarity.

### **Chairman's casting vote**

19.4 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.

**Show of hands**

- 19.5 Where no dissent is apparent, the Chairman may take a vote on a show of hands.

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

- 19.6 This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and cannot therefore be waived. Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

**Recorded vote**

- 19.7 Notwithstanding Rule 19.5, if any Member present at the meeting so demands, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. The procedure for a recorded vote shall be as follows:

(a) The Chairman shall put the motion and the Democratic Services Manager or Monitoring Officer shall call out the names of Members and record their votes or abstentions

(b) The Chairman shall declare the result of the vote and the vote of each Member shall be recorded in the minutes.

**19.8 Recorded vote at budget decision meeting**

Immediately after any vote is taken at a budget decision meeting of the authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting, as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014

**Voting on appointments**

- 19.9 If there are more people nominated for any position(s) than there are position(s) to be filled and there is not a clear majority of votes in favour of the required number of people, 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. Where there is an equality of votes for a person to continue in the appointment process, a vote shall be taken between those candidates having an equality of votes to determine which candidate shall continue in the appointment process.

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**20. Exclusion of the Press and Public**

- 20.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Chapter 8 or Rule 22.1 below.

**21. Members' Conduct****Order of Speeches**

- 21.1 Subject to the rules of debate, the Chairman shall have absolute discretion as to the order in which he/she calls members to speak.

**Chairman standing**

- 21.2 When the Chairman stands to speak during the course of the meeting, all Members shall cease speaking and sit down.

**21.3 Telephones and electronic equipment**

Each Member and all persons present shall ensure that his/her mobile telephone and other electronic equipment is switched to, and kept on, silent mode throughout the meeting.,

Without derogating from any right of an individual to report on the meeting the person presiding at the meeting may direct at any time, that any suitable or appropriate steps be taken to ensure that any equipment used for this purpose does not interfere with the proper conduct of the meeting.

**Member not to be heard further**

- 21.4 If a Member disregards the ruling of the Chairman by behaving improperly or offensively or obstructs the conduct of the meeting, the Chairman may warn the Member as to his/her conduct. If the Member persists in behaving improperly or offensively or deliberately disrupts the conduct of the meeting despite such warning, the Chairman may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

**Member to leave the meeting**

- 21.5 If the Member continues to behave improperly after a motion not to be heard further 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.

**General disturbance by members**

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

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**22. Disturbance by Members of the Public****Removal of member of the public**

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

**Clearance of part of meeting room**

- 22.2 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.

**23. Suspension and Amendment of Council Procedure Rules**

- 23.1 All of these Council Rules of Procedure except Rules 11.2 and 18.7, 19.6 & 19.8 (which are mandatory) and statutory requirements as to the order of business may be suspended by motion on notice or without notice if at least two thirds of the Members of the Council are present. Suspension can only be for the duration of the meeting.

**Amendment**

- 23.2 Any motion to add to, vary or revoke these Council Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of Council or to an appropriate Committee for consideration and report back to Council at the next ordinary meeting of the Council.

**24. Appointment of Members to Committees****Allocation of seats to Political Groups**

- 24.1 Whenever the Authority is required to undertake a review of the allocation of seats to political groups, the Chief Executive shall conduct such review and report to Council setting out the number of seats on each Committee which are allocated to each political group and the number of seats which remain unallocated, in accordance with the requirements of the Local Government and Housing Act 1989, and regulations made thereunder and shall send a copy of such report to the Leader of each political group and to any Members who are not members of any political group.
- 24.2 Following receipt of a copy of such report, each Leader of a political group shall make nomination to Council of Members for appointment to those seats on each Committee or Joint Committee which are allocated to his/her political group. Such nomination may be made in writing to the Democratic Services Manager in advance of the meeting.
- 24.3 The Leader of any political group may notify the Democratic Services Manager in writing at least seven clear working days before any meeting of Council

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stating his/her intention to move that a named Councillor be removed from a seat on a particular Committee which has been allocated to his/her political group and to move the appointment of another Member to that seat, and the Democratic Services Manager shall then include an appropriate item of business in the Council agenda for the next appropriate meeting of Council.

### **Appointment of Members to Committees**

- 24.4 At the meeting of Council where an item of business relating to the appointment of Committees is included on the agenda, the Council shall appoint members to each Committee in accordance with the nominations made by each group Leader.
- 24.5 The Council will then appoint members to those seats on Committees which have not been allocated to any political group from amongst those Members who are not members of any political group.

### **Appointment of Co-opted Members of Committees**

- 24.6 Where Council determines that a Committee shall include one or more co-opted committee members, it shall also specify whether such members shall be voting or non-voting members, the dates and term of office of any such appointment and the procedure for selection of such co-opted members, which may include advertisement and competition or invitation for nomination from specified bodies.
- 24.7 Co-opted committee membership of any Committee shall not be subject to the rules on political proportionality.

### **Substitute Appointments on Committees**

- 24.8 In like manner as for the appointment of full members of Committees, where the Leader of a political group may nominate a number of members determined by the Chief Executive for appointment by Council as full members of the Committee, the Leader of a political group may also nominate an equal number of members for appointment as substitute members of the Committee, and Council shall appoint such substitute members in accordance with the nominations made by the Leader of the political group. No member shall be appointed as a full member and a substitute member of the same Committee.
- 24.9 In like manner as for full members of Committees, the Leader of a political group may move that a Member of that political group cease to be appointed as a substitute Member of a specified Committee and move that another Member be appointed as a substitute Member of that Committee, and Council shall make such removal and appointment in accordance with the nominations of the Leader of the group.
- 24.10 In the case of the Development Committee, any Member who has had the required training in planning matters may be appointed as a substitute member and the number of substitute members is not limited. In the case of

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Employment & Appeals Committee the number of substitutes shall be limited to twice the number of the committee (10 substitutes)

### **Substitution**

24.11 A substitute member may attend a particular meeting of the Committee (including Working Parties or Groups) to which he/she has been appointed as a substitute member, in substitution for a full member of that Committee from the same political group and with the full powers of a full member where:

(a) the full member for whom the substitute member will substitute will be absent throughout the whole of the particular meeting; and

(b) the substitute member has notified the Democratic Services Manager before the start of the meeting that he/she will be acting as substitute for that meeting, and of the name of the full member for whom he/she will substitute.

24.12 In the case of the Development Committee, a substitute member may attend a particular meeting of that Committee in accordance with Rule 24.9 except the substitute member need not be from the same political group.

24.13 When acting as a substitute, such a member is free to make their own independent decisions and is under no obligation to vote in accordance with the intentions or wishes of the member for whom he/she will substitute.

### **Powers and duties**

24.14 A substitute member shall have none of the rights of a member of a Committee unless he/she has been substituted in accordance with Rule 24.8 above.

24.15 Once substituted in accordance with Rule 24.8 above, the substitute member shall have all the powers of a full member at the meeting.

## **25. Appointments to Outside Bodies**

The following criteria will be applied when selecting members for appointments to Outside Bodies:

- Is the appointment relevant to any Council responsibilities (Portfolio, Chairmanship, for example)?
- Does the appointee bring skills and experience to the appointment?
- Does the appointee have the time and resources to devote to the role?
- Does the appointee have a low likelihood of conflicts of interest?
- Has there been any expression of preference / approval from the outside body?
- What is the term of appointment – long or short term and is the appointee able to commit to this length of term?

- All appointments to outside bodies must be included in the appointed member's register of interests.

## **26. Interpretation of Rules**

- 26.1 The ruling of the Chairman as to the construction or application of any of these Rules shall not further be challenged at any meeting of the Council.



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## CHAPTER 3

### THE EXECUTIVE

#### Part 1. The Cabinet

1. **Appointed by:** The Leader
2. **Membership:** The Cabinet will comprise between two and ten members, including the Leader and Deputy Leader.

The Leader will allocate to the members of the Cabinet (together with the Leader) responsibilities in respect of particular functions of the Council.

- 3 **The Leader:** The Leader will be a Councillor elected to the position of Leader by the Council.

The Leader will hold office until:

- a) he/she resigns from the office; or
- b) he/she is no longer a Councillor; or
- c) the Annual Meeting of the Council following an election
- d) the Council resolves to remove the Leader from office at an earlier date .

4. **Other Cabinet Members:** Other Cabinet Members shall hold office until:
  - a) they resign from office; or
  - b) they are no longer Councillors; or
  - c) they are removed from office, either individually or collectively, by the Leader.
  - d) the next Annual meeting of the Council;

5. **Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out below.

6. **Responsibility for functions**

The Leader will maintain a record setting out which individual members of the Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

7. **Quorum:** The quorum for a meeting of the Cabinet shall be three, including either the Leader or Deputy Leader. If the Cabinet appoints a Cabinet committee, it shall at the same time determine the quorum of that committee.

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- 8. Frequency of Meetings:** The Cabinet will meet on a monthly basis (excluding the month of August). Additional meetings may be arranged as necessary.

## **Part 2. Terms of Reference of the Cabinet**

- 1.1 To provide leadership and direction for the Council.
- 2.1 To keep the Council's policies and objectives under review and initiating, taking into account the views of the Overview & Scrutiny Committee and the advice of the Chief Executive and of Chief Officers, new policy proposals in relation to any of the Council's responsibilities and functions.
- 3.1 To consider and recommend to the Council the amount of Council Tax to be levied and Council Rents to be charged based on a budget which has been approved by the Committee and recommended for adoption by the Council and to set the Council Tax base.
- 4.1 To recommend a capital programme to the Council.
- 5.1 To consider and decide upon any request for a supplementary estimate from any Committee or Chief Officer and on the advice of the Chief Financial Officer to specify how any such request which is approved should be funded.
- 6.1 To deal with any matter not reserved to Full Council or another Committee of the Council provided that the matter is not one with which a Council's Cabinet is by law precluded from dealing.
- 7.1 To report, where appropriate, on any matter relating to the Council's responsibilities or area.
- 8.1 To consider any review or alteration of Parliamentary or Local Government boundaries and areas or the representational naming of such areas within the District, provided there shall be reserved to the Council any final decision or expressions of views leading to the alteration of:
- a) any Local Government boundary affecting the District;
  - b) any Electoral Division or area;
  - c) the number of Members of the Council.
- 9.1 To submit to Council recommendations on the structure, constitution, membership and functions of all Committees of the Council.
- 10.1 To report to the Council on matters arising under Sections 85 and 86 of the Local Government Act 1972 (failure to attend meetings and vacation of office).
- 11.1 To advise the Council on all matters relating to Standing Orders and Finance and Contracts' Codes of Practice.

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- 12.1 To exercise any powers of the Council under Section 138 of the Local Government Act 1972 (emergencies, disasters).
- 14.1 To prepare, monitor and review the North Norfolk Local Development Framework taking into account all views received and the views of the Development Committee and any Working Party established for this purpose. The adoption of the Local Development Framework or modifications to it shall be reserved to Full Council.

### **Part 3. Functions which the Leader has allocated to the Cabinet, Cabinet Committees or Individual Cabinet Members**

- 1.1 By section 9E(2) of the Local Government Act 2000, the Leader may discharge any executive functions in person (where they have not otherwise been allocated under the authority's executive arrangements), or may make arrangements for the discharge of any of those functions by the Cabinet, by a Committee of the Cabinet, by another Cabinet Member or by an Officer. Any decision taken by the Leader using executive functions must be recorded in writing, notified to all members and published on the website.
- 1.2 This Part of the Constitution sets out the arrangements which the Leader has made for the discharge of executive functions by the Cabinet and by individual Cabinet Members.

## **2. The Cabinet**

- 2.1 The following functions shall be discharged by the Cabinet:

(a) All "Key Decisions"

(b) All executive functions which have not been delegated to a Cabinet Committee, a Cabinet Member, an Officer, an Area Committee, a Joint Committee or another local authority

(c) Any executive function which has been delegated to a Cabinet committee, a Cabinet Member, or an Officer, where the person or body to whom the decision is delegated refers the matter back to the Cabinet for determination

(d) To approve all virements between Cost Centres and/or Budget Heads or within the Capital programme where the sum to be vired exceeds £50,000

(e) "Local Choice Functions" - These are functions where the Council has discretion as to whether the function should be discharged by the Council or by the Cabinet and has determined that they shall be discharged by the Cabinet. The functions concerned are as follows:

(i) Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 (of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000)

(ii) Any function relating to contaminated land

(iii) The discharge of any function relating to the control of pollution or the management of air quality

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- (iv) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area
  - (v) The inspection of the Authority's area to detect any statutory nuisance
  - (vi) The investigation of any complaint as to the existence of a statutory nuisance
  - (vii) The service of an abatement notice in respect of a statutory nuisance
  - (viii) The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 insofar as it relates to the Cabinet's other functions

### **3. Individual Cabinet Members**

- 3.1 Under section 9E(2) of the Local Government Act 2000, the Leader has allocated a "Portfolio" to each Cabinet Member and delegated to each "Portfolio Holder" responsibility for the discharge of the functions specified below. The powers delegated to individual Cabinet Members specifically exclude "Key Decisions" and "Local Choice Functions" which have been allocated to the Cabinet.

## **Part 4. Cabinet Procedure Rules**

### **1. How the Cabinet operates**

#### **Who may make executive decisions**

- 1.1 The discharge of executive functions is the collective responsibility of the Cabinet (including the Leader) as a whole. The Cabinet may arrange for such functions to be delegated to and carried out by:
- i) a committee of the Cabinet;
  - ii) an individual member of the Cabinet;
  - iii) an Officer;
  - iv) an area committee;
  - v) jointly with another authority ("joint arrangements"); or
  - vi) other arrangements specifically authorised by statute

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

- 1.2 Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may in conjunction with the Leader or Deputy Leader of the Council delegate further to an area committee, joint arrangements or an Officer.

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- 1.3 Even where executive functions have been delegated by the Cabinet, a committee of the Cabinet or an individual member of the Cabinet, that fact does not prevent them from discharging those delegated functions.

#### **The Council's scheme of delegation and executive functions**

- 1.4 The Council's scheme of delegation is subject to adoption by Council and may only be amended by the Council. Any change to such delegations which are approved by the Cabinet will therefore be reported to the next Council meeting.

#### **Conflicts of Interest**

- 1.5 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 Chapter 7, Part 2 of this constitution.
- 1.6 If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter 7, Part 2 of this Constitution.
- 1.7 If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member or an Officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Chapter 7, Part 2 of this constitution.

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

- 1.8 Cabinet meetings will normally be held in public. The Access to Information Rules in Chapter 8 of this Constitution set out the relevant requirements and specify when meetings of the Cabinet may be held in private.

#### **Principles of executive decision making**

- 1.9 The Cabinet will have regard to the principles of decision making set out in the Introduction to the Council's Constitution.

#### **Decisions taken by the Cabinet**

- 1.10 Executive decisions which are to be taken by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Chapter 8 of the Constitution.
- 1.11 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

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- 1.12 The Access to Information Procedure Rules also govern the procedure for decision making by individual members of the Cabinet.

## **2. How Cabinet meetings are conducted**

### **Who presides**

- 2.1 The Leader or in his/her absence, the Deputy Leader will preside at any meeting of the Cabinet at which one of them is present.

### **Who may attend**

- 2.2 These details, including rights of the public, are set out in the Access to Information Rules in Chapter 8 of this Constitution and in those Council Procedure Rules which are applied to the Cabinet by Chapter 1, Part 11.

### **What business**

- 2.3. At each meeting of the Cabinet, the following business will be conducted:-
- (i) Approval of the minutes of a previous meeting;
  - (ii) Declarations of Interest, if any;
  - (iii) Consideration of items to be discussed in private (at public meetings only);
  - (iv) To receive any petitions and hear any deputations from members of the public (public meetings only);
  - (v) Public question time (public meetings only);
  - (vi) Consider any recommendations from Cabinet working parties or committees
  - (vii) Up to half an hour for oral questions by Councillors which must relate to items on the agenda, and which in special circumstances may be extended at the Chairman's absolute discretion;
  - (viii) Matters referred to the Cabinet (whether by the Overview & Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
  - (ix) Consideration of reports from the Overview & Scrutiny Committee, which may be presented by the Chairman of Overview & Scrutiny Committee, and determination of any appropriate course of action on the issues so raised for report back to that committee.
  - (x) Matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules.

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- 2.4 For the avoidance of doubt, and in the interests of the efficient conduct of business, any Member may ask questions at the time the agenda item is considered and not just in accordance with point 2.3(vi) above.

### **Voting**

- 2.5 Voting at Cabinet meetings will be by show of hands. The Chairman will have a second or casting vote.

### **Consultation**

- 2.6 All reports to the Cabinet from any member of the Cabinet 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 Overview & Scrutiny Committee or relevant panels, 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.

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

- 2.7 The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.
- 2.8 Any member of the Cabinet may, with the Leader's consent, require the Proper Officer to make sure that an item is placed on the agenda of the next appropriate meeting of the Cabinet for consideration.
- 2.9 The Head of Paid Service, Monitoring Officer or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties.

### **Reports to Council**

- 2.10 The Leader may determine which items of business at any meeting shall be the subject of a report to full Council.

## **3. Cabinet Briefing**

- 3.1 The members of the Cabinet may also, if they wish, meet informally with officers for briefing, advice and discussion of any matters relating to their functions. Such briefings may follow an agreed agenda but will not constitute meetings of the Cabinet. No decisions can be taken at such meetings. The Access to Information Procedure Rules will not apply to such meetings, except as specified in Rule 19 to 21 9.4 – 9.6 of those Rules.

#### **4. Key Decisions**

- 4.1 Key Decisions shall only be taken if either at least 28 clear days public notice has been given or under the General Exception five clear days' notice is given and the Chairman of the Overview and Scrutiny Committee has been notified, or in Cases of Special Urgency where the decision is urgent and cannot be deferred where the Chairman of Overview and Scrutiny Committee has agreed. In either case appropriate public notice will explain why the decision is being taken without the full notice period being given.
- 4.2 Key decisions are defined as a decision which is likely:-
- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the Council.
- 4.3 The Council has decided that expenditure or savings of £100,000 or more shall be regarded as significant for the above purposes, save where such expenditure or saving is specifically identified in the Council's Budget.

#### **5. Recording of Decisions**

- 5.1 All decisions which include Key Decisions are to be made by a simple majority of those members of the Cabinet present and voting at the meeting.
- 5.2 Following a meeting of the Cabinet at which a report (whether oral or in writing) has been received and at which an executive decision has been made, the Proper Officer shall ensure that a written statement is kept which must include the following:-
- (a) record of the decision;
  - (b) record of reasons for the decision;
  - (c) details of alternative options considered;
  - (d) record of any conflict of interest declared; and
  - (e) any dispensation granted by the Standards Committee, where appropriate.

#### **6. Urgent Decisions and Call- in**

- 6.1 Where an urgent decision has been taken by the Cabinet or a Cabinet Member with delegated authority this will be recorded and this decision will not be subject to Call-In (see the Overview & Scrutiny Rules in Chapter 4).

#### **7. Matters of Urgency**

- 7.1 Where the Proper Officer considers that a matter of urgency has arisen in connection with the work of the Cabinet and requires a decision before the



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next regular meeting of the Cabinet, the Proper Officer after consultation with the Cabinet Member who has responsibility for the portfolio in respect of which the matter is associated or in whose absence the Leader of the Council or in whose absence the Deputy Leader of the Council, shall have power to act and shall report the action to the next meeting of the Cabinet; provided that no action shall be taken under this provision except in matters which have been delegated by the Council to the Cabinet or to a Committee. The Chairman of Overview and Scrutiny Committee shall also be notified of any such items.

- 7.2 A decision made by the Cabinet pursuant to Cabinet Procedure Rule 7.1 shall not be subject to the Call-In Procedure and may be implemented with immediate effect. A report of the action taken shall be submitted to the next meeting of the Cabinet.

## **8. Application of Council Procedure Rules**

- 8.1 The Council Procedure Rules shall apply to all meetings of the Cabinet except as varied by these Cabinet Procedure Rules.

## **Part 5. Budget and Policy Framework Procedure Rules**

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

- 1.1 The Council will be responsible for the adoption of the Budget and of the Policy Framework. Once the framework is in place, it will be the responsibility of the Cabinet to implement it.

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

- 2.1 The Council shall from time to time review those plans and strategies that comprise the Policy Framework, and may determine that:

- (a) it is minded to remove a plan or strategy from the Policy Framework
- (b) an existing plan or strategy that forms part of the policy framework shall be reviewed
- (c) an additional plan or strategy shall be included in the Policy Framework.

- 2.2 In the case of Rule 2.1 (a) above, unless such resolution arises from a recommendation from the Cabinet, the Council shall consult the Cabinet before taking a decision whether to remove the plan or strategy from the Policy framework.

- 2.3 In the case of Rule 2.1(b) and (c) above, the Council shall instruct the Cabinet to prepare and recommend a draft policy or strategy, or a draft amended policy or strategy, setting out the issues to be covered by the new policy or strategy, or the broad manner in which the Council wishes to amend the plan or strategy, and any matters which the Council would wish the Cabinet to take into account in preparing a draft, or draft amended, policy or strategy,

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- including any urgency, and stating whether the draft plan or strategy, or draft amended plan or strategy shall be referred on receipt to the Overview & Scrutiny Committee.
- 2.4 Upon receipt of such instruction, the Cabinet shall prepare a draft plan or strategy, or draft amended plan or strategy in response to such instruction and shall submit it to Council.
- 2.5 In preparing such draft plan or strategy, or draft amended plan or strategy, the Cabinet may undertake such consultation with partner organisations and with the public as it considers to be appropriate.
- 2.6 Where the Council has resolved that the draft plan or strategy, or draft amended plan or strategy, shall be referred to the Overview & Scrutiny Committee, the Chief Executive shall report the draft plan or strategy, or draft amended plan or strategy to that Committee, and that Committee shall then consider the same and prepare a recommendation to Council subject to Rule 2.7 below. In such consideration, the Committee may undertake such consultation as it considers appropriate, having regard to any consultation previously undertaken by the Cabinet.
- 2.7 Where such recommendation to Council is that the draft plan or strategy, or draft amended plan or strategy, should be adopted as proposed by the Cabinet, that recommendation shall proceed directly to Council. Where such recommendation is that the draft plan or strategy, or draft amended plan or strategy should be adopted subject to any amendment, that recommendation shall be reported by the Chief Executive to the Cabinet and shall be deemed to be a resolution that Council proposes to adopt the draft plan or strategy, or draft amended plan or strategy, subject to an amendment.
- 2.8 Where Council receives a recommendation from the Overview & Scrutiny Committee as set out in Rule 2.7 above, the Chief Executive shall report to Council the Cabinet's original proposal and the Overview & Scrutiny Committee's comments.
- 2.9 Council shall then consider the draft plan or strategy, or draft amended plan or strategy, together with any recommendation and response. The Council may take one of the following steps:
- (a) If Council wishes to adopt the draft plan or strategy, or draft amended plan or strategy as originally recommended by Cabinet, without amendment, it may do so forthwith;
  - (b) If Council wishes to adopt the draft plan or strategy, or draft amended plan or strategy, subject to any of the amendments recommended by the Overview & Scrutiny Committee, it may do so forthwith after consideration of the Cabinet's response thereto;
  - (c) If Council wishes to adopt the draft plan or strategy, or draft amended plan or strategy, subject to any amendment which was not recommended by the

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Overview and Scrutiny Committee, it shall resolve accordingly “in principle”, and the Chief Executive shall forthwith notify all members of the Cabinet of that resolution together with the legal and financial implications of the resolution. The Leader may submit to the Chief Executive the Cabinet’s response to the proposed amendment and the following options take effect:

(i) If such response is received within 5 clear Working Days of such notification, or such longer period as Council may resolve, the Chief Executive shall report the response to the next convenient meeting of Council for debate and the “in principle” resolution shall not take effect until after that meeting, if agreed.

(ii) Where no such response is received within the set period, the “in principle” resolution shall take full effect at the expiry of that set period, unless there are significant legal and financial implications, in which case the Chief Executive shall make a report including those implications to the Council for its next convenient meeting.

2.10 Where a particular plan or strategy is required by statute to be subject to consultation, examination in public, or submitted to the Secretary of State for approval, this procedure shall apply in respect of the approval of the plan or strategy at each such stage.

### **3. Process for Setting the Budget**

3.1 For each municipal year, the Cabinet shall propose a draft Budget for the Authority and shall submit it to the Director for Resources/ Section 151 Officer for report to Council for approval.

3.2 In proposing such draft Budget, the Cabinet may undertake such consultation with partner organisations and with the public as it considers to be appropriate or required by law.

3.3 The Cabinet shall refer the draft Budget to the Overview & Scrutiny Committee, in which case the Director for Resources/ Section 151 Officer shall report the draft Budget to that Committee and that Committee shall then consider the same and prepare a recommendation to Cabinet. In such consideration, the Overview & Scrutiny Committee may undertake such consultation as it considers appropriate, having regard to any consultation previously undertaken by the Cabinet.

3.4 If any Member wishes to table any amendments in the course of the Budget debate, then these will not be considered UNLESS the proposed amendment has been sent in writing to the Councils Director for Resources/Section 151 Officer (or in his or her absence, the Deputy Section 151 Officer) by 5pm two clear working days before the scheduled meeting at which the Council’s Budget is to be set. This will allow proposals to be costed by the finance team before they are debated by Members, to allow the financial consequences to be taken into consideration during the debate. Any proposals will be kept confidential until announced at the meeting as required.

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- 3.4 If Council wishes to adopt the draft Budget as recommended by Cabinet, without amendment, it may do so forthwith.
  - 3.5 In reaching a decision, the Council may adopt the Cabinet's proposals, but if the Council has any objections to the Cabinet's proposals, then before it amends, approves or adopts any budget, it must inform the Leader of those objections and require the Cabinet to reconsider. The Cabinet may, within such reasonable period as the Proper Officer may determine (but which shall be not less than 5 working days) submit revised proposals or inform the Council of the Cabinet's disagreement with the Council's objections and the reasons for this. Once that period has expired, the Council in amending, approving or adopting any budget, must take into account any revised proposals and the views of the Cabinet.
  - 3.6 Immediately after any vote is taken at a budget decision meeting of the authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting, as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014
  - 3.7 In the case of budget proposals submitted to the Council after January in the preceding financial year, or any budget proposals submitted following designation or nomination by the Secretary of State, the Council may amend, approve or adopt the Cabinet's proposals without requiring the Cabinet to reconsider them.
  - 3.8 In approving the budget and policy framework, the Council will also specify the extent of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraph 7 of these Rules (in-year adjustments). The extent of virement within the approved budget is set out in the financial regulations in Chapter 9 of this Constitution. Any other changes to the policy and budgetary framework are reserved to the Council.

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

- 4.1 Subject to Rule 5 below, the Cabinet, Committees of the Cabinet, individual Cabinet Members or any Officers, or Joint Committees discharging Executive functions may only take Executive decisions to the extent that they are not contrary to the Policy Framework or the Budget. If any of these bodies or persons wish to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision shall be a "Departure Decision" and may only be taken by the Council. Note that such Departure Decisions must be taken by Council and cannot be delegated to any other person or body.
- 4.2 If the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or any Officer, any Area Committee or Joint Committee wants to make an executive decision and apprehends that it may be contrary to the Policy

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Framework or contrary to, or not wholly in accordance with the Budget (and thus to constitute a “Departure Decision”), they shall take advice from the Proper Officers 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 any of those Officers is that the decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget, then the decision-taker may take an “in principle” decision but must refer the matter as a recommendation or as an “in principle” decision to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 shall apply.

## **5. Urgent Decisions outside the Budget or Policy Framework**

- 5.1 Notwithstanding Rule 4 above, the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet, an Officer, an Area Committee or a Joint Committee, who or which is exercising Executive functions may take a decision which is contrary to the Council’s policy framework or contrary to or not wholly in accordance with the budget approved by Full Council, if the decision is a matter of urgency. A decision will be urgent if any delay involved in convening a quorate meeting of the Full Council to take the decision, within the Access to Information Rules, would or would be likely to seriously prejudice the Council’s or the public interests.
- 5.2 The Chairman of the Overview & Scrutiny Committee has to agree in writing that the decision must be taken as a matter of urgency before it may be taken. In the absence or inability of the Chairman to act, the consent of the Chairman of the Council, or in his or her absence or inability to act, the Vice-Chairman of the Council, shall suffice. The reasons why it is not practical to convene a quorate meeting of full Council and the consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 5.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **6. Financial Regulations and Budget Management**

- 6.1 The Council’s Financial Regulations are included in Chapter 9 of this Constitution. The Council has approved a budget management scheme that is included in that Chapter. The budget management scheme lists the rules for managing the capital and revenue budget. This includes limits on virement between capital projects and cash limits.
- 6.2 Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, or Officers discharging executive functions to implement Council policy will not exceed those budgets allocated to each cash limit. However, such bodies or individuals will be entitled to vire across cash limits and capital projects as set out in the budget management scheme. Exceeding those limits will require the approval of the Full Council.

## **7. In-Year Changes to Policy Framework**

- 7.1 The responsibility for agreeing the budget and policy framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or Officers discharging executive functions must be in line with it. No changes to any policy and strategy that make up the policy framework may be made by those bodies or individuals except those changes:
- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
  - (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance; or
  - (c) in relation to the policy framework in respect of a policy, when the framework would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **8. Homelessness Appeals**

- 8.1 To ensure that the process is fully transparent and that any reviews are undertaken by someone who has had no previous role in the process, homelessness reviews will be undertaken by officers in the Council's Legal Service, Eastlaw.

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## CHAPTER 4

### OVERVIEW AND SCRUTINY

#### Part 1. Overview & Scrutiny Committee

1. **Appointed by:** Full Council under section 21 of the Local Government Act 2000.
2. **Membership:** Twelve members none of whom may be Cabinet Members<sup>1</sup> or the Chairman of the Governance Risk & Audit Committee.
3. **Co-opted Members:** The Overview & Scrutiny Committee may, by resolution co-opt members of the public onto the Committee, sub-committees or Task and Finish Groups as it sees fit. Co-opted members may not vote.
4. **Political Proportionality:** The Committee will be appointed on a politically proportionate basis and it is the practice of the Council that the Chairman should be appointed from a political group that is not the majority group or, if there is no overall control by any political group, a group that does not have most members of the Cabinet.
5. **Quorum:** The quorum will be four Members
6. **Frequency of Meetings:** The Committee will meet at least ten times each civic year. In addition, an extraordinary meeting of the Overview & Scrutiny Committee may be called by either:
  - (a) The Chairman of the Committee, or in the Chairman's absence the Vice-Chairman
  - (b) A quorum of the members of the committee; or
  - (c) The Proper Officer if he/she considers it necessary or appropriate.

#### Part 2. Terms of Reference of Overview & Scrutiny Committee:

1. To scrutinise and review decisions or other actions taken with respect to Cabinet functions. This includes call-in of Cabinet decisions.
2. To scrutinise and review decisions or other actions taken with respect to non-executive functions.
3. To make reports or recommendations to the Full Council or to the Cabinet about one or more particular issue(s), service(s) or matter(s), which affects North Norfolk and its residents. Reports or recommendations may be carried out on whatever issue, service or matter the Scrutiny Committee thinks fit and may be carried out on any subject if the Full Council or the Cabinet requests it to do so.

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4. To carry out best value reviews.
  5. To act as the Council's Crime and Disorder Committee.
  6. To produce an annual report to Council on the work of the Committee over the year.
  7. To ensure effective scrutiny of the treasury management strategy and policies.

## Definitions

(a) **Scrutiny** includes:

- examining the effects any policy has had, how effectively the policy has achieved its aims, and how effectively it has been implemented;
- the development of policy and pre-scrutiny of policy proposals;
- a wider role in examining matters of concern to local communities e.g. health-related issues;
- monitoring the performance of services provided by or to the Council;
- scrutinising Cabinet decisions after they have been implemented, whether shortly afterwards or as part of a wider review of policy, to measure their effect; and
- reviewing the performance of the Cabinet, its Members and the Council's senior officers

(b) **Call-in** means the right to call-in, for reconsideration or review, decisions made by the Cabinet (or a Committee of Cabinet or by a Member of Cabinet, or by an Officer, within five days of the publication of such a decision. The decision is suspended until the call-in procedure has been completed (See paragraph 8 below).

(c) **Task and Finish Groups** are informal bodies and can be made up of co-opted Members of the public and Councillors. They examine in detail a particular issue or the way a specific service is delivered. The groups are time limited to keep them focused and reduce the burden on members and at the end of their lifespan will report their findings to the Overview & Scrutiny Committee.

## Part 3. Scrutiny Procedure Rules

### 1. Work Programme

- 1.1 The Overview & Scrutiny Committee shall be responsible for setting its own work programme, taking into account the wishes and preferences of the members of that committee, including members who are not members of the largest political group on the Council or of any political group.



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1.2 The Overview & Scrutiny Committee may receive requests from the Cabinet and suggestions from Officers of the Council and co-optees for particular topics to be scrutinised.

1.3 The work programme shall be reported to Council annually.

## **2. Agenda Items**

2.1 Any non-executive Member of the Council may, with a minimum of seven clear working days' notice, request the Democratic Services Manager to include an item on the agenda of the Overview & Scrutiny Committee. Upon receipt of such a request the Democratic Services Manager shall, provided that the matter is within the committee's terms of reference, ensure that the item is included on the next available agenda for consideration by the Committee, and advise the Chairman accordingly.

2.2 There will be a standing item on the agenda of all ordinary meetings of the Overview & Scrutiny Committees to allow such requests to be considered.

2.3 Any Member who submits a request will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the request and to have the item discussed. The committee will decide:

- (a) if the matter is a simple one, to resolve it forthwith
- (b) to request Officers to prepare a report for the next convenient meeting
- (c) to set up a task and finish group to investigate and report back to the committee
- (d) to make recommendations to the Cabinet or Council, as appropriate
- (e) to decide to take no further action upon the request, for stated reasons.

2.4 The Overview & Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and, if they consider it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Overview & Scrutiny Committee shall report their findings and any recommendations back to the Cabinet or Council, as appropriate. The Council and/or the Cabinet shall consider and respond to a report of the Overview & Scrutiny Committee within two months of receiving it unless otherwise agreed by the Chairman of the Overview & Scrutiny Committee.

## **3. Procedure at Scrutiny Committee Meetings**

3.1 The Overview Scrutiny Committee shall consider the following business:

- (a) Minutes of the last meeting;
- (b) Receipt of urgent business;
- (c) Declarations of interest;
- (d) The receipt of petitions from members of the public;

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- (e) Public questions, statements or deputations
  - (f) Consideration of any matter referred to the Committee by a Member under Rule 2.1 above;
  - (g) Responses of the Council or the Cabinet to the committee's reports or recommendations;
  - (h) Any Councillor Call for Action in accordance with procedure set out in Rule 9 below;
  - (i) Any other business specified in the agenda for the meeting, and
  - (j) The Cabinet Work Programme
- 3.2 The provisions of the Committee Procedure Rules set out in Chapter 5 will be applied to meetings of the Overview & Scrutiny Committees to the extent they are considered appropriate. The Rules will not apply to Task and Finish Groups.
- 3.3 Where the Overview & Scrutiny Committee conducts investigations, the Committee may also ask people to attend to give evidence at committee meetings, which are to be conducted in accordance with the following principles:
- (a) that the investigation is conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak
  - (b) that those assisting the committee by giving evidence be treated with respect and courtesy
  - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 3.4 Within those principles the Council expects the Overview & Scrutiny Committee to be effective, thorough and incisive and to consider all relevant evidence in their work. It also expects the Committees to strive for continuous improvement in the overview and scrutiny function and to develop further opportunities for public engagement.
- 3.5 Following any investigation or review, the committee shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public subject to the Access to Information Rules and provisions relating to confidential and exempt reports or information, and any prohibition, limitation or restriction on disclosure arising from statute, any rule of law, or order of a court.
- 3.6 The Protocol for Member/Officer Relations contained in Chapter 7, Part 4 of the Constitution shall apply to the attendance of Officers giving evidence to the Overview & Scrutiny Committee or Task and Finish Groups.

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#### **4. Reports from Overview & Scrutiny Committee**

- 4.1 The Overview & Scrutiny Committee may prepare a formal report, with recommendations, and submit it to the Monitoring Officer with a notice requiring it to be considered by the Cabinet or the Council as appropriate, depending on which body is responsible for the function concerned and whether the proposals are consistent with the Council's budget and policy framework. Where a report is to be made to the Council, the Monitoring Officer shall refer a copy to the Leader with notice that the matter is to be referred to the Council.
- 4.2 If the Overview & Scrutiny Committee cannot agree on one single final report to the Cabinet or Council as appropriate, then one or more minority reports may be prepared and submitted for consideration by the Cabinet or Council at the same time as the majority report. Officers shall support the preparation of any such minority reports.
- 4.3 The Cabinet or Council as appropriate, in compliance with its legal duty to comply with any notice given by the Overview & Scrutiny Committee under Rule 4.1 above, shall:
- (a) consider the report and recommendations of the Overview & Scrutiny Committee at its next available meeting; and
  - (b) respond to any such report within two months of its receipt indicating what action, if any, the Council or the Cabinet proposes to take, and if it decides to take no action, the reasons for that decision.
- 4.4 The agenda for Cabinet meetings shall include a standard item entitled "Overview & Scrutiny Committee Matters" to facilitate the Cabinet's early consideration of scrutiny reports and recommendations, which shall be included at this point on the agenda unless they have been reported as part of a substantive item elsewhere on the agenda.
- 4.5 Reports and recommendations of the Overview & Scrutiny Committee will normally be presented at Cabinet and Council meetings by the Overview & Scrutiny Committee Chairman or Vice-Chairman, by the Chairman of a Task and Finish Group or by another non-executive Member nominated by the Committee. The Member concerned will be invited to participate in discussion of the report.

#### **5. Rights of Scrutiny Committee Members to Documents**

- 5.1 The Scrutiny Committee will have access to the Cabinet Work Programme of key decisions of the Cabinet and timetable for decisions and intentions for consultation.
- 5.2 In addition to their rights as Councillors, members of the Overview & Scrutiny Committee have the additional right to documents, and to notice of meetings

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as set out in the Access to Information Procedure Rules set out in Chapter 8 of the Constitution.

- 5.3 In particular, at its meeting, the Overview & Scrutiny Committee will receive:
- (a) copies of all documentation submitted to the Executive on which the decision was based;
  - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
  - (c) any other relevant documentation.
- 5.4 Nothing in this paragraph shall prevent more detailed liaison between the Cabinet and the Overview & Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **6. Members and Officers giving Account**

- 6.1 The Overview & Scrutiny Committee (or a sub-committee or Task and Finish Group) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or other matter. As well as reviewing documentation, the Committee may, in fulfilling the scrutiny role, require any Member of the Cabinet, the Chief Executive and/or any Head of Service and/or any appropriate Officer to attend before it to explain, in relation to matters within their remit:
- (a) any particular decision or series of decisions
  - (b) the extent to which the actions taken implement Council policy
  - (c) the performance of their areas of responsibility
- 6.2 The Overview & Scrutiny Committee may also require any Council Member who has been granted local ward Member powers (for instance a delegated budget)<sup>i</sup> under section 236 of the Local Government and Public Involvement in Health Act 2007 to attend before it to answer questions on any function which the Member has power to exercise.
- 6.3 It is the duty of those persons described in Rules 6.1 and 6.2 above to attend if so required.
- 6.4 Where any Cabinet Member, Ward Member or Officer is required to attend an Overview & Scrutiny Committee or a task group meeting under this provision, Democratic Services staff will inform that Member or Officer in writing, giving at least five clear working days' notice of a meeting of the Overview and Scrutiny Committee meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee.

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6.5 Where the account to be given to the committee will require the production of a report, then the Member or Officer concerned will be given at least 10 clear working days notice to allow for preparation of that documentation.

6.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then a substitute may be asked to attend or the Overview & Scrutiny Committee may, in consultation with the Member or Officer, arrange an alternative date for attendance, which shall be no later than the next scheduled meeting.

## **7. Attendance by others**

7.1 An Overview & Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may wish to hear for example from residents, representatives of public bodies, stakeholders, Members and Officers in other parts of the public sector, or experts, and may invite such people to attend.

7.2 Public participation in meetings of the Overview & Scrutiny Committee shall be governed by the provisions set out later in this section.

7.3 Any Member of the Council shall be entitled to attend meetings of the Overview & Scrutiny Committee and to speak once on any agenda item, with further speaking being at the discretion of the Chairman.

7.4 Rule 7.3 above is subject to the rules on disclosable pecuniary interests in the Members' Code of Conduct set out in Chapter 7, Part 2 of the Constitution; and in particular paragraph 11 of that Code, which permits a Member with a disclosable pecuniary interest to which that paragraph applies to attend an Overview & Scrutiny Committee meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business under discussion; the Member must then withdraw from the meeting. This right to attend would not apply to an Overview & Scrutiny Committee meeting held in private, where the public do not have the same speaking rights.

7.5 Rule 7.4 above does not prevent the Overview & Scrutiny Committee from requiring Cabinet members or inviting other persons (including Council Members and representatives from other public bodies) to attend before it to answer questions.

## **8. Call-in**

8.1 Call-in is the exercise of the Overview & Scrutiny Committee's statutory power in section 21(3) of the Local Government Act 2000 to review a Cabinet decision that has been made but not yet implemented. Where a decision is called in and the Overview & Scrutiny Committee decides to refer it back to the Cabinet for reconsideration, it cannot be implemented until the call-in procedure is complete.

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- 8.2 Any decision of the Cabinet or a committee of the Cabinet, or a Key Decision made by an Officer under authority delegated by the Cabinet, is subject to call-in. A decision may be called in only once. A Cabinet recommendation to Full Council may not be called in.
- 8.3 Call-in of decisions which may be contrary to the budget and policy framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules in Part 3 of the Constitution.

### **The Call-In Procedure**

- 8.4 Once made, a Cabinet decision shall be published, in the form of a decisions notice, within two working days at the Council's main offices and on its public website. The decisions notice will be sent to all Members of the Council within the same timescale.
- 8.5 The decisions notice will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 clear working days after the publication of the decision and may then be implemented, unless called in under this provision within that 5 clear working day period. The deadline for a call-in request will be specified in the decisions list.
- 8.6 Requests for call-in may be made by either:
- (a) An individual Member where a decision has particular significance for that Member's ward
  - (b) The Chairman of the Overview & Scrutiny Committee
  - (c) Any two members of the Overview & Scrutiny Committee
  - (d) Any three non-executive Members of the Council
  - (e) Ten members of the public living, working or studying within North Norfolk District Council area
- 8.7 A call-in request must be in the form of a written notice submitted to the Democratic Services Manager and received before the published deadline. Either one notice containing all required signatures or separate e-mails from the persons making the call-in request will be acceptable.
- 8.8 The notice must set out:
- (a) the resolution or resolutions that the Member(s) or members of the public wish to call in
  - (b) the reasons why they wish the Overview & Scrutiny Committee to consider referring it back to the Cabinet; and
  - (c) the alternative course of action or recommendations that they wish to propose.
- 8.9 The call-in request will be deemed valid unless either:

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- (a) the procedures set out above have not been properly followed
  - (b) a similar decision has been called in to the committee previously within 6 months
  - (c) the decision has been recorded as urgent in accordance with Rules 8.13 to 8.15 below
  - (d) the Chief Executive after consultation with the Chairman of the Overview & Scrutiny Committee considers the call-in to be frivolous, vexatious or not a proper use of the call-in provisions taking into account, in particular, the following factors:
    - (i) whether the matter has been considered as part of pre-decision scrutiny by the Overview & Scrutiny Committee, sub-committee, task group or panel.
    - (ii) whether there has been any substantive change in the nature of the decisions being made since any pre-decision scrutiny of the proposals.
    - (iii) whether the recommendations or alternative course of action or recommendations in the call-in request have been previously considered and rejected in whole or part as part of pre-decision scrutiny;
    - (iv) any other relevant factor
  - (e) the Chief Executive in consultation with the Monitoring Officer considers that the call-in would result in the Council failing to discharge its legal duties

8.10 Before deciding on its validity, the Chief Executive may seek clarification of the call-in request from the Member(s) or members of the public concerned.

8.11 Upon deciding on its validity, the Chief Executive shall forthwith notify the Member(s) concerned, the Leader and Portfolio Holder, the Chairman and Vice-Chairman of the Overview & Scrutiny Committee, the relevant Head of Service/ service manager.

### **Decisions not subject to Call-In**

8.12 The following categories of decision are not subject to call-in:

- (a) recommendations by the Cabinet on the budget and policy framework, which will be determined by the Council
- (b) decisions for urgent implementation under the Access to Information Procedure Rules
- (c) urgent decisions outside the budget or policy framework as set out in Chapter 3, Part 5, Budget and Policy Framework Procedure Rules
- (d) decisions to award a contract following a lawful procurement process

### **Call-In and Urgency**

8.13 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:

- (a) call-in would prevent the Council reaching a decision that is required by law or statute or otherwise within a specified timescale
- (b) delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests and the reasons for urgency are reported to the decision making body or person before the decision is taken
- (c) delay likely to be caused by the call-in process would be likely to expose the Council, its Members or its constituents to significant level of risk, loss, damage or significant disadvantage

- 8.14 In the case of (b) above the relevant report and minute shall state whether the decision is an urgent one, and therefore not subject to call-in. The consent of the Chairman of the Overview & Scrutiny Committee is required to allow the decision to be treated as a matter of urgency before it may be so treated. In the absence of the Chairman, the Vice-Chairman of the Overview & Scrutiny Committee's consent is required.
- 8.15 Where the Cabinet has recorded a decision as urgent, the Overview & Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

#### **Consideration by the Overview & Scrutiny Committee**

- 8.16 The Democratic Services Manager will ensure that any valid call-in is reported to the next available meeting of the Overview & Scrutiny Committee, or will convene an extraordinary meeting in accordance with Paragraph 6 of the Introduction above.
- 8.17 The Member(s) submitting the request for call-in will be expected to attend the meeting of the Overview & Scrutiny Committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.
- 8.18 Having considered the call-in and the reasons given, the Overview & Scrutiny Committee may:
- (a) refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
  - (b) if it considers that the decision is outside the Council's budget and policy framework, refer the matter to Full Council after seeking the advice of the Proper Officer(s);
  - (c) decide to take no further action, in which case the original Cabinet decision will be effective immediately.

#### **Decisions Referred Back to the Decision-Maker**

- 8.19 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and



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recommendations of the Overview & Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.

- 8.20 If a decision relates to an executive function, only the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's budget and policy framework.

## **9. Councillor Call for Action<sup>i</sup>**

- 9.1 Any Member of the Council may, with seven clear working days' notice before the meeting, request the Democratic Services Manager to include a Councillor Call for Action on the agenda of the Overview & Scrutiny Committee. Upon receipt of such a Call for Action the Monitoring Officer shall ensure that the item is included on the next available agenda for consideration by the relevant committee, and advise the Chairman accordingly.
- 9.2 A Councillor Call for Action must be in the form of a written application submitted to the Monitoring Officer and received within the timescale outlined in Rule 9.1 above.
- 9.3 Any Member who submits a Call for Action will have the right to attend the meeting at which the item is to be considered, to explain the reasons for the Call for Action and to have the item discussed. The committee will decide either:
- (a) if the matter is a simple one, to resolve it forthwith
  - (b) to request the Officers to prepare a report for the next meeting
  - (c) to request the Member submitting the Call for Action to provide further evidence or information to a future meeting
  - (d) to set up a task and finish group to investigate and report back to the committee
  - (e) to make recommendations to the Cabinet or Council, as appropriate
  - (f) to decide to take no further action upon the request, for stated reasons.
- 9.4 The Councillor Call for Action will be deemed valid unless:
- (a) It does not relate to a local government matter (i.e. it does not relate to the functions of the Council nor its partners); or
  - (b) It does not relate to a local crime and disorder matter (including anti-social behaviour, behaviour adversely affecting the local environment and misuse of drugs, alcohol or other substances); or
  - (c) It does not affect all or part of the ward for which the referring Member is elected, or any person who lives or works in that ward; or
  - (d) It is a matter that has been excluded by Order of the Secretary of State (e.g. planning or licensing appeals and other quasi-judicial matters); or
  - (e) The Monitoring Officer, in consultation with the Chairman of the Overview & Scrutiny Committee, considers the Call for Action to be frivolous, vexatious

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or clearly outside the Councillor Call for Action provisions; in which case the Monitoring Officer may reject the Call for Action request.

- 9.5 Before deciding on its validity, the Monitoring Officer may seek clarification of the Call for Action from the Member concerned. In the absence of the Monitoring Officer, the Deputy Monitoring Officer(s) shall exercise the Monitoring Officer's functions in this respect.
- 9.6 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the Member concerned, the Leader and Portfolio Holder, the Chairman and Vice-Chairman of the Overview & Scrutiny Committee, the Chief Executive, and the relevant Head of Service or service manager.

## **10. Public Participation in Scrutiny**

- 10.1 Residents of North Norfolk District and those working, studying or with a business interest in the area are able to participate in the scrutiny process by:
- (a) attending meetings
  - (b) presenting a petition in accordance with the Council's petitions scheme
  - (c) asking a question
  - (d) making a statement or forming a deputation to the Overview & Scrutiny Committee
  - (e) being involved in a scrutiny investigation; or
  - (f) giving evidence to the Overview & Scrutiny Committee or a Task and Finish Group
- 10.2 Rules set out for Petitions and Questions in the Council Procedure and Rules (Chapter 2, Part 2, Rule 12) will apply to those presenting a petition or a question to Overview & Scrutiny Committee.
- 10.3 When there is a scrutiny investigation that would benefit from public participation the Officer supporting such investigation will ensure such participation is facilitated.
- 10.4 Members of the public interested in participating in a particular scrutiny investigation can do so by contacting Democratic Services or the relevant Chairman directly.

## CHAPTER 5 COMMITTEES

### Part 1. Committees and Sub-Committees of Council

- 1.1 The Council may appoint such Committees as it determines for the effective discharge of its functions. It has determined to appoint the following Committees, each comprising the following number of Councillors:

Name of Committee	Number of Members	Quorum
Development Committee	Fourteen Councillors	Seven members
Licensing Committee (Premises & Gambling)	Fifteen Councillors	Five members
Licensing Regulatory Committee	Fifteen Councillors	Five members
Governance Risk & Audit Committee	Six Councillors	Three members
Joint Staff Consultative Committee	Five Councillors	Three members
Employment and Appeals Committee	Five Councillors	Five members

- 1.2 Details in relation to Full Council, Cabinet, Overview & Scrutiny Committee and the Standards Committee can be found in Chapters 2, 3, 4 and 7 respectively.
- 1.3 For the avoidance of doubt, it should be noted that on matters and decisions relating to Development Control and Licensing, the respective committees have sole responsibility that cannot be discharged by Full Council or any other committee.

### 2. Functions

- 2.1 The terms of reference of each of the above Committees are set out in Parts 3, 4 and 5 of this Chapter. Each Committee has delegated authority to discharge those functions within the budget and policy framework of the Authority.

### 3. Sub-Committees

- 3.1 Each Committee may appoint such Sub-Committees as it considers necessary for the effective discharge of its functions and may arrange for the discharge of any of its functions by such Sub-Committee.

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#### **4. Appointment**

- 4.1 The Council shall appoint the members of each Committee at the Annual Meeting of Council, or at the next convenient meeting thereafter, or as and when a vacancy has arisen. Each Committee shall appoint the members of each of its Sub-Committees at the first meeting of the Committee after the Annual Meeting of Council, or as and when a vacancy has arisen.
- 4.2 Each member of a Committee or Sub-Committee shall remain in office until:
- (a) he/she resigns as a member of the Committee or Sub-Committee
  - (b) he/she ceases to be a Councillor or whilst suspended; or
  - (c) the Council appoints another person to act in place of the Councillor.
- 4.3 All appointments of Councillors to Committees or Sub-Committees, other than to the Standards Committee, Standards Sub-Committees and Licensing Sub-Committee, shall be made in accordance with the requirements of proportionality

#### **5. Proceedings**

- 5.1 Proceedings of these Committees and Sub-Committees shall take place in accordance with the Committee Procedure Rules in Part 2 of this chapter.

#### **6. Working Parties**

- 6.1 The Council may at any time appoint Working Parties for such purposes as it shall specify. Standing Committees of the Council may appoint Working Parties as specified in their Terms of Reference.
- 6.2 The terms of reference of Working Parties shall be specified by the body appointing them as shall their duration or the event on which they shall cease to meet. The continuation of Working Parties shall be reviewed at least annually by the body appointing them.
- 6.3 A Protocol for Working Parties and Groups sets out the supporting detail of their role and how they operate.

### **Part 2. Committee Procedure Rules**

#### **1. Time and Place of Meeting**

- 1.1 The time and place of any meeting will be determined by the Democratic Services Manager and notified in the summons.

#### **2. Notice of Summons to Meeting**

- 2.1 The Democratic Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The Notice will give the date, time and place of each meeting and specify the

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business to be transacted, and will be accompanied by such reports as are available.

- 2.2 With the exception of the Joint Staff Consultative Committee, Appeals Committee and Employment and Appeals Committee, members of the public have the right to attend meetings, speak and ask questions.

### **3. Chairman of Meeting**

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

### **4. Quorum**

- 4.1 The quorum of a meeting will be one third of the whole number of members, unless a quorum is specified within the terms of reference of that committee and provided that in no case shall the quorum of a committee be less than three members. During the meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn for 15 minutes. If after that time the Chairman counts the number of members present and declares that there is still no quorum the meeting will adjourn. 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.

### **5. Voting**

#### **Majority**

- 5.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present at the time the question was put.

#### **Chairman's casting vote**

- 5.2 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.

#### **Show of hands**

- 5.3 Unless a recorded vote is demanded under Rule 5.4 below, the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting. If it is a remote meeting, alternative means will be provided to enable Members to vote.

#### **Recorded vote**

- 5.4 If any Member present at the Committee so demands, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

- 5.6 Where any member requests it immediately after a 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.

**Voting on appointments**

- 5.7 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.

**6. Minutes****Signing the minutes**

- 6.1 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 an accurate record. The only part of the minutes that can be discussed is their accuracy.

**Form of minutes**

- 6.2 Minutes will contain all motions and amendments in the exact form and order as put to the meeting.

**Public attendance at meetings****7.1 Public speaking**

Members of the public must notify the committee clerk 2 days in advance of the meeting of their intention to ask a question or make a statement, outlining briefly what the question will cover. The Monitoring Office may reject a question or statement if it is not about a matter for which the Council has a responsibility or which particularly affects the Council. It may also be rejected if it is defamatory, frivolous or offensive or requires the disclosure of confidential or exempt information.

At Development Committee anyone wishing to speak must register with Customer Services by 9am two days prior to the meeting. Each person must indicate whether they object or support the proposal. For each application there can be one supporting and one objecting spokesperson. Each person wishing to speak is time limited to three minutes.

In the case of 'major' applications, or those in which the Council has legal interest or is the landowner, up to four objectors will be allowed to speak for up

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to three minutes each; in these cases up to four supporters will be allowed to speak for an equivalent time in total to that allowed for the objectors.”

### **Exclusion of Public**

- 7.2 Members of the public and press may only be excluded either in accordance with the Access to Information Rules or the Council Procedure and Rules.

## **8. Member’s Conduct**

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

- 8.1 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 seconded, the motion will be voted on without discussion.

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

- 8.2 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.

### **Telephones and electronic equipment**

- 8.3 Each Member and all persons present shall ensure that his/her mobile telephone and other electronic equipment is switched to, and kept on, silent mode throughout the meeting. Without derogating from any right of an individual to report on the meeting the person presiding at the meeting may direct at any time that any suitable or appropriate steps be taken to ensure that any equipment used for this purpose does not interfere with the proper conduct of the meeting.

## **9. Disturbance**

### **General disturbance**

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

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

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

### **Clearance of part of a meeting room**

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- 9.3 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, and may adjourn the meeting for a suitable period.

## **10. Motion affecting persons employed by the Council**

- 10.1 If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of section 100 (A) (2) or (4) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Committee has decided whether or not the power to exclude the public under section 100 (A) (2) or (4) of the Local Government Act 1972 shall be exercised.

## **11. Rules of Debate**

- 11.1 The rules of debate that apply to Council meetings set out in Chapter 2, Part 2, may be applied to meetings of committees to the extent that the Chairman considers appropriate.

## **12. Participation of Appointed Members**

- 12.1 A Committee may make it a requirement of any Member participating as a Member of the Committee or of a Sub-Committee that the Member has undertaken appropriate training in the roles and responsibilities of members in discharging the functions of the Committee or Sub-Committee, and may arrange for the provision of such training to all, or all new, members of the Committee or Sub-Committee.

## **13. Attendance of other members of the Council**

- 13.1 A Member who is not a Member of the particular Committee or Sub-Committee may attend all meetings of any Committee or Sub-Committee, save for where the Chairman of the Committee considers an item to be particularly sensitive, including, but not limited to, where such item involves the personal information of a specific employee. Where the Chairman considers the item to be particularly sensitive, he/she shall require Members, who are not Members of that Committee, to withdraw from any part of a meeting which the Committee or Sub-Committee excludes the press and public, unless specifically invited to remain by the Chairman because of the special contribution which that Member can bring to the issue under consideration.



### Part 3. Development Committee

The Council has determined that the Development Committee shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

<b>DEVELOPMENT COMMITTEE</b>	
<b>Appointed by:</b> The Council under section 102 of the Local Government Act 1972	<b>Number of Elected Members:</b> Fourteen
<b>Chairman and Vice-Chairman appointed by:</b> The Council	<b>Political proportionality:</b> The elected Members shall be appointed according to Political Proportionality.
<b>Quorum:</b> Seven	<b>Co-opted members:</b> None
<b>Frequency of Meetings:</b> Monthly	

**Terms of Reference:**

1. To undertake all statutory functions of the Council, acting as Local Planning Authority, including the determination of all planning and listed building applications and related matters, enforcement matters, tree and hedgerow matters, and conservation area matters, subject to the provisions outlined below.
2. To establish a judging panel as required to promote, consider, evaluate and judge submissions under the Graham Allen Awards Scheme and make awards accordingly. The Panel shall comprise of at least 8 members of Development Committee (who need not be politically balanced) and a representative of the Allen family
3. When a determination under paragraph 1 or 2 would, in the view of the Head of Planning;
  - a) have major implications for planning policy or
  - b) be a significant departure from the Development Plan without sound reasons for doing so
  - c) would fail to observe the proper principles of planning decisions

The resolution is made that the Committee is 'minded to' and the application is deferred until a subsequent meeting of the Development Committee when a 'risk assessment' report will be presented outlining the implication of such action.

4. When the Development Committee Chairman wishes to speak on a planning matter relating to his/her Ward, he/she will be permitted to vacate the Chair and speak from the floor as a Local Member, returning to the Chair once the matter has been determined.
5. The Development Committee will determine controversial applications for Coastal protection consent in circumstances where the Council as Local Planning Authority is acting as the lead authority under the Coastal Concordat and the Head of Service declines to use their delegated authority
6. To make recommendations to working parties, the Cabinet or Council on matters of planning policy or practice.
7. For the avoidance of doubt the quorum of meetings under paragraph 5 will be one half of the total number of Members of the Development Committee.

**Note:** The applications referred to in these Terms of Reference are those detailed in Part III of the Town and Country Planning Act 1990; in the Planning (Listed Buildings and Conservation Areas) Act 1990; in the Planning (Hazardous Substances) Act 1990 and in any enactment modifying, amending or replacing any of these enactments and in any Regulation(s) or Order(s) made thereunder.

**Part 4 – Licensing Committees**

The Council has determined that there will be two Licensing Committees, which are separate and distinct, though may contain the same Members. These committees are the Licensing Committee (Premises & Gambling) and the Regulatory Licensing Committee. Such shall be constituted and shall have delegated authority for the discharge of the Council's functions as set out below.

**Part 4A – The Licensing Committee (Premises & Gambling)**

<b>LICENSING COMMITTEE (Premises &amp; Gambling)</b>	
<b>Appointed by:</b> The Council under section 6 of the Licensing Act 2003	<b>Number of Elected Members:</b> Fifteen

<b>Chairman and Vice-Chairman appointed by:</b> The Council	<b>Political Proportionality:</b> The elected Members shall be appointed by the Council
<b>Quorum:</b> Five	<b>Co-opted members to be appointed by Council:</b> None
<b>Frequency of Meetings:</b> Every two months	
<b>Terms of Reference</b>  To discharge the functions of the licensing authority in accordance with the Licensing Act 2003 and the Gambling Act 2005  For the avoidance of doubt, the setting of fees is either a Council or Cabinet function.	

The Licensing Committee (Premises & Gambling) has established a Licensing Sub-Committee, as follows:

<b>LICENSING SUB-COMMITTEE</b>	
<b>Appointed by:</b> The Licensing Committee (Premises & Gambling) under section 10 of the Licensing Act 2003	<b>Number of Elected Members:</b> Three members of the Licensing Committee
<b>Chairman and Vice-Chairman appointed by:</b> The Licensing Committee (Premises & Gambling) on a rotational basis, except when the appointed Chairman is unable to attend, in which case the sub committee will appoint a Chairman at the meeting	<b>Political Proportionality:</b> The elected Members shall be appointed by the Council. This will not be in accordance with Political Proportionality
<b>Quorum:</b> Three	<b>Co-opted members to be appointed by Council:</b> None
<b>Frequency of Meetings:</b> Monthly	
<b>Terms of Reference:</b> To discharge such functions of the Licensing Committee (Premises & Gambling) as may be delegated to the Sub Committee from time to time.	

The Licensing Committee has delegated the following function(s) to the Head of Environmental Health:

(a) Undertaking all functions of the Authority under section 10 of the Licensing Act 2003 and section 154 of the Gambling Act 2005, except where:

(i) There is a requirement in the Licensing Act 2003, or regulations made thereunder, or a provision in guidance issued by the Secretary of State under

section 182 of the Act that a particular function may only be carried out by the Council, Licensing and Licensing Sub-Committee; or

(ii) There is a provision elsewhere in this Constitution which requires that a particular function is reserved for the Council or the appropriate committee.

(b) The power to grant or refuse applications for minor variations to Premises Licenses under Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.

#### Part 4B- The Regulatory Licensing Committee

<b>REGULATORY LICENSING COMMITTEE</b>	
<b>Appointed by:</b> The Council under section 101 & 102 Local Government Act 1972	<b>Number of Elected Members:</b> Fifteen
<b>Chairman and Vice-Chairman appointed by:</b> The Council	<b>Political Proportionality:</b> The elected Members shall be appointed by the Council in accordance with Political Proportionality
<b>Quorum:</b> Five	<b>Co-opted members to be appointed by Council:</b> None
<b>Frequency of Meetings:</b> Every two months	
<b>Terms of Reference</b>  To discharge functions relating to licensing matters, other than matters falling to be considered under the Licensing Act 2003 and the Gambling Act 2005 For the avoidance of doubt, the setting of fees is either a Council or Cabinet function.	

The Regulatory Licensing Committee has established a Licensing Sub-Committee, as follows:

<b>LICENSING SUB-COMMITTEE</b>	
<b>Appointed by:</b> The Regulatory Licensing Committee	<b>Number of Elected Members:</b> Three members of the Licensing Regulatory Committee
<b>Chairman and Vice-Chairman appointed by:</b> The Regulatory Licensing Committee on a rotational basis, except when the appointed Chairman is unable to attend, in which case the sub-committee will appoint a Chairman at the meeting	<b>Political Proportionality:</b> The elected Members shall be appointed by the Council. This will not be in accordance with Political Proportionality
<b>Quorum:</b> Three	<b>Co-opted members to be appointed by Council:</b> None

**Frequency of Meetings:**

Monthly

**Terms of Reference:**

To discharge such functions of the Regulatory Licensing Committee as may be delegated to the Sub Committee from time to time.

**Part 5. Governance Risk & Audit Committee**

The Council has determined that the Governance Risk & Audit Committee shall be constituted and shall have delegated authority for the discharge of the Council's responsibilities as set out below.

<b>GOVERNANCE, RISK &amp; AUDIT COMMITTEE</b>	
<b>Appointed by:</b> The Council under section 102 of the Local Government Act 1972	<b>Number of Elected Members:</b> Six
<b>Chairman and Vice-Chairman appointed by:</b> The Council	<b>Political Proportionality:</b> The elected members shall be appointed in accordance with Political Proportionality

<b>Quorum:</b> Three	<b>Co-opted members:</b> None
<b>Frequency of Meetings:</b> Quarterly	
<p><b>Terms of Reference:</b></p> <p>The purpose of the Governance, Risk and Audit Committee is to monitor governance, risk management and internal control arrangements at the Council, to provide independent assurance that these are effective and efficient.</p> <p>This is achieved through key regular items received by the Committee in relation to, but not limited to; internal and external audit, key finance items, governance reviews and strategic risk management reporting.</p> <p><b>Internal Audit</b></p> <p>To consider and approve annually the Internal Audit plan of work, considering the scope and depth of the work in addressing the Council's significant risks and issues.</p> <p>To consider the outcomes of the internal audit plan of work and to monitor management's progress in implementing agreed audit recommendations.</p> <p>To consider and approve the Annual Report and Opinion of the Head of Internal Audit, ensuring that the systems of internal control, governance and risk management have been effective and efficient over the course of the year.</p> <p>To consider the performance of the internal auditors in relation to the adherence to the Public Sector Internal Audit Standards.</p> <p><b>External Audit</b></p> <p>To consider annually the External Audit plan of work.</p> <p>To consider External Audit reports and letters.</p>	

**Accounts / Finance**

To consider the extent of the Council's compliance with its own and other published financial statements and controls.

To review and approve the annual Statement of Accounts and the Annual Governance Statement contained therein.

**Risk Management**

To review the strategic risks that the Council faces and to ensure that they are being appropriately managed, monitored and mitigated.

**Governance**

- To review the Council's arrangements for governance, with particular regard to the Local Code of Corporate Governance and the Financial and Contracts Procedure Rules.
- To review the Council's arrangements to counter fraud and corruption, with particular regard to the policies on: Counter Fraud, Whistleblowing and Money Laundering.
- To hold periodic private discussion with the Head of Internal Audit and the External Auditors to review working relationships and discuss any pertinent issues.
- To commission ad-hoc work from internal and external audit.
- To assess the Committee's own effectiveness on an annual basis against best practice.

*Note that the Chairman of the Governance Risk & Audit Committee is not permitted to be a member of the Overview & Scrutiny Committee.*

## Part 6. Joint Staff Consultative Committee

Although described as a Committee, the Joint Staff Consultative Committee is not a Committee of the Council under the Local Government Act 1972 and is not covered by the matters common to all committees nor subject to the rules of debate or other rules relating to committees. **This is not a public committee**

<b>JOINT STAFF CONSULTATIVE COMMITTEE</b>	
<b>Appointed by:</b> The Council	<b>Number of Elected Members:</b> Five
<b>Chairman and Vice-Chairman appointed by:</b> The Chairmanship of the Committee shall alternate annually between a member of staff appointed by the staff and a Member of the Council. When the staff hold the Chairmanship, the Vice-Chairman shall be a Member of the Council and vice-versa.	<b>Political Proportionality:</b> The members shall be drawn from a rota of Councillors willing to serve. It will not necessarily be politically balanced, as it will act on a quasi-judicial basis.
<b>Quorum:</b> Three	<b>Co-opted members to be appointed by Joint Staff Consultative Committee:</b> None
<b>Frequency of Meetings:</b> Every two months	
<b>Terms of Reference:</b> <ul style="list-style-type: none"> <li>• To establish regular methods of negotiations between the Council and its staff, to encourage positive working relationships and to resolve differences and to adjust them should they arise - always provided that no question of individual discipline, promotion or efficiency shall be within the scope of the Joint Committee.</li> <li>• To consider any relevant matter referred to it by the Council or any of its Committees or by any Trade Union or other staff organisation.</li> <li>• To make recommendations to the Cabinet as to the application of the terms and conditions of service and the education and training of staff employed by the Council.</li> <li>• To discharge such other functions specifically assigned to the Joint Committee by Council.</li> <li>• To undertake consultation to enable the Council to make and maintain arrangements so that the Council and its employees can co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees.</li> <li>• To keep under review the effectiveness of health and safety measures.</li> </ul>	



## Part 7. Employment and Appeals Committee

The Council has determined that the Employment and Appeals Committee shall be constituted and shall have delegated authority for the discharge of the Council's responsibilities as set out below. **This is not a public committee.**

<b>EMPLOYMENT AND APPEALS COMMITTEE</b>	
<b>Appointed by:</b> The Council	<b>Number of Elected Members:</b> A Committee of a minimum of 5 (trained) Members and 10 (trained) Substitutes from which a Committee or Panel of five Members can be drawn together as necessary
<b>Chairman and Vice-Chairman appointed by:</b> The Committee at each meeting	<b>Political Proportionality:</b> The members and substitutes shall be trained councillors willing to serve. Each Committee or Panel should be politically balanced.
<b>Quorum:</b> Five	<b>Co-opted members to be appointed by Employment and Appeals Committee:</b> Independent Persons Panel to operate in the case of any disciplinary or grievance processes
<b>Frequency of Meetings:</b> On an arising basis, and as and when training needs dictate	
<b>Terms of Reference:</b>  The Employment and Appeals Committee shall deal with matters concerning the appointment, discipline and grievances of Chief Officers in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015).	

## CHAPTER 6

### OFFICERS

#### Part 1. Officer Structure

##### 1. Management structure

###### General

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

###### Chief Officers.

- 1.2 The Full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of Responsibility
<b>Chief Executive /</b>	Overall corporate management and operational responsibility (including overall management responsibility for all officers)
<b>Head of Paid Service</b>	<p>Together with the Monitoring Officer and Chief Financial Officer, provision of professional advice to all parties in the decision making process and responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council)</p> <p>With particular responsibility for Performance Management and Localism</p>

	Accountancy & Exchequer Arts Audit & Risk Building Control Business Transformation Coast & Community Partnerships Conservation, design and landscape Countryside Customer Services Democratic Services Development Management Economic Development Electoral Services Emergency Planning Environmental Health Environmental Protection Environmental Services (waste & cleansing) Enforcement Housing, Health & Wellbeing Housing Options Housing Strategy Information Technology Legal services Leisure Media & Communications Planning Policy, Sustainability & Major Developments Property Information (Land charges, street naming & numbering) Property services Organisational Development Reprographics Tourist information
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### Head of Paid Service, Monitoring Officer and Chief Financial Officer

1.3 The Council has designated the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director, Finance, Assets & Legal	Monitoring Officer
Director of Resources	Chief Financial Officer

Such posts will have the functions described in sections 2 to 4 below.

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**Structure.**

- 1.4 The Head of Paid Service will determine and publicise a description of the overall service management, which is appended to the Constitution, and subject to review on at least an annual basis.

**2. Functions of the Head of Paid Service****Discharge of functions by the Council**

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

**Restrictions on functions**

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

**3. Functions of the Monitoring Officer****Maintaining the Constitution.**

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

**Ensuring lawfulness and fairness of decision making**

- 3.2 After consulting with the Chief Executive and Chief Financial Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to a Cabinet 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 and appropriate advice taken.

**Supporting the Standards Committee**

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

**Working with the Independent Person**

- 3.4 The Monitoring Officer will work with the Council's appointed Independent Person to promote and maintain high standards of conduct and ethical behaviour.

**Receiving reports**

- 3.5 The Monitoring Officer will receive and act on decisions of the Standards Committee.

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**Conducting investigations**

- 3.6 The Monitoring Officer will conduct investigations or arrange for investigations to be conducted into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.

**Proper Officer for access to information**

- 3.7 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

**Advising whether Cabinet decisions are within the budget and policy framework.**

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

**Providing advice**

- 3.9 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.

**Restrictions on posts**

- 3.10 The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.
- 3.11 The Monitoring Officer will discharge his/her functions in accordance with the Council's protocol.

**4. Functions of the Chief Financial Officer****Ensuring lawfulness and financial prudence of decision making**

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

**Administration of financial affairs.**

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

**Contributing to corporate management**

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

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**Providing advice**

- 4.4 The Chief Financial 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.

**Give financial information**

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

**5 Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer**

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

- 5.2 Internal Auditors as recognised representatives of the Section 151 Officer, are authorised to:

- Enter at all reasonable times any Council premises or land, except where such entry is contrary to any conditions of contract
- Have access to all records, documents and correspondence relating to any financial and other transactions of the Council
- Require and receive such explanations as are necessary concerning any matter under examination; and
- Require any employee of the Council to produce cash, stores or any other property under their control

**6 Conduct**

- 6.1 Officers will comply with the Employee Code of Conduct and the Protocol on Officer/Member Relations set out in Chapter 7, Part 4 of this Constitution.

**7 Employment**

- 7.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out in Chapter 10 of this Constitution.

**Part 2. Functions which are Delegated to Officers****1. Introduction**

- 1.1 This section sets out the circumstances in which decisions may be taken by Council Officers.

- 1.2 In this Scheme of Delegation, any mention of any Act of Parliament shall be deemed to extend to any Act amending modifying or replacing it and to any Regulation or Order made under it.

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1.3 References to "Chief Officer" shall include the following:

- (a) Chief Executive (and Head of Paid Service)
- (b) Chief Executive
- (c) Chief Financial Officer
- (d) Monitoring Officer
- (e) An Officer for the time being designated as a Chief Officer by the Head of Paid Service.

1.4 References to Directors shall refer to those identified as such in the service management structure chart.

1.5 The Council may alter this scheme at any time.

## 2. Types of Delegation

2.1 Delegation to Officers of the Council shall be either:

- (a) **Full Delegation** - where the named Officer(s) shall have unrestricted authority to exercise the delegated power without notification or consultation in matters falling within established policies and within existing budgets.
- (b) **Conditional Delegation** - where the Officer proposing to exercise or exercising the delegated power shall be required to take one or more of the following steps in the order specified:
  - (i) notify all or specified Members (in accordance with the arrangements for notification approved by the Council from time to time) within such period after the exercise of the power as may be specified
  - (ii) notify all or specified Members (in accordance with the arrangements for notification approved by the Council from time to time) before exercise of the power, giving such period of notice as shall be specified
  - (iii) consult with such Member or Members as may be specified prior to exercise of the delegated power and
- (c) **Default Delegation** – A power shall normally be reserved to a Committee or to the Council, however, it may be exercised by a specified Officer if after notification of all or specified Members (in accordance with the arrangements for notification approved by the Council from time to time) no request to refer the matter to the appropriate Committee or the Council has been received.

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### 3. Scope of Delegation

- 3.1 No power delegated under this scheme shall, unless specifically provided in this scheme, be exercised otherwise than in accordance with any policy or direction of the Council. Nor shall any such power be exercised (unless specifically provided in this scheme or by the rules of virement contained in the Finance Standing Orders) so as to incur expenditure not provided for the purpose in the approved budget.
- 3.2 Where a matter involves considerations within the professional or technical competence of another Officer(s) or his or her staff, the delegated power shall be subject to consultation and agreement with the other Officer(s). In the event of disagreement, the Chief Executive shall have authority to exercise the delegated power after considering all views.
- 3.3 An Officer need not exercise a delegated power in any particular matter and shall not do so if in his or her opinion the matter involves questions of policy as yet undecided by the Council. In that event, he or she may seek the view of the Cabinet before deciding whether or not to exercise the power or may refer the matter to Full Council for decision.
- 3.4 Any power conferred on an Officer under this scheme (including any power to act as the Proper Officer) may be exercised by a person or persons appointed by him/her to act as his/her deputy or deputies either:
- (a) in his/her absence;
  - (b) when he/she is not available to exercise it at the relevant time or
  - (c) in accordance with any general directions of the Officer.

Provided that the fact of the appointment of a deputy or deputies (either for specific powers or generally) has been recorded in the register maintained by the Monitoring Officer together with the terms of any general directions where applicable.

- 3.5 Except where the law or this Constitution requires a function to be discharged personally by a specific officer, or an appointed deputy, an officer who is authorised to exercise a delegated power under this scheme may authorise other officers to exercise that power on their behalf. Such authorisation shall be made in writing setting out:
- (a) The name(s) of the officers who may exercise a power;
  - (b) The power which may be exercised
  - (c) Any limitations on the exercise of that power.

A copy of every authorisation should be passed to the Monitoring Officer before the officer who is authorised exercises any power or as soon as practicable thereafter.

Any conditions of the original delegation shall equally apply where another officer is authorised to exercise the relevant power.



#### **4. Full Delegation to Officers**

4.1 All Chief Officers and Directors and Assistant Directors shall have full delegated power:

- (a) to undertake the day-to-day management and control of the staff reporting to them and the premises and services for which they are responsible.
- (b) to act in accordance with the Council's Finance and Contracts' Standing Orders and any risk assessments arising from their own or Corporate activity.
- (c) to deal with grievances and to take disciplinary action in accordance with the Council's Disciplinary Procedure in respect of staff reporting to them.
- (d) to deal with complaints from the general public under the Council's Complaints Scheme.
- (e) to undertake risk management in accordance with the Council's risk management framework.
- (f) to be the Proper Officer for the purposes of Section 234 of the Local Government Act 1972, to sign any notice or document which falls to be given, made or issued in the course of the exercise of any power given to him or her by this Scheme of Delegation or by the Council or a Committee.
- (g) hearing disciplinary and redundancy appeals.

#### **5. Full Delegation to Chief Officers**

5.1 There shall be delegated to the Chief Executive, or in his or her absence any other Chief Officer, the exercise of any power or function of the Council in routine matters falling within established policies and within existing budgets where waiting until a meeting of the Council, a Committee or Working Party would disadvantage the Council or a local government elector or other inhabitant of or visitor to the District. Such delegated power shall only be used after consultation with the Leader of the Council or other appropriate Portfolio Member and if the matter relates to a particular part of the District with the appropriate local Member or Members. Any exercise of such delegated power shall be reported to the next available meeting of the Council, Committee or Working Party as appropriate. For the purposes of this paragraph "routine matters" shall not be taken to include any matter reserved by law to the Full Council.

5.2 There shall be delegated to the Chief Executive, or in his or her absence any other Chief Officer the exercise of any power or function of the Council, which in law is capable of delegation, in an emergency threatening life, limb or substantial damage to property within the District. The Head of Paid Service or Chief Officer shall consult with the Leader of the Council or their Deputy (unless they cannot be contacted after all reasonable efforts have been made). The exercise of such delegated power shall be confined to the

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minimum necessary to deal with the emergency and shall be reported to the next meeting of the Cabinet or the Council, whichever shall be first and to the appropriate Local Member.

- 5.3 On consultation with the relevant Elected Member(s), as detailed in paragraph 5.1 and 5.2, above, if there is disagreement as to the use of the delegated power or function, the following procedure shall apply. Any Chief Officer may choose not to exercise the delegated power or function. Where he or she wishes to proceed with the delegated authority, where the Chief Officer is not the Chief Executive, the matter shall be referred to the Chief Executive who will decide if the power or function is to be exercised, having considered the views of the Elected Member and the Chief Officer.
- 5.4 Chief Officers shall have full delegated power to undertake any of the functions in relation to the matters within the statutory framework which provides that power.
- 5.5 Directors and Assistant Directors shall have full delegated power to undertake the functions relevant to their office.
- 5.6 An Officer need not exercise any such power if he or she considers that it is not in the best interests of the Council and may instead refer the matter to the Cabinet, appropriate Committee or to Council for decision.

## **6. Conditional and Default Delegation**

- 6.1 Chief Officers and the Officers specified below shall have delegated power in respect of the matters listed below subject to the conditions specified. However these delegated powers shall not, unless specifically stated, be taken to include any power reserved to the Council or given to a Committee by the Council's Terms of Reference.

**Note:** *References to the "appropriate Cabinet Member" mean the Cabinet Member with responsibility for the function. In the event of the "appropriate Cabinet Member" having a disclosable pecuniary interest in the matter, consultation shall be with the Leader or Deputy Leader.*

### **6.2 Determination of Planning and Listed Building Applications**

Reserved to:                      Development Committee  
Default Delegation to:        Director for Place & Climate Change

To undertake all statutory functions of the Council acting as Local Planning Authority including to determine all planning and listed building applications and related matters, tree and hedgerow matters and the service of any notices in relation to any of the functions delegated.

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**Conditions:**

- (a) All Members to be notified of all applications received in the last seven days
- (b) No request for the application to be considered by Committee has been received from a Member within 28 days of notification and
- (c) No written representations with which the local District Councillor (or either one of them in two-Member wards) agrees, have been received from a Town or Parish Council which conflict with the intended determination and
- (d) No other written representations have been received which conflict with the intended determination and which, in the view of the Director for Place and Climate Change, contain unresolved objections or comments which are material considerations in planning terms.
- (e) Where the proposed decision to be taken is against the advice of a technical consultee then the Director for Place and Climate Change should ensure that there are sound planning reasons for the decision and that these are properly recorded. The Local Member(s), Planning Portfolio Holder and the Development Committee Chairman should be consulted.
- (f) In relation to any delegated powers, the condition of consulting a Member does not need to be observed where that member is unable to respond due to a conflict. In such circumstances the Director for Place and Climate Change may consult with the Chairman of the Development Committee.

**Notes:**

*(1) When the intended course of delegated action is to refuse an application in accordance with policy and representations are received from third parties, to the effect that they do not object, then a delegated refusal may still be issued;*

*(2) When the intended course of delegated action is to refuse an application in accordance with policy and representations are received from third parties, to the effect that they object on other grounds which, in the view of the Director for Place and Climate Change, are incapable of substantiation on appeal, then a delegated refusal on the originally recommended basis may still be issued.*

*(3) The requirement to refer to Committee shall not apply where the intended course of delegated action is to approve an application in accordance with this scheme of delegation, and where objections have been received with which the local District Councillor(s) disagree(s) OR where the intended course of action is to refuse an application in accordance with this scheme of delegation where a letter or letters of support have been received with which the local District Councillor(s) disagree*

*(4) (a) Applications submitted by or on behalf of the District Council where representations have been received shall be determined by Development Committee. Minor applications where no representations have been received can be determined under delegated authority.*

*(b) Ground mounted solar panels in excess of 250kW capacity or with a site area of 0.5 hectares or greater.*

*(c) Applications for on-farm Anaerobic Digester (AD) plants with a capacity of up to 25kW can be determined under delegated authority. All other AD plants (including those using non-farm based feedstock) shall be determined by Development Committee.*

*(d) Planning applications made or submitted on behalf of staff within Planning or Property teams, Senior Management Team (Directors/ Assistant Directors / Corporate Leadership Team and Members shall be determined by Development Committee. All other applications can be determined under delegated powers. Where appropriate the Director for Place and Climate Change will seek advice from the Monitoring Officer.*

*(5) The Development Committee will determine controversial applications for Coastal Protection Consent in circumstances where the Council as Local Planning Authority is acting as the lead authority under the Coastal Concordat and the Head of Service declines to use their delegated authority.*

- 6.3 To give notice in respect of all prior approval applications made under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 and any subsequent amendments and to grant or refuse prior approval on behalf of the Local Planning Authority in cases where the developer has been given notice that such prior approval is required.

Conditional Delegation to: Director for Place and Climate Change

- 6.5 **The acceptance of the lowest tender for the supply of goods or services where the contract price is £50,000 or less**

Conditional Delegation to: All Directors

Conditions:

- (a) Subject to subsequent notification of all Members

- 6.6 **The acceptance of the lowest tender for the supply of goods or services where the contract price is more than £50,000 but less than £250,000**

Conditional Delegation to: Chief Executive and Directors

Conditions:

- (a) Subject to consultation with the appropriate Cabinet Member and 14 days prior notification of all Members

- 6.7 **The acceptance of any tender for:**  
**(1) £250,000 or more**  
**(2) any price which is not the lowest tender**  
**(3) where it is proposed not to follow the Contracts' Procedure Rules**

Reserved to: The Cabinet

Default Delegation to: Chief Executive and Directors

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Conditions:

- (a) At least 14 days prior notification to all Members
- (b) No request by a Member within 14 days of notification for the matter to be decided by the Cabinet
- (c) Consultation with the appropriate Cabinet Member
- (d) Subsequent notification of the acceptance of the tender to all Members

**6.8 The commencement of or the entry of a defence to civil or criminal proceedings other than in the High Court**

Conditional Delegation to: Director for Resources and the Assistant Director Finance Assets and Legal

Conditions:

- (a) Subject to consultation with the appropriate Cabinet Member and with the Local Member(s) for the Ward(s) where the other party resides and/or where the subject matter of the action arose

**6.9 The commencement of or the entry of a defence to proceedings in the High Court**

Conditional Delegation to: Director for Resources and the Assistant Director, Finance Assets Legal

Conditions:

- (a) Subject to the Chief Financial Officer being satisfied that the proceedings are necessary to protect the Council's interests and that there is insufficient time to wait for or call a meeting of the Council or a Committee and to
- (b) Consultation with, if time permits, the Leader of the Council and at least one other Cabinet Member and if applicable with the Local Member(s) for the Ward(s) where the other party resides and/or where the subject matter of the action arose and to

**6.10 The cancellation of any scheduled meeting of the Council, a Committee or Working Party and the calling of an additional meeting of the Council, a Committee or Working Party (other than an Extraordinary meeting)**

Conditional Delegation to: Democratic Services Manager.

Conditions:

- (a) Subject to consultation with all Leaders of declared political groups and the spokesman or woman of the non-grouped Members or each such Member if they have no spokesman or woman, and to
- (b) Prior notification of all Members

### 6.11 The awarding or declining of grants above £500 and up to a value of £10,000

Conditional Delegation to: All Chief Officers

Conditions:

- (a) Prior notification of all Members
- (b) Consultation with the appropriate Cabinet Member and Leader and if the grant relates to a specific location or person with the appropriate Local Member(s).

### 6.12 Responding to requests for support or for expression of the Council's view

Reserved to: The Cabinet

Default Delegation to: All Chief Officers

Conditions:

- (a) At least 7 days prior notification of all Members
- (b) No request by a Member within 7 days of notification for the matter to be decided by the Cabinet.
- (c) Consultation with the appropriate Cabinet Member

## Part 3. Statutory "Proper Officer" Functions which are allocated to Officers

STATUTE	ROLE/FUNCTION/RESPONSIBILITY	PROPER OFFICER
Sections 8 and 35 of the Representation of the People Act 1983 and all the powers exercisable by an RO and ARO under the relevant legislation	Registration Officer/ returning officer	Chief Executive
LGA 1972 Sections 83(1) – (4)	Witness and receipt of declarations of acceptance of office	Democratic Services Manager
LGA 1972 Section 84	Receipt of declaration of resignation of office	Chief Executive
LGA 1972 Section 88(2)	Convening Council meeting to fill casual vacancy in the office of Chairman	Democratic Services Manager

LGA 1972 Section 89(1)(b)	Receipt of notice of casual vacancy	Democratic Services Manager
LGA 1972 Sections 100B(2), 100B(7), 100C(2) & 100F(2)	Distribution of written summaries of proceedings and release of documents to Councillors	Democratic Services Manager
LGA 1972 Sections 100D(2) & (5)	Make available for inspection list of background papers	Democratic Services Manager
LGA 1972 Section 112	Duties to be carried out by a proper officer	Chief Executive
LGA 1972 Section 115(2)	Receipt of money due from officers	Chief Financial Officer
LGA 1972 Section 146(1)(a)	Declarations and certificates with regard to securities	Chief Financial Officer
LGA 1972 Section 151	Administration of financial affairs "Chief Financial Officer"	Chief Financial Officer
(and Land Charges Act 1975 Section 19)	Proper Officer for Land Charges	Chief Executive
LGA 1972 Section 225(1)	Deposit of Documents	Head of Legal, Democratic Services & Benefits
LGA 1972 Section 229(5)	Certification of photographic copies of documents	Assistant Director, Finance Assets Legal
LGA 1972 Section 234(1) & (2)	Authentication of Documents:  – Financial, Rating, Superannuation  – Dangerous Structure Notices  – Certification of Local Plans  – Notifiable Diseases and Food Poisoning  – Other Public Health Acts	Assistant Director Finance Assets Legal  Chief Financial Officer

LGA 1972 Section 238	Certification of Byelaws	Assistant Director Finance Assets Legal
LGA 1972 Schedule 22 17	Certification under Section 166 of Housing Act 1957	Chief Executive
LGA 1972 Schedule 12 4(2)(b)	Signature of Summons to Council meeting	Democratic Services Manager
<b>STATUTE</b>	<b>ROLE/FUNCTION/ RESPONSIBILITY</b>	<b>PROPER OFFICER</b>
LGA 1972 Schedule 12 4(3)	Receipt of notices regarding address to which summons to meetings is to be sent	Democratic Services Manager
LGA 1972 Schedule 14 25(7)	Certification of resolutions	Assistant Director, Finance Assets Legal
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) – all parts	All functions	Director for Place and Climate Change
All Public Health and Environmental Protection legislation  All Health & Safety at Work Legislation  All Building Act & Regulations	To designate officers of the Environmental Health and Public Protection teams, (including Environmental Health Officers, Team leaders and Environmental Health and public protection Managers) with authority under this legislation to perform their roles and exercise powers. To designate officers, as inspectors and enable them to exercise such powers under the legislation	Director for Communities; Assistant Director Environment and Leisure Service; Chief Executive



Town & Country Planning Act 1990 (as amended) – all Parts All Building Act & Regulations	All functions	Director for Place and Climate Change
Town and Country Planning (Control of Advertisement) Regulations 1992 (as amended)	All functions	Director for Place and Climate Change
Planning (Hazardous Substances) Regulations 1992 as amended	All functions	Director for Place and Climate Change
Local Government & Housing Act 1989  Section 4  Section 5	Head of Paid Service  Monitoring Officer	Chief Executive  Monitoring Officer
Local Government Act 2000  Section 81	Establish and maintain a register of Members' interests	Monitoring Officer
Localism Act 2011	Receipt of notification of Members' financial and other interests and gifts and hospitality	Monitoring Officer

## CHAPTER 7

### ETHICAL GOVERNANCE

#### Part 1. The Standards Committee

##### 1. The Standards Committee

**Appointed by:** the Council under section 28 of the Localism Act 2011.

**Number of Members:** the Committee shall comprise seven elected District Council Members,

**Political proportionality:** the seven elected District Council Members will be appointed on a politically proportionate basis.

**Quorum:** The quorum of the Committee will be four District Council Members.

##### Terms of Reference of the Standards Committee

- 1.1 Promoting and maintaining high standards of conduct by all North Norfolk District, Councillors
- 1.2 Assisting all District, Town and Parish Councillors within North Norfolk to observe the Members' Code of Conduct
- 1.3 Advising the Council on the adoption or revision of the Members' Code of Conduct
- 1.4 Monitoring the effectiveness of the Members' Code of Conduct
- 1.5 Advising, training or arranging to train Councillors on matters relating to the Members' Code of Conduct
- 1.6 Granting dispensations to Councillors under section 33 of the Localism Act 2011 and exemptions for politically restricted posts

- 1.7 Assessing any allegations of misconduct by North Norfolk District Council Members, co-opted Members or Members of the Parish and Town Councils in the District
- 1.8 The oversight of the Council's whistle blowing policy
- 1.9 The oversight of the Constitution

Legal advice will be available to Members of the Standards Committee before making decisions.

## **Part 2. Members' Code of Conduct**

### **1. Introduction**

- 1.1 The Local Government Association (LGA) developed a Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. North Norfolk District Council has adopted this Code of Conduct.
- 1.2 All councils are required to have a local Councillor Code of Conduct.
- 1.3 The LGA will undertake an annual review of this Code to ensure it continues to be fit- for- purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

### **2. Definitions**

- 2.1 For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who
  - a) is a member of any committee or sub-committee of the authority, or;
  - b) is a member of, and represents the authority on, any joint committee or joint sub- committee of the authority;and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".
- 2.2 For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town

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councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **3. Purpose of the Code of Conduct**

3.1 The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### **4. General principles of councillor conduct**

4.1 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

4.2 Building on these principles, the following general principles have been developed specifically for the role of councillor.

4.3 In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **5. Application of the Code of Conduct**

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- 5.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.
- 5.2 This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:
- you misuse your position as a councillor
  - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;
- 5.3 The Code applies to all forms of communication and interaction, including:
- at face-to-face meetings
  - at online or telephone meetings
  - in written communication
  - in verbal communication
  - in non-verbal communication
  - in electronic and social media communication, posts, statements and comments.
- 5.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.
- 5.5 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.

## **6. Standards of councillor conduct**

- 6.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.
- 6.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **7. General Conduct**

- 7.1 The general conduct guidance follows below:

### **1. Respect**

As a councillor:

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- I treat other councillors and members of the public with respect.
  - I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

*Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.*

*In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.*

*In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.*

## **2. Bullying, harassment and discrimination**

As a councillor:

- I do not bully any person.
- I do not harass any person.
- I promote equalities and do not discriminate unlawfully against any person.

*The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.*

*The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.*

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*Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*

*The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.*

### **3. Impartiality of officers of the council**

As a councillor:

- I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

*Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.*

### **4. Confidentiality and access to information**

4.1 As a councillor:

- I do not disclose information:
  - a. given to me in confidence by anyone
  - b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
    - .1 I have received the consent of a person authorised to give it;
      - ii. I am required by law to do so;
      - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
      - iv. the disclosure is:
        - 1. reasonable and in the public interest; and
        - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and

- 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

*Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.*

## **5. Disrepute**

As a councillor:

I do not bring my role or local authority into disrepute.

*As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.*

*You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.*

## **6. Use of position**

As a councillor:

I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

*Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.*

## **7. Use of local authority resources and facilities**



As a councillor:

- 7.1 I do not misuse council resources.
- 7.2 I will, when using the resources of the local authority or authorising their use by others:
- a. act in accordance with the local authority's requirements; and
  - b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.
- 7.3 You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

*These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.*

## **8. Complying with the Code of Conduct**

As a Councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

*It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about*

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*the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.*

## **9. Protecting your reputation and the reputation of the local authority**

### **9.1 Interests**

As a councillor:

9.1.2 I register and disclose my interests.

*Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.*

*You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.*

*You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.*

***Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.*

## **10. Gifts and hospitality**

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

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*In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.*

## **Appendix A – The Seven Principles of Public Life**

The principles are:

### **1. Selflessness**

Holders of public office should act solely in terms of the public interest.

### **2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **6. Honesty**

Holders of public office should be truthful.

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## 7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### Appendix B Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. 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.
5. 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

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must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which ***affects*** –
- a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) ***affects*** the financial interest or well-being:
- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable 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]

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the **Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.**

Table 1: Disclosable Pecuniary Interests	
Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</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>
<b>Land and property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>

<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor’s knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* ‘director’ includes a member of the committee of management of an industrial and provident society.

\* ‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interest**

<p>You must register as an Other Registerable Interest :</p> <ul style="list-style-type: none"> <li>a) any unpaid Directorships</li> <li>b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority</li> <li>c) any body             <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management</li> </ul> </li> </ul>

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## ARRANGEMENTS FOR DEALING WITH STANDARDS' ALLEGATIONS

1. The following arrangements constitute North Norfolk District Council's adopted procedure for dealing with complaints that a member has failed to comply with the council's Code of Conduct.
2. The Council will appoint a Standards Committee comprised of members of the Authority and co-opted members of Town and Parish Councils. Its terms of reference are :-
  - To promote and maintain high standards of conduct by the members and co-opted members of the Authority.
  - To deal with any ancillary matters relating to Standards and Conduct including replying to consultations, training etc.
  - To assist when called upon to do so in deciding whether a Standards complaint should be referred for investigation
  - To hear and determine standards complaints made against the Authority's members and co-opted members, as well as those members of Town and Parish Councils in North Norfolk.
  - To impose such sanctions as they think fit in relation to matters found to be breaches of the Code.
  - To hear and determine applications for dispensations under section 33 of the Act
  - To consider and determine applications made to the Committee for exemption from political restriction, in respect of any post within the District Council by the holder of that post.
3. A complaint must be made in the first instance to the Council's Monitoring Officer at Council Offices, Holt road, Cromer, Norfolk, NR27 9EN.
4. A complaint must be made on the Council's model complaint form (to be drawn up by the Monitoring Officer) or, if submitted in any other way, must contain all the information required by that form.
5. The Monitoring Officer will consider the complaint against the Council's adopted criteria set out in the Annex A to Appendix 2 for deciding whether a complaint should be referred for formal investigation or some other action. The Monitoring Officer may consult the Council's "Independent Person" before making a decision. Any functions of the Monitoring Officer in this procedure may be delegated to the Deputy Monitoring Officer and the Monitoring Officer, the Deputy Monitoring Officer and the Independent Person may consult or seek the input of an Independent Person from another authority as appropriate.



6. If the Monitoring Officer decides not to refer the complaint for investigation or for some other action then the matter is closed. There is no provision for appeal or review of that decision by the council or any other person. The Monitoring Officer will give a summary of the reasons for his / her decision.
7. If the Monitoring Officer decides that the complaint requires investigation the Monitoring Officer will appoint a person to investigate and to report back to him/ her. The Monitoring Officer will then consider the conclusion of the investigator's report.
8. If the conclusion of the investigation is that there has been no breach of the Code and the Monitoring Officer considers that that is a reasonable conclusion then the Monitoring Officer will write to the complainant and the member concerned to inform them that there will be no further action. Again, there is no provision for appeal or review of that decision by the Council or any other person.
9. If the investigation concludes that there is evidence of a breach of the Code then the Monitoring Officer will consult the Independent Person and make a decision either to:-
  - resolve the matter without the need for a hearing or
  - to convene a meeting of the Council's Standards Committee or a sub committee of the Standards Committee to hear the matter.
10. If the hearing concludes that there has been no breach of the Code then the matter is resolved. There is no provision for appeal or review of that decision by the council or any other person.
11. If the hearing concludes that there has been a breach of the Code the committee will consider whether and what sanction it might be appropriate to impose on the member found to be in default. These are as follows:-
  - a) Censure or reprimand.
  - b) Report to Full Council.
  - c) Recommendation to the Council to remove the member from membership of Committees or Sub-Committees.
  - d) Recommendation to the Council to remove the member from any position (including Leader) of the Executive.
  - e) Require the member to undergo training in Ethics and Standards.
  - f) Removal of the member from external nominations or appointments.

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- g) Withdrawal of facilities or services from the member including access to Council premises and/or IT facilities.
  - h) Where the matter relates to a member, or members, of a Town or Parish Council, a report with recommendations shall be made to the relevant Town or Parish Council(s) for consideration and action as appropriate.

## **ANNEX A**

### **Criteria for the receipt and assessment of complaints**

1. Complaints about alleged breaches of the Code of Conduct will be received and considered by the Monitoring Officer.
2. In the event that there is a conflict of interest or other circumstances where it would not be appropriate for the Monitoring Officer to consider the complaint, for example where the Monitoring Officer has advised the Member who is the subject of the complaint about the matter complained of, then the Independent Person will receive and consider the complaint.
3. In relation to any complaint the Monitoring Officer (or the Independent Person) should be satisfied that
  - (i) it is a complaint in relation to the conduct of one or more named Members of North Norfolk District Council
  - (ii) the relevant Member was in office at the time of the alleged conduct
  - (iii) that, if proved, the Member, acting in his or her capacity as a Councillor, would have failed to behave consistently with one or more of the 7 principles set out in the Code.
4. The Monitoring Officer (or the Independent Person) may take the following into account in deciding whether to investigate the complaint: [see paragraph 5 below]
  - is the matter serious enough to warrant the time and expense of further investigation?
  - does the complaint appear to be politically motivated?
  - does the complaint appear to be malicious or vexatious?
  - is it about something that happened so long ago that there would be little benefit in taking action now?

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- is the outcome including the availability of any likely sanction sought by the complainant one that the Authority is empowered to deliver?
  - if proven, would a finding of breach of the Code assist the Authority in its duty to promote and maintain high standards of conduct?
  - had the Member acted on the advice of an officer or the Independent Person in relation to the conduct complained of?
  - did the conduct arise from lack of experience or training?
  - had the Member apologised for the conduct or was he or she willing to apologise?
  - is the subject matter of the complaint being dealt with through any other complaints, legal or regulatory process?
5. The Monitoring Officer may consult the Independent Person on any or all of the above and will take the view of the Independent Person into account in reaching a decision whether to investigate. If a conflict of interest arises the Monitoring Officer or the Independent Person may consult an independent third party.
6. The Monitoring Officer (or the Independent Person) may determine for any one or more of the above reasons (or in consultation with the Independent Person for another reason) that an investigation is not required. The Monitoring Officer (or the Independent Person) may instead request that some other action, such as the Member making an apology, be taken. Should the Member refuse to take such action the Monitoring Officer may still proceed to an investigation if he or she, in consultation with the Independent Person, thinks it is appropriate.

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## Part 3. Employee Code of Conduct

### 1. Introduction

The Code of Conduct is designed to provide guidance about what is expected from employees in their daily work and in their dealings with District Councillors (referred to here as elected Members), colleagues and the public. The way employees carry out their duties must promote and maintain public confidence and trust in the work of the Council. Employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate and impartial advice to elected Members and fellow employees.

This code describes minimum standards that protect the integrity of both employees and the Council. This code applies to all employees.

Employees are expected to know and to follow the rules that apply to them. It is important that employees acquaint themselves with the policies and procedures that apply to them. If there is anything in this code that employees do not understand or require clarification on, they should speak to their line manager or HR.

Managers should ensure that employees reporting to them have access to the code. Failure to comply with the code may result in disciplinary action, which could include dismissal.

### 2. Associated policies and procedures:-

[IT Security Policy](#)

[Disciplinary Procedure](#)

[Whistleblowing Policy](#)

[Bullying and Harassment](#) Policy

[Safeguarding Policy](#)

Drugs and alcohol at Work Policy

Capability Policy and Procedure

[Equality and Diversity Policy](#)

[Data Protection Policy and Guidance Notes](#)

#### In summary, what does the Council expect from its employees

- Commitment to delivering quality services
- Performance of the duties of their post diligently and to the best of their ability
- Understanding and application of the Council's rules, policies and procedures
- Attending work in a condition where they are able to carry out their duties effectively and safely
- Acting in accordance with the Council's competencies and values
  
- Acting honestly
  
- Treating colleagues, elected Members and members of the public with dignity and respect
- Not allowing prejudice or personal bias influence their decisions in carrying out their work

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- To attend work without being adversely affected by alcohol or other substances
  - To obey lawful and reasonable instructions

### 3. **Equalities**

North Norfolk District Council promotes equal opportunities and has a number of obligations under equality legislation. All employees are expected to adhere to this guide in line with these obligations.

Reasonable adjustments or supportive measures will be considered where appropriate to ensure equality of access and opportunity regardless of age, gender, maternity, pregnancy, gender reassignment, marriage, civil partnership, race, ethnicity, sexual orientation, disability, religion or belief.

### 4. **Standards of behaviour and personal conduct**

Employees should treat colleagues, elected Members and members of the public with dignity and respect.

#### **Employees should:**

- Maintain conduct of the highest standard such that public confidence in their integrity is sustained
- Ensure their conduct/attitude is not discriminatory, offensive, persistently uncooperative, unhelpful, rude or harassing to others
- Ensure their behaviour and performance meets work place standards and competencies
- Ensure they understand and follow the Council's policy on equal opportunities

### 5. **Alcohol/Drugs/Substance Misuse**

The Council takes the health and well-being of employees seriously and wishes to minimise problems at work arising from the effects of alcohol and drugs (whether prescribed or illegal). Employees should familiarise themselves with the Council's policy on **Drugs and Alcohol at Work**.

Employees are encouraged to seek appropriate advice in relation to alcohol, drugs and other substance abuse and may contact the HR team for advice in this area.

Where the behaviour or performance of employees falls below expected standards and/or presents a risk to colleagues, service users, members of the public or others due to alcohol, drugs or other substance misuse, this will be addressed under the **Disciplinary and/or Capability Procedure** or through such other measures as are appropriate in the circumstances (in consultation with HR and Unison, where applicable).

Employees have a duty to report any problems associated with their ability to drive, use equipment or perform other work related tasks and must not drive or use such equipment whilst their judgment and/or physical ability may be impaired by the use of alcohol, drugs, medicine or fatigue. Employees have a responsibility to inform their line manager if they are taking any medication which interferes with the safe performance of their role.

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## 6. Health and Safety and Well Being

All employees have a personal and legal responsibility under the Health and Safety at Work Act for themselves, colleagues and visitors to the Council's buildings and premises.

## 7. Personal appearance

The Council does not have a formal dress code. It is expected that employees will dress appropriately according to the nature of the work they are doing and which does not offend colleagues, customers or service users. Employees who are required to wear an appropriate uniform or protective clothing to perform their duties will be provided with what is required and must wear this as instructed.

## 8. Smoking at Work

Employees are not allowed to smoke or vape in Council buildings. See the **Smoke Free Policy** for further details.

## 9. Outside Commitments/Work

Employees must not allow their private interests to come into conflict with their work. Employees must devote their whole time service to the work of the Council and may not engage in any other business or take up any other additional employment without the written permission of their Director / Assistant Director

This does not preclude employees from undertaking additional work outside their working hours providing it does not impact on, distract them from or conflict with Council work and is subject at all times to written permission being granted.

Regardless of the post, all employees who undertake additional work (either paid or voluntary) must notify their line manager in order to ensure compliance with the Working Time Regulations 1998, (in relation to paid work).

Employees must also ensure that Council time and/or resources (e.g. time, equipment, information) are not utilized in connection with any private employment.

## 10. Disclosure of Information

Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass information on to others who might use it in such a way.

## 11. Confidentiality

The employee has an obligation to respect the confidentiality of information acquired in the course of their work and must not disclose information about employees, clients, elected Members, council finances, or any other council business either directly or by way of casual conversation. The employee must not use such information for their personal advantage or gain or pass it to others who may use it for their advantage or gain.

## 12. Data Protection

The Council is required by law to comply with the General Data Protection Regulations (GDPR). An employee must ensure that personal information is processed lawfully and fairly. Personal information is information relating to a living individual who can be identified. It is an employee's responsibility to handle all personal information properly, no matter how it has been collected, recorded and

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used. An employee will not disclose personal information to others unless authorized to do so. Employees should familiarise themselves with the Council's **Data Protection Policy** and training is available on the e-learning portal.

### 13. Political Neutrality

As an employee of the Council, the employee's personal political opinions should not interfere with their work or bring the Council into disrepute. Certain posts within the Council are politically restricted under the provisions of the Local Government and Housing Act 1989. Politically restricted post-holders are subject to prescribed restrictions on their political activity. If this applies to the post holder, it will be shown on their statement of terms and conditions.

### 14. Reporting Impropriety, Dishonesty or Fraud

If an employee becomes aware of impropriety, dishonesty or fraud by another employee they are encouraged to come forward and voice their concerns to the Council's management or HR.

The Council has a **Whistleblowing Policy and Procedure**, which makes it clear that employees can raise their concerns in confidence without fear of victimisation, subsequent discrimination or disadvantage.

### 15. Council Resources

Employees must ensure they use the Council's time, resources (such as financial resources, equipment, information) and property honestly, responsibly and efficiently at all times to ensure value for money to the public.

Any resources or property, issued to the employee by the Council, is for the purposes of effectively carrying out their duties (e.g. email, internet access, mobile phones, laptops and tablets). Any such items remain the property of the Council and as such can be withdrawn at any time if it is considered in the best interests of the service.

### 16. Personal Interests

Employees must disclose any potential conflict of interest they are aware of to their Head of Service. A record of this must be kept on the employees personnel file and must be readily available for audit purposes. A range of situations could create potential conflicts of interest by virtue of a personal commitment, such as (this list is not exhaustive):

- An employee's financial or non-financial interest in an activity or business that could be considered as a conflict with the Council's interests, or which could bring into question an employee's conduct.
- Any matters, which would normally be dealt with or accessed by an employee involving any individual companies or organisations, which the Council does business with, in which a relative, friend or associate has a financial interest.
- A trusteeship of a voluntary body.
- Membership of an organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct (e.g. Freemasons): in this case the employee

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must record their membership by signing a register held by the Council's legal team.

The same principles apply to work carried out through partnership arrangements. If employees are involved in any type of partnership working with other agencies/companies and there appears to be a potential conflict of interest, they must register it as above.

## **17. Financial Interests**

Orders and contracts must be awarded on merit and by fair competition against other tenders. Care must be taken to ensure that the selection process is conducted impartially and in strict accordance with Contract Standing Orders. Employees known to have a relevant personal interest must not take part in the selection.

## **18. Gifts**

If, in the course of an employee's work, the employee (or a member of their family) is offered a gift, concession or some other benefit by an organisation, a client or member of the public, the employee or their family member must tactfully decline it. Minor items of a promotional nature such as diaries, calendars, mugs and other objects of a token value may be accepted. If in doubt, employees should discuss with their manager.

## **19. Hospitality**

Invitations to hospitality events should be politely declined unless the employee has received prior authorisation to attend from their Head of Service. In considering such invitations the Head of Service will have in mind whether there is a genuine need to impart information or represent the Council at the event.

Under no circumstances should any gifts or hospitality be accepted from contractors who are potential tenderers in the period leading up to the tendering and awarding of a contract by the Council.

When offers of gifts or hospitality are made, this may be construed as an action taken to gain advantage or favour. Employees are required to declare any gifts/hospitality received in the register held by Legal services.

## **20. Security**

Employees must visibly display their identification badge at all times whilst on Council premises. Employees must not allow any individual not displaying an ID badge to follow them into any secure area of the Council.

## **21. Working with elected Members**

Mutual respect between employees and Members is essential to good local government. At all times, both elected Members and officers should conduct themselves appropriately and maintain professional working relationships.

Further, useful information is available in the Member Officer Protocol section of the Constitution.

## **22. Relationships at work**

Appointments to posts in the Council are made on the basis of merit and the ability of the candidate to undertake the duties of the post. To avoid any accusation of bias, the employee should ensure that they are not involved in an appointment procedure



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where they are related to an applicant or have a close personal relationship/friendship with them outside of work.

It is not acceptable for the employee to have a direct reporting relationship (such as line manager/subordinate) with a person who is a family member or somebody with whom they are cohabiting or have an intimate personal relationship. Such relationships can give rise to challenges about integrity and suggestions of favouritism. It is therefore imperative that the Council can ensure decisions around recruitment processes, disciplinary procedures, pay, training, promotion or reimbursement of expenses are taken by individuals who have nothing more than a professional working relationship.

Employees must be open about the existence of a personal relationship with a direct report and they are required to disclose the matter to their Head of Service who will inform the Human Resources Manager. Failure to disclose any such relationship may result in disciplinary action. The Head of Service, in consultation with the Human Resources Manager, will make such arrangements as are deemed necessary to ensure that there is no conflict of interest arising from such a situation. This may include reallocation of duties or the redeployment of one or other of the parties in the interests of the service.

### **23. Using Social Media for Business Use (See IT Security Policy)**

Those authorised to use social media in the workplace have a responsibility to use the tools in an appropriate manner.

- Employees should not use any social media tool for Council business unless they have received appropriate training.
- All online participation must be attributable and transparent ie no anonymous posts or posts using a pseudonym.
- Authorised users must follow copyright and data protection laws. For the Council's protection as well as that of the employee, it is critical that they stay within the legal framework and be aware that libel, defamation, copyright and data protection laws apply. Permission should be sought to publish or report on conversations that they take part in at work. Be aware that content on social media websites may be subject to Freedom of Information requests.
- Employees should be aware that if they break the law using social media (for example by posting something defamatory), they will be personally responsible. They may also be subject to the Council's Disciplinary Procedure.
- The Council's reputation is closely linked to the behaviour of its employees, and everything published reflects on how the Council is perceived. Social media should be used in a way that adds value to the Council's business; i.e. solving problems; enhancing the Council's services, processes and policies; creates a sense of community; or helps to promote the Council's aims and values.
- Staff should be aware that by revealing certain details they might be more vulnerable to identity theft.

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## **24. Using Social Media for Personal Use**

As the use and popularity of social media grows, the lines between what is public and private, personal and professional have blurred. The Council respects their employees' right to personal use of social media out of the workplace.

However, employees should be aware that actions in and outside work that affect their work performance, the work of others, or adversely affect the Council's reputation, may become a matter for the Council.

Considering the following points may help avoid any conflict between personal use of social media and an employee's employment with the Council:

- If employees already use social networks or blogs for personal use they should be aware that any comments or images should not reflect on the Council in a negative manner;
- When using social media for personal purposes, employees must not imply they are speaking for the Council. The use of the Council e-mail address, Council logos or other Council identification should be avoided and it should be made clear that what is said is not representative of the views and opinions of the Council.
- Employees should comply with other Council policies when using social media. For example, they should be careful not to breach council confidentiality and information security or information management policies. If in doubt, don't post it.
- Racism, sectarianism or other types of discrimination are unlawful and are not acceptable in any context. Putting these comments on line effectively puts them in print.
- Employees should be aware that copyright and data protection laws, as well as libel, defamation and data protection; laws apply to them.
- Employees should also be familiar with guidance on social networking provided by professional or statutory bodies.

## **25. Safeguarding**

The Council has a statutory duty to ensure the safety and welfare of children, young people and adults at risk. All employees who, during the course of their employment, have direct or indirect contact with children or adults at risk, or who have access to information about them, have a responsibility to safeguard and promote the welfare of children and adults at risk. The Safeguarding Policy is available via the intranet or the employee's manager and compliance with it is mandatory.

## **26. Terrorism**

Section 26 of the Counter-Terrorism and Security Act 2015 places a duty on certain bodies (including local authorities) in the exercise of their functions to have "due regard to the need to prevent people from being drawn into terrorism". Authorities should place an appropriate amount of weight on the need to prevent people being drawn into terrorism when they consider all the other factors relevant to how they carry out their usual functions.

The prevent strategy published by the government in 2011, is part of the overall counterterrorism strategy and as three specific objectives,

- To respond to the ideological challenge of terrorism and the threat we face from those who promote it
- Prevent people from being drawn into terrorism and ensure they are given appropriate advice and support
- Work with sectors and institutions where there are risks or radicalisation that we need to address.

## **27. Conclusion**

This code does not try to cover every situation. It tries to give an indication of the standards of behaviour or conduct that the Council expects.

Anyone in any doubt about how this applies to them should ask their line manager or HR.

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## **Part 4. Protocol on Member/Officer Relations**

### **1. Introduction**

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues, which most commonly arise.
- 1.2 Together, elected members and officers make up ‘the Council’. They are indispensable to one another and mutual respect and communication between both is essential for good local government. By working in conjunction, they bring the critical skills, experience and knowledge required to manage an effective council. Councillors provide a democratic mandate to the council, whereas officers contribute the professional and managerial expertise needed to deliver the policy framework agreed by councillors. The roles are very different but need to work in a complementary way. (see table 1)
- 1.2 The protocol seeks to reflect the principles underlying the respective Codes of Conduct, which apply to Members and Officers and should be read in association with those Codes. The shared objective of the Codes is to enhance and maintain the integrity of local government.
- 1.3 The partnership between members and officers should be based upon mutual trust and respect and all should aspire to the highest standards of ethical behaviour. Compliance with this Protocol is critical to meeting this aspiration.
- 1.4 This Protocol, whilst not legally binding, will be relevant in judging compliance with the Codes of Conduct. A breach of the provisions of this Protocol may also constitute a breach of the Member and Officer Codes.
- 1.5 The principles of this Protocol apply to all interactions between members and officers, including the use of Social Media.

### **2. Member / Officer relationships – general principles**

- 2.1 Both members and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only as long as their term of office lasts. Officers are responsible to the Council as a whole; their job is to give advice and to carry out the Council’s work under the direction and control of the Council and its Committees.
- 2.2 The importance of mutual respect, trust and confidence between members and officers of the Council is fundamental to this protocol. This is essential to good local government and will generate an efficient and unified working organisation.
- 2.3 Dealings between members and officers should observe reasonable

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- standards of courtesy. Neither party should seek to take unfair advantage of their position or exert undue influence on the other.
- 2.4 Whilst the duties and responsibilities of members and officers are different, both are bound by the same framework of statutory powers and duties. It is fundamental to the efficient and effective operation of the Council that both understand the boundaries of their respective roles and that neither asks the other to step beyond those limits.
- 2.5 It is not the role of members to control the day to day management of the Council and they should not seek to give instructions to officers other than in accordance with the terms of reference of their committee.
- 2.6 Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.
- 2.7 Members and officers must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under the Code of Conduct, when reaching decisions, to have regard to advice given by the Section 151 Officer or Monitoring Officer when they are discharging their statutory duties.
- 2.8 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change their professional advice.
- 2.9 Members are not prevented from discussing issues with officers or promoting a particular point of view. Whilst officers will consider the views / advice of members they are not, in any way, compelled to provide advice which coincides with the member's view or preferred position. Any unreasonable requests by a member to an officer to change their professional recommendation will constitute unacceptable undue pressure which is not permissible.
- 2.10 All members and officers have certain basic responsibilities and obligations. There are, however, some members and officers who, either because of statute, tradition or decisions of the Council, have extended roles and additional responsibilities. Some Members hold positions of responsibility such as the Leader and Group Leaders, the Chair and Vice Chair of Council, Chairs and Vice-Chairs of Committees/Working Groups. The Statutory Officers are the Head of Paid Service (Chief Executive), the Chief Financial Officer (Section 151 Officer) and the Monitoring Officer. Their roles are defined by statute and within the Council's Constitution.
- 2.11 As a matter of general principle, members and officers will:
- Deal with one another without discrimination
  - Observe normal standards of courtesy in their dealings with one another
  - Not take unfair advantage of their position

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- Promote a culture of mutual respect
  - Communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings
  - Work together to convert the Council's core values and priorities into practical policies for implementation for the benefit of the District
  - Observe any advice relating to publicity during the pre-election period
  - Refer any observed instances of inappropriate behaviour as necessary
- 2.12 Members must not be personally abusive to, or derogatory of officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Officers will likewise treat members with respect at all times.
- 2.13 Members should not criticise or raise matters relating to alleged conduct or capability of an officer at meetings of the Council, Committee or any other public forum (including on Social Media). This is a long standing tradition in public service as an officer has no means of responding to criticisms in public.
- 2.14 Officers should not raise with a member matters relating to the conduct or capability of another officer or to the internal management of a department in a manner which is incompatible with the overall objectives of this Protocol.
- 2.15 Nothing in this Protocol shall prevent an officer making a protected disclosure under the Whistleblowing Policy.
- 2.16 If an officer feels that they have been treated improperly or disrespectfully by a member they should raise the matter with the relevant Director or the Chief Executive as appropriate. In these circumstances, the Chief Executive or Director will take appropriate action, including approaching the member concerned, and raise the issue with the Group Leader (if applicable) or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- 2.17 When a member feels that they have been treated improperly by an officer, they should speak to the relevant line manager in the first instance. If the matter is not addressed, then it can be escalated upwards to the relevant Director and /or Chief Executive

### **3. Personal Relationships**

- 3.1 Guidance on personal relationships is contained within the Codes of Conduct.
- 3.2 Provided these guidelines are observed there is no reason why there should not be an informal atmosphere between Members and Officers outside formal meetings and events.
- 3.3 It is clearly important that there should be a close working relationship between Portfolio holders, Opposition Group Leaders and spokesmen,

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Committee Chairmen and the relevant Director and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the individual's ability to deal impartially with others.

- 3.4 Both members and officers will need to be aware of the potential for conflicts of interest and take steps to either avoid or mitigate the position. The Monitoring Officer should be consulted in these circumstances.
- 3.5 Political Group Leaders should promote a positive atmosphere of trust, respect and understanding between members and officers and must be prepared to deal with and resolve any reported incidents of breaches of this Protocol by their Group members. In the event of a complaint being made to them under this Protocol, a Political Group Leader will seek to actively consider the complaint and achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint

#### 4. **Role of Members**

- 4.1 Collectively, members are the ultimate policy makers determining the core values of the Council and approving the policy framework, strategic plans and budget. Their role is complex, requiring them to act simultaneously in the following capacities:-
- 4.2 *As Council / Committee Members* – Members will provide leadership and take responsibility for the authority's decisions and activities. Members have responsibility for the performance, development, continuity and overall wellbeing of the organisation as well as overseeing governance.
- 4.3 *As Representatives* – Members are community leaders who interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance. The Member represents the interests of their Ward and is an advocate for their constituents.
- 4.4 *As Politicians* – Members may belong to a Political Group represented on the Council and, if so, may express political values and support the policies of the Group to which they belong.
- 4.5 Officers can expect members to:-
- Provide political leadership and direction.
  - Initiate and develop policy to be put before Council or Committees.
  - Work in partnership understanding and supporting their respective roles, workloads and pressures.
  - Take corporate responsibility for policies and other decisions made by the Council.
  - Prepare for formal meetings by considering all written material provided in advance of the meeting.

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- Leave day to day managerial and operational issues to officers.
  - Adopt a reasonable approach to awaiting officers' timely responses to calls and / or correspondence.
  - Not send emails to multiple officers regarding the same issue, instead utilising one point of contact where possible.
  - Use their position with officers appropriately and not seek to advance their personal interests or those of others to influence decisions improperly.
  - Respect the dignity of officers and not engage in behaviour which could be reasonably regarded as bullying or harassing in nature.
  - Have regard to the seniority and experience of officers and equally having regard to the potential vulnerability of officers at junior levels.

4.6 It is permissible and sensible for members to seek straightforward factual information from officers, and to seek the views of appropriately qualified officers as to technical or professional matters. However, if there is anything contentious or relates to a matter requiring a complex opinion or value judgement, this should be directed to the relevant Director or Chief Executive.

4.7 When serving on the Council's Development Committee members must observe the Planning Protocol.

4.8 Whilst members should always act in the public interest, there is nothing preventing them as politicians, from expressing the values and aspirations of the Political Group to which they belong.

4.9 As a matter of courtesy, it is expected that members involved in an issue in another member's ward will speak with the relevant ward member(s) to inform them of their involvement.

(Further information about specific roles is outlined at Chapter 11, Schedule 2 of the Constitution)

## **5. Role of Officers**

5.1 In broad terms officers have the following main roles:

- Set and implement strategies to deliver Council policy and further the Council's priorities.
- Day to day operational management of the organisation.
- Implement decisions of the Council which are lawful and which have been properly approved.
- Give members advice on issues and the business of the Council to enable them to fulfil their roles. In doing so, officers will take into account all relevant factors and demonstrate political sensitivity.
- Manage the services for which they have been given responsibility within



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the framework of responsibilities given to them under the Scheme of Delegation.

- Be accountable for the efficiency and effectiveness of the services in which they work and to demonstrate proper / professional practice in discharging their responsibilities.
- Provide advice on changes in government policy for which the Council is responsible.
- Provide professional advice on industry innovation, scientific development which may assist the council in delivering services.
- Provide professional advice on innovations by other councils which may be adopted by this council to improve service delivery.
- Be professional advisors to the Council, its political structures and members in respect of their service - as such, their professionalism should be respected.
- Initiate policy proposals in line with national government requirements or council agreed priorities as well as implementing the agreed policies of the Council.
- Ensure that the Council always acts in a lawful manner and does not engage in maladministration.
- Officers may only support members in their role within the Council and must not engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on some officers involvement in political activities.

## 5.2 Members can expect officers to:

- Undertake their role in line with their contractual and legal duty to be impartial.
- Exercise their professional judgement in giving advice and not be influenced by their own personal views.
- Have an appreciation of the political environment in which they work and demonstrate political sensitivity.
- Assist and advise all parts of the Council, officers must always act to the best of their abilities in the best interests of the authority and the residents of the district.
- Be alert to issues which are, or are likely to be, contentious or politically sensitive and to be aware of the implications for members, the media or other sections of the public.
- Maintain due confidentiality.
- Behave in a professional manner and comply with the Officer Code of Conduct.
- Be helpful and respectful to members.
- Respond in a timely manner to telephone calls, email correspondence etc.

## 5.3 In their dealings with the public, officers should be courteous and act with efficiency and timeliness.

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- 5.4 In advising members of the Council, officers should be able to give honest and impartial advice without fear or favour from members. Officers must serve all members, not just those of any majority Political Group, and must ensure that the individual rights of all members are respected. The support provided by officers can take many forms, ranging from briefing an individual member on a particular issue to, on occasions, a presentation to the Council.
- 5.5 Subject to the Council's whistleblowing policy, officers should respect a member's request for confidentiality when dealing with any legitimately delicate matter and members should respect an officer's request that a matter be kept confidential. Where confidentiality is requested, any written reply to a member should not be copied to any other member without the original member's permission, except to comply with an unavoidable legal or professional obligation.

## **6. The Council as Employer**

- 6.1 Officers are employed by the Council as a whole. Members' roles are limited to the appointment of specified senior posts in accordance with the Staff Employment Procedure Rules and should not act outside these roles.
- 6.2 If participating in the appointment of officers, members should:
- Remember that the sole criteria is merit
  - Never canvass support for a particular candidate
  - Not take part where the candidate is a close friend or relative
  - Not be influenced by personal knowledge of candidates
  - Not favour a candidate by providing them with information not available to other candidates

## **7. Members' Constituency Role and Individual Employees**

- 7.1 A Member may be asked for advice and support by an employee who is one of their constituents. Employees are entitled to seek such assistance in the same way as any other member of the public. However, Members should be careful not to prejudice the Council's position in relation to disciplinary procedures or employment matters in respect of an employee. A Member approached for help in such circumstances should seek to direct employees to other sources of help, such as Human Resources, and not become directly involved. If a Member is unsure, the Democratic Services Team can offer advice on who to speak to.

## **8. Support Services to Members and Party Groups**

- 8.1 Members are provided with ICT (information and communication technology) equipment and support services (e.g., printing, photocopying etc.) to enable them to better perform their policy and constituency role as Councillors.

8.2 Members should not use – and Officers should not provide - such equipment and support services in connection with party political or campaigning activity or for purposes not related to Council business.

8.3 Except that

- limited private photocopying may be undertaken provided it is at no cost to the Council; and
- IT equipment may be used for non-commercial purposes provided it does not cause a conflict with, or risk to, Council systems, nor increase the support required from Officers.

## **9. Decisions**

9.1 Before any formal decisions are taken members will have regard to professional advice from officers. They are not obliged to follow that advice, simply to consider it before reaching a decision.

9.2 Officers taking decisions under delegated powers must consider whether the relevant Political Group Leader, Committee Chair or Ward Member should be consulted based on the issue and taking into account political or corporate sensitivities (see below on consultation with Ward Members).

- Where the matter falls under the responsibility of that Chair's committee
- Where the matter relates to that ward

9.3 Officers must also be prepared to justify how decisions taken under delegated powers contribute to the delivery of council policy and priorities when reasonably required to do so.

9.4 Where officers have delegated authority to take certain actions by a Committee in consultation with a member, it is the officer who takes the action and is responsible for it. A Political Group Leader or Chair has no legal power to take decisions on behalf of the Council or a Committee neither should he / she apply inappropriate pressure on the officer.

## **10. Officers and Whole Council**

10.1 While the Constitution does not at present include provision for delegation of decisions to individual Portfolio Holders it may do so in the future. In any event the Constitution does show that there is a clear division between the decision making functions of the Cabinet and the Scrutiny Committee and other roles of Members.

10.2 However, Officers are required at all times to serve the whole Council and provide support regardless of political affiliation and will need to exercise judgement in fulfilling this obligation, whilst maintaining the distinction between executive and scrutiny. Members must recognise this obligation on Officers.

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## **11. Officers and the Cabinet/Portfolio Holders**

- 11.1 Any decision by an individual Portfolio Holder (if the Council should so delegate in future) or collective decision by the Executive Committee (Cabinet) should except in an emergency be supported by written advice from the appropriate Officer(s). An Officer's obligation to the whole Council requires that such advice is independent and Members must not seek to suppress or amend any aspect of such professional advice.
- 11.2 Reports to Committees will normally be produced by Officers but there may be occasions when a Portfolio Holder or other Member prepares a report. In either situation, the appropriate Officer shall place on record his/her professional advice to the Committee and ensure that advice is considered when a decision is taken.
- 11.3 Officers may be representing the decisions (internally and externally) of a single party Cabinet or an individual Portfolio Holder. Other Members will need to recognise that, in so doing, the Officer is representing an executive decision of the Council.

## **12. Officers and Political Party Groups**

- 12.1 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body.
- 12.2 On the invitation of a Group Leader, a Director or his/her nominee may attend a Group meeting to give factual information about an issue which is currently being or will shortly be debated by a Council body, provided that:
- the meeting is held on Council premises;
  - notice of attendance is given to the appropriate Director and made available on request to the other Group Leaders.
- 12.3 Officer support in these circumstances must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present when matters of party business are discussed.
- 12.4 Group meetings, while 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 are not Council decisions and it is essential that they are not interpreted or acted upon as such.
- 12.5 Similarly where Officers provide information and advice to a Group in relation to a matter of Council business this cannot act as a substitute for the Officer providing all necessary information and advice to the relevant Council body when the matter is considered.

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- 12.6 Officers will not normally attend and provide information to any political party group meeting which includes non-Council members. Exceptions to this may be approved by the Chief Executive who shall do so in writing and copy the correspondence to all the political Group Leaders.
  - 12.7 In all dealings with Members, in particular when giving advice to political party groups, Officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
  - 12.8 Officers must respect the confidentiality of any political party group meeting at which they are present. They must not relay the content of any such discussion to another party group.
  - 12.9 Any particular cases of difficulty or uncertainty in this area of Officer advice to political party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

### **13. Officers and Individual Members**

- 13.1 Any Group Leader, Portfolio Holder, Group Spokesman or Committee Chairman may request a private and confidential briefing from a Corporate Director on matters of *policy* which have already been or may be discussed by the Council or within its decision-making or advisory process. All requests should be made to the appropriate Corporate Director who should invite the Monitoring Officer or his/her nominees to attend if this is thought appropriate. Briefings shall remain strictly confidential and are not to be shared with other Members of the Council unless so permitted by the relevant Member.
- 13.2 Except for the confidential policy advice referred to above, where possible information will be shared among political group representatives. In particular, Overview & Scrutiny is a cross-party process involving all political groups represented on the Council. Information supplied to Overview & Scrutiny Chairmen will therefore be shared as a matter of course with each of the political groups.
- 13.3 Individual Members may request the Chief Executive (or Director) to provide them with factual information. Such requests must be reasonable, and must recognise the need for Officers to maintain the distinction between the executive and scrutiny processes. The relevant Cabinet members, Committee or Overview & Scrutiny Committee Chairman and the Opposition Spokesmen will, unless it is of a minor nature, be advised that the information has been given and, on request, will be supplied with a copy.
- 13.4 If a Director considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she shall seek guidance from the Monitoring Officer as to whether the information should be provided. Where necessary, the Leader in consultation with the other Group Leaders, will determine whether the information should be provided.

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- 13.5 Confidential information relating, for instance, to casework should not normally be sought. If in exceptional circumstances Members wish to discuss confidential aspects of an individual case, then they shall first seek advice from the relevant Director and follow appropriate guidance.
- 13.6 Finally, any Council information provided to a Member 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). This point is emphasised in the Code of Conduct.

#### **14. Officers and Non-Council Elected Representatives**

- 14.1 Officers may be requested to meet with Councillors or Elected Representatives from other Councils or organisations to provide briefings and/or policy advice.
- 14.2 Any Officer requested to attend a meeting of this nature which is not held on a cross-political party basis must obtain the prior authorisation of the Chief Executive who shall inform all Group Leaders of the arrangements.

#### **15. Media Relations**

- 15.1 A primary intention of the Government in introducing executive arrangements was to raise the public and media profile of Portfolio Holders and to make the Cabinet directly accountable for decisions taken. It follows that media presentation and media support will reflect this. Advice to the Cabinet and Portfolio Holders in relation to the media will be provided on a confidential basis if requested.
- 15.2 Overview & Scrutiny Chairmen shall ensure that all media statements relating to the scrutiny function have the support of the relevant Overview & Scrutiny Committee. Any such statements must be consistent with the Council's intent that the scrutiny function shall help to achieve a culture of continuous improvement throughout the Council.
- 15.3 The Communications & PR Manager and other Officers will also assist non-Cabinet Members in their media relations (on a confidential basis if requested). Contact details for the Communications Manager and Communications Officers will be circulated annually to all members and shared at any other time on request
- 15.4 Any Officer assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Members should not seek assistance from an Officer with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

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**16. Local Members / ward matters**

- 16.1 The Council via the relevant Officer(s), and / or Cabinet member, will keep local members fully informed about significant operational matters on which they may be required to make decisions or which affect their electoral wards.
- 16.2 Senior officers will ensure that all relevant staff are aware of the requirement to keep local members informed and that, subject to paragraph 3 below, the timing of such information allows local members to respond appropriately and contribute to relevant decisions.
- 16.3 Any notification under this protocol should include sufficient detail to enable the local member(s) to have a broad understanding of the issue including a summary of advantages and disadvantages of any proposal and any financial implications.
- 16.4 Where lawful and practicable, unless exceptional circumstances are present, communication of such information to local members will be made seven days before external publication by the council of that same information. During the period between being alerted about significant information affecting their ward which is to be published and the time/date of publication, the local member shall keep confidential the information imparted and not disclose or publicly comment on it further, either directly or via social media or external media without the agreement of the Chief Executive.
- 16.5 Local members must be informed by the relevant Council officers of the formative stages of policy development as it affects their ward. This includes any consideration of the matter by working parties, internal boards or committees of the Council. It should be noted that passing on of information to members in this way is not necessarily the responsibility of the Communications team and may come directly from officers in other departments. The Communication team's involvement will usually start when the Chief Executive or other relevant senior officer asks the Communications team to prepare external publication of a policy development/announcement.
- 16.6 Issues may affect a single electoral ward but others may have a wider impact in which case a wider number of members will need to be kept informed. The Communications team will, under the direction of the Chief Executive, share all significant Council news releases which affect the wider District or a number of electoral wards with members when they are published externally.
- 16.7 Whenever a public meeting is organised by the Council to consider a local issue all the members representing the electoral wards affected should as a matter of course be invited to attend the meeting.
- 16.8 Whenever the Council undertakes any form of consultative exercise the local members must be included.
- 16.9 In dealing with Town or Parish Councils, officers should endeavour to copy

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ward members into correspondence. Likewise, officers may advise Town and Parish Councils to ensure that Ward members are provided with information relative to their role. This will need to be considered on a case by case basis to avoid creating an unnecessary administrative burden on officers.

- 16.10 Where a news release specifically relates to a significant issue affecting a particular ward or geographical area, the local Member(s) will be advised by email, or telephone as appropriate and sent a copy. When it is published on the Council's official news channels and/or shared with the local media.
- 16.11 The local member's name will where appropriate, be shared with media as a potential contact for comment and the Communications Team will offer advice and guidance in the usual way, seeking a quote from the local member in advance of the release if appropriate and providing advice for dealing with any retrospective approach for further comment from the media. Members are encouraged to take part in regular training on the use of social media.

## **17. Member Training**

- 17.1 Members are expected to embrace the principles of personal development and skill training and ensure they allocate time to participate in all the necessary training and personal development activities. This includes the necessary skills to take advantage of the ICT facilities made available to them.
- 12.2 Officers will work with individual members to produce a personal development plan, seek to ensure resources are available to fulfil the actions agreed in the plan and provide appropriate training to ensure that all members have the skills needed to fulfil their duties.

Other Codes, Protocols and Policies that should be referred to:

- Member Code of Conduct
- Employee Code of Conduct
- Bullying & Harassment Policy
- Access to Information Procedure Rules (Chapter 10 of the Constitution)



Table 1.

<b>Elected Members</b>	<b>Officers</b>
Democratically elected (receive an allowance)	Employed by the Council (paid a salary)
Community leaders – with a focus on their ward	May have specialist role with a specific focus
Make decisions on behalf of the District, and for the whole Council	Work for the District and the whole council
Can bring a political dimension to the role	Impartial – must give unbiased advice and information to all members equally
Abide by a Member Code of Conduct	Bound by their employment contract and the employee code of conduct
Set policy & oversee service delivery	Implement policies & ensure delivery of services
Only involved in senior officer appointments	Day to day management of officers and service areas

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## Part 5; Planning Code

### CODE OF GOOD PRACTICE FOR PLANNING

#### 1. INTRODUCTION

This Code has been prepared and adopted for the guidance of councillors in their dealings with planning matters.

The aim of this code is to ensure that, in the planning process, there will be no grounds for suggesting that a planning decision has been biased, partial or not well founded on planning considerations and to inform potential developers and members of the general public of the standards adopted by the District Council in the performance of its planning function.

This Code applies to all members of the Development Committee and substitutes. This would include, for example, making decisions at Development and other Committees, or on less formal occasions such as meetings between Members and Officers and/or members of the public on planning matters. The Code applies equally to planning enforcement matters or site-specific policy issues and to planning applications.

Planning decisions made by councillors can have a considerable effect on the value of land, the nature of its development and on the lives and amenities of people living in the vicinity. The process of arriving at decisions on a planning matter must be open and transparent and the involvement of both Officers and Members must be clearly understood. The main principles which Members should have clear regard for are: -

- The key purpose of planning is to deliver sustainable development which effectively balances economic, social and environmental interests and takes relevant local circumstances into account.
- Your overriding duty as a councillor is to all residents and in relation to planning issues to help ensure that the council's planning policies are taken into account as required by the Planning Acts.
- Your role as a member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement, and for justifiable reasons.
- Whilst you may be strongly influenced by the views of others and of your party in particular it is your responsibility alone to decide what view to take on any decision which Members of Development Committee have to consider.
- Section 38(1) and 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act requires you to take planning decisions in accordance with the provisions of the development plan unless material considerations indicate otherwise. You should ensure that all decisions that you make have regard to proper planning considerations and

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are made impartially and in a way which does not give rise to public suspicion or mistrust.

- The Code applies to all decisions of the Council on planning related matters. This includes Members' involvement in any planning application, whether or not it is reported to a committee, all applications determined by any committee or by Full Council acting as a Local Planning Authority.
- When acting in your capacity as a Councillor you must observe the Council's adopted Code of Conduct (Chapter 7 of the Constitution)

If you have any doubts regarding whether this code applies to your particular circumstances then you should take advice at the earliest possible opportunity from the Monitoring Officer. Any such advice should be sought well before any meeting of Development Committee takes place.

## **2. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT**

The Members' Code of Conduct sets out the standards of behaviour expected of Councillors and the requirements in relation to the declaration of interests in the Members Register of Interests and at meetings. Not only should impropriety be avoided but also any appearance or ground for suspicion of improper conduct. When considering any planning matter you should have primary regard for the Code, and particularly the requirement to properly declare all interests: -

Do comply with the requirements of the adopted Code of Conduct first then apply the rules in this Code of Good Practice for Planning.

If you do not follow and apply the Code then you may put the Council at risk of proceedings challenging the legality of the decision made or of a complaint to the Ombudsman in respect of alleged maladministration and yourself at risk of sanction if there has been a failure to comply with the adopted Members' Code of Conduct.

## **3. DEVELOPMENT PROPOSALS AND DECLARATION OF INTERESTS UNDER THE MEMBERS' CODE OF CONDUCT**

When considering planning matters Members may find that they need to;

- declare interests in accordance with the requirements of the adopted Code of Conduct or
- indicate whether or not they may have come to a fixed view on a planning application prior to the meeting (i.e. pre-determination)

The existence and nature of any interest should be disclosed in accordance with this Code at any Development Committee, any informal meetings or discussions with officers and any other Members.

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Members should preferably disclose their interest at the commencement of the meeting or at the beginning of the discussion on that particular matter.

Where you have a Disclosable Pecuniary Interest (DPI's):

Do not participate or give the appearance of trying to participate in the making of any decision by the Local Planning Authority.

Do not get involved with the processing of the application. Direct any queries or technical matters to the relevant officer.

Do not seek or accept preferential treatment or place yourself in such a position so as members of the public would think you are receiving preferential treatment because of your position as a Councillor. You may need to identify another local member who is prepared to represent local interests

Do note that there is no requirement to leave the room whilst the item is being discussed.

#### **4. PRE-DETERMINATION IN THE PLANNING PROCESS**

The allowance made for Councillors to be predisposed to a particular view is a practical recognition of;

- (a) The role played by party politics in local government and
- (b) The need for councillors to inform constituents of at least an initial view on a matter as part of their public role
- (c) The structure of local government which ultimately requires the same councillors to make decisions.

It is therefore particularly important for elected councillors to have a clear understanding about the implications of expressing strong opinions or views on planning matters. Section 25 of the Localism Act 2011 introduces provisions for dealing with allegations of bias or pre-determination or matters that otherwise raise an issue about the validity of a decision, where the decision maker(s) had or appeared to have a closed mind (to any extent) when making the decision.

Councillors are expected to be able to publicise their views on issues, indicate their voting intentions and to engage fully with their local communities without this affecting their participation in the council's formal decision making. In addition, councillors should be able to engage with planning applicants to better understand their proposals.

Therefore, if a councillor has campaigned on an issue or made public statements about their approach to an item of Council business, he or she will be able to participate in discussion of that issue in the Development Committee and to vote on it provided that the councillor has not pre-determined their decision.

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However, councillors will still need to be open minded at the point of decision in the sense of listening to all of the arguments, and weighing them against their preferred outcome, before actually voting.

The difference is that the fact that councillors may have campaigned against a proposal will not be taken as proof that they are not open minded.

In practice:

A councillor may campaign for or against a planning application, and still vote at planning committee, so long as they go into the meeting with an open mind to hear all the facts and evidence. This can be demonstrated by the Committee Chairman asking the councillor at the beginning of the meeting to confirm whether or not they still have an open mind on a proposal.

## **5. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS**

Local Authorities are encouraged to enter into pre-application discussions with potential applicants.

The District Council encourages Member involvement provided Members' roles in such discussions are clearly understood by Members, Officers, developers and the public. In particular Members of Development Committee need to be aware of the distinction between the giving and receiving of information and engaging in negotiations. Members should also be aware that presentations by developers are, in effect, a form of lobbying and that the principles set out in paragraph 6 are relevant.

Do take advice from the Monitoring Officer if you are invited to attend meetings with applicants, developers or groups of objectors if you are a member of the Development Committee and therefore likely to be part of the decision-making process. You will then be in a position to make a decision about your attendance having taken proper account of the issues relating to pre-determination.

Do refer those who approach you for planning, procedural or technical advice to Officers.

Do not agree to any formal meeting with applicants, developers or groups of objectors. Where you feel that a formal meeting would be useful in clarifying the issues, such presentation or discussion with an applicant, developer or objector should be part of a structured arrangement organised by Officers. The Officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Development Committee.

Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the Development Committee.

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Do be aware that a presentation is a form of lobbying and if you express a view, you will need to carefully consider if you have pre-determined the matter prior to the vote;

- Follow the rules on lobbying;
- Report to the Director for Place and Climate Change or Monitoring Officer, any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded on the planning file.

## **6. LOBBYING OF MEMBERS**

It is acknowledged that lobbying is an integral part of the planning process. However, care has to be taken to avoid Members' integrity and impartiality being called into question and accordingly there is a need to declare publicly that an approach of this nature has taken place. Lobbying can take place by professional agents as well as unrepresented applicants/landowners and community action groups.

Members must record any hospitality received in accordance with the rules on gifts and hospitality.

Do remember that your overriding duty is to the whole community and not just the people in your own particular ward

Do explain to those lobbying or attempting to lobby you that whilst you can listen to what is being said it prejudices your impartiality and may affect your ability to participate in the Committee's decision making to express an intention to vote one way or another.

Do not accept any gifts or hospitality from any person or group involved in or affected by a planning proposal. Whilst a degree of hospitality may be unavoidable, Members must ensure that such hospitality is of a minimum and its acceptance is declared as soon as is possible.

Do copy or pass on any lobbying correspondence you receive to the Head of Planning at the earliest opportunity as this will enable proper officer advice to be given in the report and avoid the situation where officers are asked to respond to new information at the meeting itself, leading to deferral or decisions made on partial advice.

Do immediately refer to the Director for Place and Climate Change any offers made to you of planning gain or a constraint of development through a proposed s106 obligation or otherwise.

Do inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) that may require an investigation.

Do note that you will not have pre-determined a matter or breached this Code if:

- 
- You have listened or have received views from residents or other interested parties;
  - You have made comments to residents, interested parties, other Members or appropriate Officers, provided the comments have not amounted to a pre-determination of the issue and you have made it clear that you are keeping an open mind;
  - You have sought information through appropriate channels;
- or
- You are being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Member, provided that you explain your actions at the beginning of the meeting or item and make it clear that, having expressed the opinion or ward/local view, that you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## **7. LOBBYING BY DEVELOPMENT COMMITTEE MEMBERS**

It is recognised that a Development Committee Member who represents a ward affected by a particular application is in a difficult position particularly if it is a controversial application around which a lot of lobbying takes place. There is a balance to be struck between the duties to be an active ward representative and the overriding duty as a councillor to the whole community. In these circumstances;

Do join general interest, resident or amenity groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals. Examples of such groups are local civic societies, the Ramblers' Association, the Victorian Society and CPRE. Members must, however, disclose any interest in accordance with the adopted code of conduct when that group has made representations on a particular matter and such Members should make it clear to that group and to the Development Committee that you have reserved judgment and the independence to make up your own mind on each and every proposal.

Do not excessively lobby fellow members regarding your concerns or views and nor attempt to persuade other members how they should vote in advance of a meeting at which a planning decision is to be taken.

Do not decide or discuss at any pre-meeting how to vote on a planning matter or lobby any other member to do so. Political group meetings should never dictate how Members vote on a planning issue.

## **8. SITE VISITS BY MEMBERS**

Sites inspection by the Committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to that decision as outlined below. Any Member of the Development Committee may request a site visit, however, reasons for the request must be given. Requesting members are expected to attend the site visit.

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Do try to attend site visits organised by the Council where the Development Committee has resolved that a visit is required. If you do not attend a formally arranged site visit, it does not prevent you voting but advice should be sought from the Monitoring Officer.

In deciding whether to visit a site, the Committee will seek to act in a consistent manner in all cases, being guided by the following principles:

The site or its immediate surroundings have particular physical characteristics or the development involves technical issues where inadequate or only recently issued guidance is available where are likely to have a critical bearing on the decision which has been made.

The proposal has proved to be a source of such local or Highway Authority concern that it is considered that a better informed decision is likely to be made, as a result of both seeing the physical characteristics of the site.

Do ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information

Do ensure that you treat the site visit only as an opportunity of seeking information and to observe the site.

Do ask the Officers questions and seek clarification from them on matters, which are relevant to the site inspection.

Do not hear representations from any other party at the site visit. If you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the officer that is present.

Do not express opinions or views to anyone at a site visit.

Do not enter a site that is subject to an application or proposal other than on an official site visit, even if it is in response to an invitation, as this may give the impression of bias.

Do try to stay with the rest of the Members and Officers during a site visit – it helps to keep Members safe on potentially dangerous sites and it ensures that all Members receive all the relevant information.

Further information as to the conduct of Committee Site Visits is contained in Code of Practice –Site Visits by Development Committees.

## **9. THE DECISION MAKING PROCESS**

All applications considered by the Development Committee or by way of a delegated decision shall be the subject of written reports and clear recommendations. If the recommendations are contrary to the provisions of the Development Plan the



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material considerations, which justify this, shall be clearly stated. If, in the view of the Officer, the matter is finely balanced the report will say so. The recommendations put forward by officers and the decision by Members are separate parts of the same process, which should be justified by the report and debate respectively.

## **10. MEMBERS RELATIONSHIP WITH OFFICERS**

Do not put pressure on Officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the relevant Planning Officer, and such views may be incorporated into any Committee report.

Do recognise and respect that Officers in the processing and determining of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct. You should therefore appreciate that Officers' views, opinions and recommendations will be based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions and decisions of a committee or its Members.

Do consider the Council's protocol for Member/Officer relationships, which governs the working relationship you have with Officers. This is a relationship based on mutual trust and courtesy, and all meetings should be guided by this principle.

## **11. PUBLIC SPEAKING AT MEETINGS BY MEMBERS**

Do not allow members of the public to communicate with you during the Committee proceedings (orally or in writing) other than through the scheme for public speaking.

Do ensure that you comply with the Council's procedures in respect of public speaking.

Further information with regards to allowing public speaking at Development Committee is contained in 'Have your Say on Planning Applications and Tree Preservation Orders.

## **12. DECISION MAKING BY MEMBERS**

Do come to a meeting with an open mind on a matter and do demonstrate that you are open-minded.

Do make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

Do come to your decision only after due and proper consideration of all of the information reasonably required upon which to base a decision. If you feel that there is insufficient time to consider new information or there is insufficient information before you then you should request that further information and, if necessary, defer the application.

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Do not vote or take part in a discussion at a meeting unless you have been present for the entire meeting or for the whole of the matter in question and this includes the public speaking and the officers' introduction to the matter. If a Member needs to leave a meeting for a short period, such as for a comfort break, that Member should seek an adjournment.

Do give reasons for Committee's decision to defer consideration of any planning application.

Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendation or the Development Plan that you clearly identify and understand the material planning considerations leading to this conclusion/decision. These reasons, like all reasons in such matters, must be given prior to the vote and be recorded. Members should also be aware that you might have to justify their decision by giving evidence in the event of any appeal or challenge.

Do ensure that the reasons you give for a decision must be your reasons. You cannot ask an Officer to give the reasons for you, however the Officers may assist in the drafting of your reasons.

### **13. TRAINING OF MEMBERS**

All Members serving on the Development Committee including substitute members in accordance with the Council's Constitution shall be trained in planning procedures prior to serving on the Committee.

Do not take part in the decision making process at committee meetings unless you have attended planning training

Do attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, procedures, Regulations, Codes of Practice and the Development Plan. The training will be devised to assist you in carrying out your role properly and effectively.

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## CHAPTER 8

# ACCESS TO INFORMATION PROCEDURE RULES

### 1. Key Decisions

- 1.1 "Key decisions" are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These are executive decisions which are likely:
- (1) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (2) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions.
- 1.2 The Chief Officers are responsible for identifying issues likely to give rise to key decisions and informing the Democratic Services Manager of the issue and the likely date on which the decision will be taken and by whom
- 1.3 The Monitoring Officer in consultation with the Leader and the Chief Executive is responsible for advising on the interpretation of the statutory definition of a "key decision" and whether the likely decision will fall within it

### Publicity in Connection with Key Decisions

- 1.4 Where a key decision is to be made at a meeting of the Cabinet, at a meeting of a Sub-Committee of the Cabinet, or by a member of the Cabinet or an Officer then at least 28 clear days before that decision is made a document will be produced and made available for inspection by the public at the Council offices and on the Council's website containing the following information:-
- (a) that a key decision is to be made;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name and title or where it is a decision making body its name and a list of its members.
  - (d) the date on which the decision is to be made or the period within which it will be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter;
  - (f) the address from which any document listed may be obtained;
  - (g) that other documents relevant to those matters may be submitted to the decision maker and
  - (h) the procedure for requesting details of those documents (if any) as they become available.

The document will not contain any exempt or confidential information.

## **General Exception**

1.5 Where the publication of the intention to make a key decision under paragraph 1.4 is impracticable that decision may only be made:-

- (a) where the Democratic Services Manager has informed the Chairman of the Overview and Scrutiny Committee by notice in writing of the matter about which the decision is to be made
- (b) where the Democratic Services Manager has made available at The Council Offices and on the Council's website a copy of that notice
- (c) five clear days have elapsed since the Democratic Services Manager made the notice available

## **Cases of Special Urgency**

1.6 Where the date by which a key decision must be made makes compliance with paragraph 1.5 impracticable the decision may only be made where the Cabinet has obtained agreement from the Chairman of the Overview and Scrutiny Committee or if he or she is unable to act the Chairman of the District Council or the Vice Chairman of the District Council.

1.7 The agreement of the above person will be that the making of the decision is urgent and cannot reasonably be deferred. If such agreement has been given then a notice setting out the reasons must be made available at The Council Offices and published on the Council's website as soon as reasonably practicable.

## **2. Meetings**

2.1 Procedure Rules 2.1-2.8 apply to all meetings of the Council, the Cabinet, Overview and Scrutiny Committee, Overview and Scrutiny Panels, Joint or Area Committees, Ordinary Committees. 2.9 applies to meetings of the Cabinet.

## **Rights to attend meetings**

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

## **Notice of meeting**

2.3 The Democratic Services Manager will give at least five clear days notice of any meeting by posting details of the meeting at The Council Offices, Cromer and on the Council's website.

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## **Access to agenda and reports before the meeting**

- 2.4 The Democratic Services Manager will make copies of the agenda and reports available for public inspection at The Council Offices and/ or on the Council's website at least five clear days before the meeting. If an item is later added to the agenda, the revised agenda will be open to public inspection from the time the item was added to the agenda. Where reports are prepared after the agenda has been sent out or published on the website, the Democratic Services Manager will make such reports available for public inspection as soon as the report is sent to Members.
- 2.5 The Democratic Services Manager may withhold reports from public inspection if he/she considers they contain exempt or confidential information (as defined in paragraphs 12 and 13 of these Rules). Such reports will be marked "Not for publication" and the exemption category of information indicated and will be printed on purple paper

## **Exclusion of the Media and Public from Meetings**

- 2.6 The media and 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 (as defined in paragraph 11 of these Rules) will be disclosed.
- 2.7 The media and 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 (as defined in paragraph 12 of these Rules) will be disclosed.
- 2.8 The decision to exclude the media and the public must be made by a resolution of the meeting which must (in the case of exempt information) state the reasons for the exclusion (by reference to the relevant statutory category) which must be recorded in the minutes of the meeting.
- 2.9 If the Cabinet or a Committee of the Cabinet intends to hold a meeting in private without the media and the public being present then:-
- (a) at least 28 clear days before that meeting notice of its intention to hold it in private must be made available at the Council Offices and on the Council's website;
  - (b) the notice referred to above must include a statement of the reasons for the meeting to be held in private;
  - (c) at least five clear days before the private meeting the Cabinet must make available at the Council Offices and on the Council's website a notice including the statement of the reasons for the meeting to be held in private; details of any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representations.

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- 2.10 (a) Where the date by which a meeting must be held makes compliance with this Regulation impracticable the meeting may only be held in private where the Cabinet has obtained agreement from the Chairman of Cabinet Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.
- (b) As soon as reasonably practicable after Cabinet has obtained the agreement of the Chairman of the Overview and Scrutiny Committee as (a) above it must make available at The Council Offices and on the Council's website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.
- 3.0 Publication of records of executive decisions by the Leader, Cabinet, individual Cabinet members and officers.
- 3.1 A written statement must be made of every decision of the Cabinet or the Leader or a Cabinet Member or officer. The written statement must contain:
- (1) a record of the decision and the date on which it was made
  - (2) the reasons for it
  - (3) any alternative options considered and rejected at the meeting or at the time the decision was made
  - (4) any conflict of interest declared (whether by a member of the Cabinet or a Cabinet Member who is consulted by the individual member or officer taking the decision)
  - (5) any note of dispensation in respect of such interest which was granted by the Standards Committee.
- 3.2 The record must be made by:
- (1) the Democratic Services Manager in the case of a Cabinet decision; or
  - (2) A person instructed by the person presiding at a private meeting of the Cabinet where the Democratic Services Manager is not in attendance; or
  - (3) an officer instructed to do so by the deciding Cabinet Member where the decision is made by an individual cabinet member; or
  - (4) the Chief Officer concerned where the decision is taken by a Chief Officer.

Whoever is responsible for recording the decision must ensure that the record is sent to the Democratic Services Manager as soon as reasonably practicable.

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### 3.3 The Democratic Services Manager will:

- (1) send a copy of the record to all members of the Overview and Scrutiny Committee
- (2) as soon as reasonably practicable make available for public inspection and on the Council's website a copy of the record and of any report considered at the Cabinet meeting or by the individual member or officer (unless it contains exempt or confidential information).

## 4. Access to minutes and records of decisions

The Democratic Services Manager will retain and make available for public inspection for six years after a meeting of a decision-making body at which an executive decision has been made, after an individual Cabinet member has made an executive decision or after an officer has made a decision, copies of the following:

- (1) the minutes of the meeting and/or records of decisions taken, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
- (2) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (3) the agenda
- (4) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to any decision made by the individual member or officer, excluding any report which discloses exempt or confidential information.

## 5. Supply of copies

Following a request by any person and on payment by them of a reasonable charge to meet copying and clerical costs, the Council will supply copies of any agendas, reports, minutes and records of decisions which are open to public inspection.

## 6. List of background documents

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

- (1) disclose any facts or matters on which the report, or an important part of the report, is based and
- (2) have been relied on to a material extent in preparing the report (not including published works or those which disclose exempt or confidential information as defined in paragraph 12 of these Rules and, in respect of Cabinet reports, the advice of a political advisor).

## **7. Public inspection of background documents**

- 7.1 The Chief Executive and Heads of Service are responsible for ensuring that one copy of each background document included in the list of background documents is retained and made available for public inspection and published on the Council's website after the date of any meeting or decision.

## **8.0 Summary of public's rights**

- 8.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.
- 8.2 A summary of the public's rights to attend meetings and to inspect and copy documents will be retained and made available to the public at The Council Offices, Cromer and/or on the Council's website.

## **9. RIGHTS OF ACCESS FOR MEMBERS GENERALLY**

- 9.1 Any document which is in the possession of, or under the control of the executive and which contains material relating to any business to be transacted at a public meeting, will be available for inspection by any member of the Council unless it would involve the disclosure of exempt information (see Paragraph 13).
- 9.2 Any document which
- (a) is in the possession or under the control of the executive; and
  - (b) contains material relating
    - (i) to any business transacted at a private meeting;
    - (ii) any decision made by an individual member or officer in accordance with executive arrangements;

will be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or officer, immediately after the decision has been made, unless it would involve the disclosure of exempt information (see Paragraph 13).

- 9.3 Under Section 100F of the Local Government Act 1972, a member has a right to see any document in the possession of, or under the control of, the Council relating to any business to be transacted at a meeting of the Council, a Committee or Sub-Committee. However, the Committee Administrator has the power to withhold any such document which in his/her opinion contains exempt information of certain types: e.g. relating to individuals, the terms of a proposed contract, consultations or negotiations regarding labour relations matters, or legal proceedings.
- 9.4 A member has a right, under Section 228 of the Local Government Act 1972, to inspect the accounts of the Council and of any proper officer of the Council.



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- 9.5 At common law a member has a right to see any document under the control of the Council if that member can show a “need to know” the contents of the document in order to perform their duties as a Councillor. A member is not given a roving commission; nor can inspection be demanded out of idle curiosity or if there is any improper or indirect motive. In the event of a dispute as to whether a member has a “need to know”, the question is to be decided ultimately by the Council itself.
- 9.6 The Annex to Chapter 8 contains a protocol agreed by the Council for the exercise of the rights of members to inspect and have copies of documents.

## **10. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF OVERVIEW AND SCRUTINY**

### **10.1 Rights to documents**

Subject to Rule 11.2 below, a member of an Overview and Scrutiny Committee or a Overview and Scrutiny Panel will be entitled to a copy of any document which;

- (a) is in the possession or control of the executive; and
- (b) contains material relating to:
  - (i) any business that has been transacted at a private meeting or a public meeting of a decision making body of the executive;
  - (ii) any decision that has been made by an individual member of that executive in accordance with executive arrangements; or
  - (iii) decision that has been made by an officer of the Council in accordance with executive arrangements.
- (c) if a member of the Overview and Scrutiny Committee requests a document within (a) above the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the request.

### **10.2 Limit on rights**

No member of the Overview and Scrutiny Committee or an Overview and Scrutiny Panel will be entitled to a copy:

- (a) of any such document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision that he/she is reviewing or scrutinising; or which is relevant to any review contained in any programme of work of such a committee;
  - (b) where the Executive decides that a member of the Overview and Scrutiny Committee is not entitled to a document for the reasons set out in (a) above it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.
11. (a) Where an Executive decision is taken not as a key decision and the Overview and Scrutiny Committee is of the opinion that it should have been treated as a key decision then the Overview and Scrutiny Committee may

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require the Executive to submit a report to Council within such reasonable period as the Committee may specify.

(b) A report under (a) above must include details of the decision, the reasons for the decision, the decision maker or decision making body and if the Executive is of the opinion that a decision was not a key decision the reasons for that opinion.

12. **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 virtue of a Court Order.
13. **Exempt information** means information which falls within one or more of the following seven categories and in respect of which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
1. Information relating to any individual.
  2. Information which is likely to reveal the identity of an individual.
  3. Information relating to the financial or business affairs of any particular person including the authority holding that information. (However, information is not exempt information under this category if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993).
  4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the District Council or a Minister of the Crown and employees of, or office holders under, the District Council.
  5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
  6. Information which reveals that the Council 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.
  7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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

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## **ANNEX TO CHAPTER 8**

### **PROTOCOL RELATING TO MEMBERS RIGHTS TO ACCESS AND COPIES OF DOCUMENTS**

#### **1. Introduction**

Members can ask any Senior Officer to provide them with information, explanation and advice so that they can carry out their role as councillors. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.

#### **2. The Purpose of the Protocol**

The purpose of the protocol in paragraph 4 is to help clarify for members what they are entitled to see, and how to go about seeing it, and to give officers clear guidelines about the members' rights particularly in the light of the new constitutional arrangements, and the developing role of scrutiny.

The Council is developing separate arrangements to make sure that members get to know information in a timely and appropriate manner.

#### **3. The Legal Position**

##### **3.1 Statutory Provisions**

These briefly mean that:-

- (i) Any member can see documents which contain information relating to the public and private meetings of the Executive, meetings of the Council and its Committees, any decision to be taken by an individual member of the Executive and any executive decisions to be taken by an individual member or Officer. This statutory right does not extend to certain categories of exempt and confidential information.
- (ii) All members of the Overview and Scrutiny Committee have a right to copies of documents which contain information relating to the public and private meetings of the Executive, any executive decision to be taken by an individual member of the Executive or Officer. However, they are only entitled to a copy of a document containing exempt and confidential information where the information is relevant to an action or decision which the member is reviewing or scrutinising or which is relevant to any review contained in a work programme of the Overview and Scrutiny Committee.

##### **3.2 The Common Law Position**

- (a) The common law right of members is much wider than this and is based on the principle that any member has a prima facie right to inspect any Council

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documents if access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

- (b) The exercise of this common law right depends upon the member's ability to demonstrate a "need to know". In this respect, a member does not have "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is whether there is a "need to know".

### **3.3 Data Protection**

Data protection legislation restricts the processing of information relating to individuals. As a result, any such information cannot be shared without the agreement of that individual or unless one of the legal exemptions applies.

## **4. The Protocol**

Against this background the Council has agreed the following protocol:-

- (1) An initial request should be made to the relevant Senior Officer and in this the Member should:-
- (a) identify what they need to see;
  - (b) state the reason(s) that they need to see it; and
  - (d) make it clear whether they have a personal interest in the matter (as defined in the Members' Code of Conduct) and if so what it is.

The Officer is entitled to ask the member to make this request in writing if they are in any doubt about any of these matters.

- (2) Any officer who is in any reasonable doubt regarding the release of the information will consult the Monitoring Officer for advice.
- (3) If, after receiving this advice, it is not considered appropriate to release the information either because:-
- the member has not established a need to see it or
  - because the Officer has other concerns (for example the Councillor has personal interest in the matter, the information is commercially or otherwise sensitive, or the amount of work involved in identifying and producing the information is considered to be excessive)

and the member takes a different view, the matter will be referred to the Chief Executive, who will consult the relevant Group Leader before making a decision.

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- (4) Any information provided must be only used in connection with the members' duties as a Councillor, e.g. speaking at a relevant Committee or at full Council. Information not already in the public domain should not be divulged to third parties (including the press) nor should information be used improperly.
- (5) Finally, the effect of the Data Protection legislation is that information relating to an individual should not be provided unless either the individual has agreed to its release or one of the legal exemptions applies. As a result, any member wishing to obtain access to personal information should first seek that persons consent. A form is provided for this purpose. If that consent is not given, or there is a difficulty with requesting it, then legal advice should be sought.

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## CHAPTER 9

### RULES, CODES AND PROTOCOLS

#### Part 1. Financial Regulations

##### 1. Status of Financial Regulations

- 1.1 Financial Regulations provide the framework for managing the Council's financial affairs and form part of North Norfolk District Council's constitution. They apply to every member and employee of the Council and anyone acting on its behalf. The Council's detailed financial procedures, setting out how the regulations will be implemented, are contained in the Financial Procedures.
- 1.2 The Regulations identify the financial responsibilities of the Council, its Members, Chief Executive, the Monitoring Officer, the Chief Financial Officer and Directors. Statutory Officers, and Directors should maintain a written record where decision-making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible employees, references to Heads of Service in the Regulations should be read as referring to them.
- 1.3 All members and employees 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.
- 1.4 The Chief Financial Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Council for approval. The Chief Financial Officer is also responsible for reporting, where appropriate, breaches of the Financial Regulations to the Council and/or to the Cabinet.
- 1.5 Chief Executive and Directors are responsible for ensuring that all employees in their areas of responsibility are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them.
- 1.6 The Chief Financial Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Members and officers are required to follow.

##### 2. Financial Management

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

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**The Council**

- 2.2 The Council is responsible for adopting the Council's Constitution and 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 decisions of the Cabinet.
- 2.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by Cabinet, the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

**The Cabinet**

- 2.4 The Cabinet is responsible for proposing the financial policy framework and budget to the Council, and for discharging executive functions in accordance with the policy framework and budget.
- 2.5 Decisions can be delegated to a Cabinet Member, committee of the Cabinet, or an officer.

**The Overview & Scrutiny Committee**

- 2.6 The Overview & Scrutiny Committee is responsible for scrutinising decisions of the Cabinet before or after they have been implemented and for holding the Cabinet to account. The Overview & Scrutiny Committee is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council including the management of the Council's finances.

**The Governance Risk & Audit Committee**

- 2.7 The Governance Risk & Audit Committee is responsible for recommending approval of the Statement of Accounts to Council and making any comments and recommendations to the Cabinet and Council.
- 2.8 The Governance Risk & Audit Committee is also responsible for approving the annual audit plan, ensuring the maintenance of a continuous internal audit service, reviewing all internal and external audit reports, reviewing and approving the Annual Governance Statement, reviewing progress on implementing audit recommendations, reviewing progress on the internal audit plan, monitoring the performance of internal audit, monitoring fundamental reviews, reviewing the corporate governance framework, ensuring appropriate procedures are in place to mitigate risk, to monitor the quality of the Council's key information systems through regular updates on data quality, and to review the Council's Contract Procedure Rules and to make recommendations for changes where necessary.

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- 2.9 To recommend to the Standards Committee any changes to the corporate governance framework that fall within the remit of that committee.

**Standards Committee**

- 2.10 The Standards Committee is responsible for promoting and maintaining high standards of conduct amongst Members. 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.

**The Development Committee and Licensing & Appeals Committee**

- 2.11 Planning, licensing and enforcement are not executive functions but are exercised through the Development Committee and Licensing Committee under powers delegated by the Council. Both Committees report to the Council.

**Head of Paid Service**

- 2.12 The Chief Executive shall undertake the duties of the Head of Paid Service for the purposes of the Local Government Act 1989 and is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Council, the Cabinet, the Governance Risk & Audit Committee and other committees.
- 2.13 He/ she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions.

**The Monitoring Officer**

- 2.14 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- 2.15 The Monitoring Officer must ensure that decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by committees and employees who have delegated executive responsibility.
- 2.16 The Monitoring Officer is responsible for advising all Members and employees about who has authority to take a particular decision.
- 2.17 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.
- 2.18 The Monitoring Officer (together with the Chief Financial Officer) is responsible for advising Cabinet or Council about whether a decision is likely to be



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considered contrary or not wholly in accordance with the budget. Such actions include:

- (a) initiating a new policy
- (b) committing expenditure in future years to above the budget level
- (c) incurring interdepartmental transfers above virement limits
- (d) causing the total net expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

2.19 The Monitoring Officer is responsible for maintaining an up-to-date Constitution

### **The Chief Financial Officer**

2.20 The Chief Financial 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:

- (a) Section 151 of the Local Government Act 1972
- (b) The Local Government Finance Act 1988
- (c) The Accounts and Audit Regulations 2003.

2.21 The Chief Financial Officer is responsible for:

- (a) the proper administration of the Council's financial affairs
- (b) setting and monitoring compliance with financial management standards
- (c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- (d) providing financial information
- (e) preparing the revenue budget and capital programme
- (f) treasury management and banking.

2.22 Section 114 of the Local Government Finance Act 1988 requires the Chief Financial Officer to report to the Council, the Cabinet and external auditor if the Council or one of its employees:

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

2.23 The Chief Financial Officer must also make a report under this section if it appears that the expenditure of the authority (including expenditure it is

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proposing to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure. Section 114 of the 1988 Act also requires:

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

The chief financial officer for the Council is the post to which the Section 151 duties are attached i.e the Section 151 Officer

### **Directors**

2.24 Directors are responsible for:

- (a) ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer
- (b) signing contracts on behalf of the Authority.

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

### **Virement**

2.26 The Council is responsible for agreeing procedures for virement of expenditure between budget headings as set out in the Procedures below.

### **Service Managers and Directors in consultation with the Chief Financial Officer**

In year virements within services under their control up to £25,000

### **Chief Financial Officer**

- Virements up to £100,000 between any budget headings and release of earmarked reserves and contingency funds.

2.27 The Cabinet is responsible for determining the use of working balances to fund expenditure not covered elsewhere in the budget and for agreeing in-year virements between service heads within its existing budget where the proposed expenditure or virement is over £100,000.

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- 2.28 The Chief Executive (in consultation with the Leader and Chief Financial Officer) may exercise the virement powers of the Cabinet where a matter is urgent subject to the Key Decision provisions.
- 2.29 The Chief Executive (in consultation with the Leader) may exercise the virement powers of the Cabinet where a matter is urgent.
- 2.30 Fortuitous savings, or additional income cannot be used for revenue virement purposes. These must be reported to Cabinet for consideration of how these additional monies are to be used. Fortuitous savings are deemed to be savings not already assumed in the budget.

#### **Treatment of Year-End Balances**

- 2.31 Full Council is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

#### **Responsibilities of Heads of Service:**

- 2.32. Any overspending on service estimates in total on budgets under the control of the Service Manager will be reported by the Chief Financial Officer to Cabinet and to the Council.
- 2.33. Net underspends on service estimates under the control of the Service Manager may only be carried forward, subject to:
- (a) reporting to the Cabinet the source of underspending or additional income and the proposed application of those resources
  - (b) the approval of the Cabinet up to £50,000.
- 2.34. Decisions as to carry forward of underspends will be taken in the context of the actual financial position as at 31 March and future financial policies

#### **Accounting Policies**

- 2.35 The Chief Financial Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

#### **Accounting Records and Returns**

- 2.36 The Chief Financial Officer is responsible for determining the accounting procedures and records for the Council.

#### **The Annual Statement of Accounts**

- 2.37 The Chief Financial Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice.

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### **3. Financial Planning**

- 3.1 The Full Council is responsible for agreeing the policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- (a) the budget
  - (b) the capital programme

#### **Policy Framework**

- 3.2 The Executive and the Council are responsible for approving the policy framework and budget. The policy framework includes the following plans and strategies:
- (a) Asset Management Plan
  - (b) Performance Plan
  - (c) Capital Strategy
  - (d) North Norfolk Local Development Framework
  - (e) Economic Development Plan
  - (f) Strategic Housing Policy
  - (g) Financial Strategy
  - (h) Growth Strategy
  - (i) Licensing Authority Policy Statements
- 3.3 Full Council is also 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 Proper Officer.
- 3.4 Full 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**

- 3.5 The Chief Executive is responsible for proposing a corporate plan to the Cabinet for consideration before its submission to the Council for approval.

#### **Preparation of the Performance Plan**

- 3.6 The Chief Executive is responsible for proposing the Performance Plan to the Cabinet for consideration before its submission to the Council for approval.

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**Budget Format**

- 3.7 The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Chief Financial Officer. The draft budget should include allocations to different services and projects, proposed taxation levels and contingency funds, where appropriate.

**Budget Preparation**

- 3.8 The Chief Financial Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to the Council. The Cabinet, after considering the effect on the Council's finances and any directives from Central Government, submit to the Council:

- (a) recommended revenue estimates (incorporating any amendments);
- (b) a report thereon;
- (c) a recommendation as to the Council Tax to be levied for the following financial year.

- 3.9 Full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

- 3.10 It is the responsibility of Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet and Chief Financial Officer.

**Resource Allocation**

- 3.11 The Chief Financial Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's policy framework.

**Preparation of the Capital Programme**

- 3.12. The Chief Financial Officer is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Cabinet before submission to the Council.

**Guidelines**

- 3.13. The budget should be prepared in accordance with the principles established in the financial strategy and other guidance issued to Members and Directors by the Chief Financial Officer. These should take account of:

- (a) legal requirements
- (b) medium-term planning prospects
- (c) the corporate plan
- (d) available resources
- (e) spending pressures
- (f) relevant government guidelines

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- (g) other internal policy documents
  - (h) efficiency plans
  - (i) cross-cutting issues, where relevant.

### **Maintenance of Reserves**

- 3.14. It is the responsibility of the Chief Financial Officer to advise the Cabinet and the Council on prudent levels of reserves for the authority.

## **4. Budget Monitoring and Control**

- 4.1 The Chief Financial Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure and income against budget allocations and report to the Cabinet on the overall position on a regular basis.
- 4.2. It is the responsibility of Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Financial Officer. They should report on variances within their own areas and take any action necessary to avoid exceeding their budget allocation and alert the Chief Financial Officer to any problems.

### **Budgeting - Revenue**

- 4.3. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.
- 4.4. For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the scheme of delegation.
- 4.5. The key controls for managing and controlling the revenue budget are:
- (a) budget managers should be responsible only for income and expenditure that they can influence
  - (b) there is a nominated budget manager for each budget heading
  - (c) budget managers accept responsibility and accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
  - (d) budget managers follow an approved certification process for all expenditure within the authorised signatory lists and ensuring separation of duties
  - (e) income and expenditure are properly recorded and accounted for

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- (f) performance levels and levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget
  - (g) specific budget approval is given for all expenditure
  - (h) budget managers are appropriately trained to carry out their budgetary control responsibilities.

#### **Responsibilities of the Chief Financial Officer**

- 4.6. To establish an appropriate framework of budgetary management and control that ensures that:
  - (a) budget management is exercised within annual cash limits unless the Council agrees otherwise
  - (b) each Service Manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - (c) expenditure is committed only against an approved budget head
  - (d) all officers responsible for committing expenditure comply with relevant guidance and financial regulations
  - (e) each cost centre has a single named manager, determined by the relevant Service Manager. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure
  - (f) budget variations of more than £10,000 are investigated by Directors and reported by them to the Chief Financial Officer and to Cabinet.
- 4.7. To prepare and submit reports to the Cabinet on the Council's projected income and expenditure compared with the budget on a regular basis.
- 4.8. To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Council, and after consultation with the Cabinet and Directors.
- 4.9. To prepare and submit reports to the Cabinet on aggregate spending plans and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.
- 4.10. To encourage the best use of resources and value for money by working with Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 4.11. To advise Full Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

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**Budgeting – Capital**

- 4.12. Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.
- 4.13. The key controls for capital programmes are:
- (a) specific approval by Full Council for the programme of capital expenditure
  - (b) expenditure on capital schemes is subject to the approval of Cabinet
  - (c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project above £100,000, for approval by the Cabinet
  - (d) proposals for improvements and alterations to buildings must be approved by the appropriate Head of Service
  - (e) schedules for individual schemes within the overall budget approved by the Council must be submitted to the Cabinet for approval (for example, minor works), or under other arrangements approved by the Council
  - (f) implementation of the Asset Management Plan and Capital Strategy
  - (g) accountability for each proposal is accepted by a named manager
  - (h) progress and expenditure should be monitored and compared to the approved budget.

**Responsibilities of the Chief Financial Officer**

- 4.14. To collate capital estimates, taking into account the full year revenue effect of each capital scheme, jointly with Directors and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Council.
- 4.15. To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- 4.16. To issue guidance concerning capital schemes and controls. The definition of 'capital' will be determined by the Chief Financial Officer, having regard to government regulations and accounting requirements.
- 4.17. To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision.
- 4.18. To prepare and submit an annual report to the Cabinet on the completion of all contracts where the final expenditure exceeds the approved contract sum.



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**Responsibilities of Directors**

- 4.19. To comply with guidance concerning capital schemes and controls issued by the Chief Financial Officer.
- 4.20. To ensure that all capital proposals above £50,000 have undergone a project appraisal, stating the objective, details of any alternative means of achieving the objective, the justification for the project and the estimated capital costs, in accordance with guidance issued by the Chief Financial Officer.
- 4.21. To ensure that adequate records are maintained for all capital contracts.
- 4.22. To proceed with projects only when there is adequate provision in the capital programme, where all necessary Government approvals and authorisation of finance have been obtained and with the agreement of the Chief Financial Officer.
- 4.23. To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Financial Officer and if applicable approval of the scheme through the capital programme.
- 4.24. To consult with the Chief Financial Officer and to seek approval from the Cabinet where the Service Manager proposes to bid for financial support from Government departments to support expenditure that has not been included in the revenue budget or capital programme.

**Maintenance of Reserves**

- 4.25. A local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence; they enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes ("Earmarked reserves") may also be maintained, such as the purchase or renewal of capital items.
- 4.26. The key controls for reserves are
  - (a) to maintain reserves in accordance with the Statement of Recommended Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies;
  - (b) for each reserve established, the purpose, usage and basis of transactions should be clearly identified.
  - (c) Expenditure above £50,000 from reserves should be authorised by the Cabinet.
  - (d) Expenditure below £50,000 from Reserves should be authorised in line with virement limits

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**Responsibilities of the Chief Financial Officer**

- 4.27. To advise the Cabinet and the Council on prudent levels of reserves, and to take account of the advice of the external auditor in this matter.

**Responsibilities of Directors**

- 4.28. To ensure that resources are used only for the purposes for which they were intended.

**5. Accounting Records and Returns**

- 5.1. Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year; these are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

**The Chief Financial Officer is responsible for the following:**

- 5.2. To determine the accounting procedures and records for the Council.
- 5.3. To arrange for the compilation of all accounts and accounting records under his or her direction.
- 5.4. To comply with the following principles when allocating accounting duties:
- (a) separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them
  - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 5.5. To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2003.
- 5.6. To ensure that all claims for funds, including grants, for which he or she is responsible are made by the due date.
- 5.7. To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Governance Risk & Audit Committee to approve the Statement of Accounts by the due date.
- 5.8. To administer the Council's arrangements for under and overspendings to be carried forward to the following financial year.

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- 5.9. To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

#### **Responsibilities of Directors**

- 5.10. To consult and obtain the approval of the Chief Financial Officer before making any changes to accounting records and procedures.
- 5.11. To comply with the principles outlined in paragraph 5.3 when allocating accounting duties.
- 5.12. To maintain adequate records to provide a management trail leading from the source of income and expenditure through to the accounting statements.
- 5.13. To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.
- 5.14. To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Chief Financial Officer.
- 5.15. To ensure that all claims for funds, including grants, for which he/ she is responsible, are made by the due date.

### **6. Risk Management and Control of Resources**

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

#### **Risk Management**

- 6.2. The Governance Risk & Audit Committee is responsible for approving the Council's Risk Management Policy Statement and Risk Strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
- 6.3. The Corporate Leadership Team 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.

#### **Internal Control**

- 6.4. Internal control refers to the systems of control devised by management to help ensure that the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 6.5. The Chief Financial 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

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used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

- 6.6. It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **Audit Requirements**

- 6.7. The Accounts and Audit Regulations 2003 require every local authority to maintain an adequate and effective internal audit.
- 6.8. The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.
- 6.9. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- 6.10. A continuous internal audit, under the direction of the Chief Financial Officer shall be arranged to appraise and review:
- (a) the completeness, reliability and integrity of information, both financial and operational;
  - (b) the systems established to ensure compliance with policies, plans, procedures, laws and regulations;
  - (c) the means of safeguarding assets;
  - (d) the economy, efficiency and effectiveness with which resources are employed; and
  - (e) whether operations are being carried out as planned and objectives and goals are being met.
- 6.11. It shall be the responsibility of internal audit, to review, appraise and report to management:
- (a) the extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from:
    - (i) fraud and other offences; and
    - (ii) waste, extravagance and inefficient administration, poor value for money or other cause.
  - (b) the suitability and reliability of financial and other management data developed within the Council.

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- 6.12. The Head of Internal Audit will provide an opinion on the effectiveness of the internal control environment to the Governance Risk & Audit Committee on an annual basis.
- 6.13. The internal auditors shall have sufficient independence in order to enable them to perform their duties in a manner which will allow their professional judgement and recommendations to be effective and impartial. This shall include the right to report directly to the Monitoring Officer or the Cabinet in appropriate circumstances.
- 6.14. The resource requirements required to complete the Audit Plan will be assessed annually by the Head of Internal Audit and reported to the Governance Risk & Audit Committee. In order to fulfil the Audit Plan and exercise the internal audit responsibilities set out in these financial responsibilities, the Chief Financial Officer shall have the authority to contract with the Audit Commission, other local authorities and such other bodies which are considered appropriate.

#### **Preventing Fraud and Corruption**

- 6.15. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Members and employees at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

#### **Key controls**

- 6.16. The key controls regarding the prevention of financial irregularities are that:
- (a) the Council has an effective corporate anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption.
  - (b) the Revenue section operates a Counter Fraud and Corruption policy covering Housing Benefit and Council Tax Support.
  - (c) all Members and employees act with integrity and lead by example.
  - (d) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.
  - (e) high standards of conduct are promoted amongst members by the Standards Committee.
  - (f) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded.
  - (g) whistle blowing procedures are in place and operate effectively.
  - (h) legislation, including the Public Interest Disclosure Act 1998, is adhered to.

#### **Responsibilities of the Chief Financial Officer**

- 6.17. In conjunction with the Chief Executive, to develop and maintain an anti-fraud and anti-corruption policy.

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- 6.18. To maintain adequate and effective internal control arrangements.
  - 6.19. To ensure that all suspected irregularities are investigated and reported to the relevant committee.
  - 6.20. To report suspicious transactions to the National Criminal Intelligence Service.

#### **Responsibilities of the Monitoring Officer**

- 6.21. To maintain and review a Council-wide register of interests.

#### **Responsibilities of Directors**

- 6.22. To ensure that all suspected irregularities or suspicious transactions are reported to the Chief Financial Officer.
- 6.23. To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 6.24. To ensure that where financial impropriety is discovered, the Chief Financial Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 6.25. To ensure that employees record any hospitality or gifts accepted in a register of interests.

#### **Computer Systems and Data**

##### **Responsibilities of the Head of Business Transformation and IT**

- 6.26. To draw up, maintain and review the Information Security Policy and schedule of assets/equipment.

##### **Responsibilities of Directors**

- 6.27. To comply with the Information Security Policy, including internet and e-mail security, and ensure that all employees are aware that they have a personal responsibility for information security as set out in the policy.
- 6.28. To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 6.29. To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 6.30. To ensure that relevant standards and guidelines for computer systems issued by the Head of Business Transformation and IT are observed.

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- 6.31. To ensure that computer equipment and software are protected from loss and damage through theft, vandalism or other cause.
- 6.32. To comply with all Intellectual Property Law and rights of others and, in particular, to ensure that:
- (a) only software legally acquired and installed by the Council is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.
- 6.33. To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.
- 6.34. To report all breaches of information security, whether actual or suspected, to the Head of IT Services, who shall carry out an investigation and report the results to the Management Team.

### **Intellectual Property**

- 6.35. Intellectual property is a generic term that includes inventions and original writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

### **Key controls**

- 6.36. The key controls for intellectual property are:
- (a) in the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved intellectual property procedures.

### **Responsibilities of the Chief Executive**

- 6.37. To develop and disseminate good practice through the Council's Information Security Policy.

### **Responsibilities of Directors**

- 6.38. To ensure that controls are in place to ensure that employees do not carry out private work in Council time and that employees are aware of an employer's rights with regard to intellectual property.

### **Assets**

- 6.39. The Council holds assets in the form of property, vehicles, equipment and furniture. It is important that assets are safeguarded and used efficiently in

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service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

## **Land and Buildings**

### **Responsibilities of the Head of Finance and Asset Management**

- 6.40. To ensure that an asset register is maintained containing the following minimum information of assets owned or leased by the Council:
- (a) description and delineation of land or buildings, including location and ordinance survey map reference;
  - (b) date of acquisition;
  - (c) purchase details and terms of acquisition;
  - (d) the nature of the Council's interest
  - (e) details of statutory outgoings, including rents and any other charges payable;
  - (f) purpose and power of acquisition;
  - (g) restrictive covenants;
  - (h) any tenancies or other interests granted; and
  - (i) terms of subsequent disposal and review periods.
- 6.41. To ensure that a five year rolling programme of asset valuation is carried out, which will be agreed with the Chief Financial Officer, (if not the Head of Service), and a minimum of 20% of assets re-valued each year. Information on asset valuations, purchases and sales must be provided to the Chief Financial Officer for inclusion in the asset register in accordance with the timetable set by the Chief Financial Officer. These valuations must include the estimated life of assets.
- 6.42. To have delegated authority to acquire and dispose of any property interest in accordance with the Council's Policy on acquisition and disposal up to a value of the Key Decision limit, currently £100 ,000 (including lease disposal, acquisition and renewal), in consultation with the Chief Financial Officer (if not the Head of Service), the Portfolio Holder and local member.
- 6.43. To ensure that a review of terms of leases is carried out in accordance with the conditions of the lease and to maintain a perpetual diary for this purpose.
- 6.44. In some circumstances (for example, purchase at auction) where the value of the transaction proposed exceeds the Key Decision limit (currently £100,000) then the Council's urgency provisions will apply



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**Responsibilities of Directors**

- 6.44. To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession of or enter the land until a lease or agreement, in a form been established as appropriate.
- 6.45. To ensure the proper security of all buildings and other assets under their control.
- 6.46. To ensure that an acquisitions and disposal policy is maintained.

**Vehicles, Plant and Equipment  
Responsibilities of Directors**

- 6.47. To ensure that a register of moveable assets is maintained in accordance with arrangements defined by the Chief Financial Officer.
- 6.48. To ensure that assets are identified, their location recorded and that they are appropriately marked and insured
- 6.49. To maintain inventories and record an adequate description of furniture, fittings, equipment, vehicles, plant and machinery above £5,000 in value.
- 6.50. To carry out an annual check of all items on the inventory in order to verify location and condition and to take appropriate action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council. If an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory.
- 6.51. When the Council's property is removed from Council premises for official purposes the permission of an officer authorised by a Service Manager must be obtained and a record should be kept of all authorised removals.
- 6.52. To ensure that all leased assets are identified, appropriately marked and maintained and a register kept to include location to ensure that they are available for return to lessors at the end of the lease period in accordance with the terms of the lease.

**Stocks****Responsibilities of Directors**

- 6.53. To make arrangements for the care and custody of stocks and stores under their control.
- 6.54. To ensure that adequate records are kept and that stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

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- 6.55. To investigate and remove from the Council's records discrepancies as necessary, or to obtain approval of the Cabinet if they are in excess of £10,000.
  - 6.56. To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, or applied in part exchange for new items purchased by competitive quotation or tender unless, following consultation with the Chief Financial Officer, the Cabinet decides otherwise in a particular case. The Chief Financial Officer shall be consulted before any leased furniture or equipment is sold or part exchanged.
  - 6.57. To seek approval of the Cabinet to write-off redundant stocks and equipment in excess of £10,000.

### **Cash**

#### **Responsibilities of Directors**

- 6.58. To ensure cash holdings on premises are kept to a minimum.
- 6.59. To ensure that a schedule is kept of the Officers who hold keys to safes and similar receptacles and that keys to safes, security systems and similar equipment or apparatus are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Financial Officer as soon as possible. Any duplicate keys shall be kept in such safe places as shall be approved by the Chief Financial Officer.
- 6.60. To ensure that cash holdings do not exceed the maximum amount set by the Chief Financial Officer and that cash held in any safe does not exceed the amount of the insurance limit for that safe.
- 6.61. To ensure that cash handling is carried out in accordance with guidance issued by the Chief Financial Officer.
- 6.62. To notify the Chief Financial Officer of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the Chief Financial Officer.
- 6.63. To ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Council.

### **Petty Cash and Imprest Accounts**

#### **Responsibilities of the Chief Financial Officer**

- 6.64. To provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. No items of expenditure should exceed £20.
- 6.65. To determine petty cash limits, maintain a record of the employees who hold imprest accounts, signed by those employees, and all transactions and petty

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cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

### **Responsibilities of Directors**

- 6.66. To notify the Chief Financial Officer when an authorised officer leaves the department and to ensure that the imprest advanced is accounted for to the Chief Financial Officer, unless responsibility for the imprest is transferred to a different officer, in which case the Chief Financial Officer should be notified of the new account holder.
- 6.67. To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained in the name of North Norfolk District Council.
  - (b) make adequate arrangements for the safe custody of the account
  - (c) produce upon demand by the Chief Financial Officer cash and all vouchers to the total value of the imprest amount
  - (d) record transactions promptly
  - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
  - (f) provide the Chief Financial Officer with a certificate of the value of the account held at 31 March each year
  - (g) do not allow reimbursement of travel and subsistence claims from the imprest account.

### **Treasury Management and Banking**

- 6.68. The Council has adopted CIPFA's Code of Treasury Management in the Public Services.
- 6.69. The Council is Responsible for approving the Treasury Management Policy Statement. The Policy Statement is proposed to the Council by the Cabinet. The Chief Financial Officer has delegated responsibility for implementing and monitoring the statement
- 6.70. All money in the hands of the Council is controlled by the Chief Financial Officer.
- 6.71. The Chief Financial Officer is responsible for reporting to the Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- 6.72. All executive decisions on borrowing, investment or financing shall be delegated to the Chief Financial Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services. Should the Chief Financial Officer wish to depart in any material

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respect from the main principles of the Code of Practice the reasons should, in the first instance be disclosed in a report to the Cabinet.

- 6.73. The Chief Financial Officer is responsible for reporting to the Overview & Scrutiny Committee on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
- 6.74. The Chief Financial Officer is responsible for the opening and closing of bank accounts in the name of the Council. All cheques drawn on the Council's bank accounts shall bear the facsimile signature of or be signed by the Chief Financial Officer, the Chief Executive or such other employee as may be authorised from time to time under the Scheme of Delegation of the Council.
- 6.75. All cheques drawn for an amount in excess of £50,000 that bear the facsimile signature of the Chief Financial Officer or the Chief Executive, shall also be countersigned by one of the employees specified at paragraph 6.74 above.

### **Staffing**

- 6.76. The Council is responsible for determining how support for policy and scrutiny roles within the authority will be organised.
- 6.77. The Chief Executive is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a post.
- 6.78. Directors are responsible for controlling total staff numbers by:
- (a) advising the Cabinet as part of the budget reporting process on the budget necessary in any given year to cover estimated staffing levels;
  - (b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs; and
  - (c) the proper use of appointment, disciplinary and redundancy procedures.

## **7. Financial Systems and Procedures**

- 7.1. Sound systems and procedures are essential to an effective framework of financial accountability and control. The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors to the existing financial systems or the establishment of new systems must be approved by the Chief Financial Officer before they are implemented. However, Directors are responsible for the proper operation of financial processes in their own areas of responsibility.

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- 7.2. Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Chief Financial Officer.
  - 7.3. Directors should ensure that their staff receive relevant financial training.
  - 7.4. Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

#### **Income and Expenditure**

- 7.5. It is the responsibility of Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Service Manager's behalf, or on behalf of the Cabinet, in respect of committing expenditure, payments and income collection, together with the limits of their authority.
- 7.6. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

#### **Responsibilities of the Chief Financial Officer**

- 7.7. To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection and accounting for VAT.
- 7.8. To approve the format of all receipt forms, books or tickets and similar items and to satisfy him/herself regarding the procedures for their supply and control.
- 7.9. To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid within specified time limits.
- 7.10. Where a debt is proven to be irrecoverable or uneconomic to recover, to agree the write-off of bad debts up to £10,000 in each case and to refer larger sums to the Cabinet for its approval.
- 7.11. To keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2003. Such records shall be made available for inspection by Council Members, the external auditor or such other persons who may be entitled to see the register.
- 7.12. To ensure that appropriate accounting adjustments are made following write-off action.
- 7.13. Directors can write off debts up to £1,000, the approval of the Chief Financial Officer to write off debts up to £10,000 must be obtained. Write off debts will

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be in line with the Council's delegated signatory listing up to £20,000. For debts in excess of £20,000 the approval of the Chief Financial officer in consultation with the Portfolio Member is required.

### **Ordering and Paying for Work, Goods and Services**

- 7.14 The Contract Procedure Rules should be followed for all ordering and paying for work, goods and services. These are covered in Chapter 9. In addition the following applies:
- 7.15 Every employee and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 7.16 Official orders must be in a form approved by the Chief Financial Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases, procurement in conjunction with purchase cards, where purchased under a contract in writing or other exceptions specified by the Chief Financial Officer.
- 7.17. All orders must be certified by an authorised employee. Urgent orders should be transmitted by fax whenever possible. In exceptional circumstances orders may be issued by telephone and, in such cases, a signed copy of the order should be made out and retained pending the receipt of the goods.
- 7.18. Each order must conform to the guidelines approved by the Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Chief Financial Officer.
- 7.19. Apart from petty cash, corporate purchasing cards and other payments from advance accounts, the normal method of payment from the Council shall be through the banks' automated clearing system (BACS), by cheque or other instrument or approved method, drawn on the Council's bank account by the Chief Financial Officer. Any arrangements for making payments by these means must be approved by the Chief Financial Officer. The use of direct debit shall require the prior agreement of the Chief Financial Officer.
- 7.20. Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Authority contracts.

### **Responsibilities of the Chief Financial Officer Payments to Employees and Members**

- 7.21. The Chief Financial Officer is responsible for approving the system of payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

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**Taxation**

- 7.22. The Chief Financial Officer is responsible for advising Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 7.23. The Chief Financial Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

**Trading Accounts/Business Units**

- 7.24. It is the responsibility of the Chief Financial Officer to advise on the establishment and operation of trading accounts and business units.

**8. External Arrangements****Partnerships**

- 8.1. The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs where they do not represent a major policy change.
- 8.2. The Cabinet can delegate functions, including those relating to partnerships. Where functions are delegated, the Cabinet remains accountable for them to the Council.
- 8.3. Representation of the Council on partnership and external bodies will be decided in accordance with the scheme of delegation.
- 8.4. The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 8.5. The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, including the verification of third party identities.
- 8.6. The Monitoring Officer must consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He/ she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 8.7. Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

**External Funding**

- 8.8. The Chief Financial Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

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**Work for Third Parties**

- 8.9. The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies unless this is delegated to Directors.

**Part 2. Contract Procedure Rules**

1. Purpose and Scope of Contract Procedure Rules
  - 1.1 The Local Government Act 1972 sections 135 requires the Council to have standing orders for how it enters into contracts. These Contract Procedure Rules (“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 elected members, for entering into contracts on behalf of the Council.
  - 1.2 The Procedure Rules are to ensure that any procurement process for services, works or goods achieves best value and is transparent, open and fair making it possible for all decisions to be transparent and audited satisfactorily. They must be followed every time the Council wishes to enter into a contract for services, works or goods.
  - 1.3 Any references to legislation will include any amendment and/or updated
2. **Principles of Good Procurement**

The principles of good procurement are:

  - 2.1 Achieving value for money and compliance with these Procedure Rules and UK legislation.
  - 2.2 The procurement process should give the Council sufficient information to form a sound view of a potential supplier’s competence without placing unreasonable burdens on them.
  - 2.3 Potential suppliers, including in-house bid teams should:
    - (a) Understand from the outset what categories of information and general standards and responsibilities will be expected of them.
    - (b) Be provided with adequate, accurate and timely information at all relevant stages of the procurement process.
    - (c) Be subject to the same requirements and treated equally throughout the procurement process.
    - (d) Be made fully aware of the basis for evaluation of tenders.
  - 2.4 All decisions should be based on objective measures that are justifiable in terms of the matters specified under the contract.
  - 2.5 These Procedure Rules govern all purchases of works, goods and services across the whole Council; they cover UK Legislative requirements as well as good practice. Should there be any discrepancies between these Procedure Rules and legislation, legislation is the dominant authority and must be followed.



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### **3. Health and Safety, Equal Opportunities and Whistleblowing**

- 3.1 The Council must be satisfied in any procurement process that potential suppliers have satisfactory systems for managing health and safety. Details of their health and safety policy and practice relevant to the performance of the contract must be obtained to ensure it provides satisfactory systems for managing health and safety. Monitoring arrangements must be in place post contract award to ensure that health and safety matters are being properly addressed.
- 3.2 Potential suppliers must be asked to acknowledge that they have seen and understand the terms of the Council's health and safety policy in relation to the contract.
- 3.3 Suppliers of services particularly those which may involve contact with the users of the services, or the wider community, should be asked to demonstrate high standards with regard to fair treatment and equal opportunities. All potential suppliers must be required to comply with the Council's equalities policy.
- 3.4 In accordance with the Council's Whistleblowing Policy, it is expected that contractors will be required to have their own whistleblowing policies and arrangements established in accordance with thresholds set in the Council's contract conditions through the tendering process. Where a contractor does not have its own policy, it is expected that the principles and arrangements of the Council's policy and associated procedures will apply.

### **4. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)**

- 4.1 The Transfer of Undertakings (Protection of Employment) Regulations 2006, commonly known as the TUPE Regulations, should be presumed to apply in any procurement process involving the contracting out of a service area with a discrete budget and staff assigned to it. For the avoidance of doubt this will include any UK Legislation transcribing TUPE or equivalent into domestic legislation. The exception to this is if there are genuine exceptional reasons for TUPE not to apply. These could be where:
- (a) A contract is for the provision of both goods and services, but the provision of services is ancillary in purpose to the provision of the goods.
  - (b) The matter being contracted is essentially new or a one off project.
  - (c) Services or goods are essentially a commodity bought "off the shelf" and no grouping of staff is specifically and permanently assigned to a common task.
  - (d) The features of the service or function subject to the contracting exercise are significantly different from the features of the function previously performed within the Council, or by an existing supplier such

as a function to be delivered electronically and in a way that requires radically different skills, experience and equipment.

- 4.2 Where appropriate Invitations to Tender must state that staff will transfer pursuant to TUPE and sufficient information should be provided to enable potential suppliers to cost the effect of TUPE applying and staff transferring to them. Human Resources will deal with the provision of the appropriate information as necessary. Pensions provided to transferred staff must be certified by the Government Actuary as “broadly comparable” with the Local Government Superannuation Scheme. There should also be an agreement with the new employer’s pension scheme providing that staff will be able to transfer their accrued service credits into that scheme on a day-for-day, or equivalent, basis. Alternatively, if the new employee so wishes transferred staff can continue to have access to the Local Government Superannuation Scheme. Advice on the applicability of TUPE and the clauses to be inserted in Invitations to Tender and contracts should be sought in the first instance from the Chief Financial Officer or the Council’s Legal Officers.
- 4.3 TUPE should also be presumed to apply to a procurement process when an external contract is to be re-let where there are staff involved. Invitations to Tender should state that staff are to transfer pursuant to TUPE and information relating to pay, bonus payments, allowances, holiday entitlement and pension details should be obtained from the incumbent supplier to enable potential suppliers to cost the effect of staff transferring to them.
- 4.4 All contracts to which TUPE applies must contain specific clauses relating to the application of TUPE. These clauses can be obtained from the Chief Financial Officer or the Assistant Director Finance Assets and Legal.

## 5. Expenditure Thresholds

- 5.1 All purchases are subject to the following procedure:

<b>Estimated Value</b>	<b>Minimum No. of Quotations/ Tenders sought</b>	<b>Council Seal</b>	<b>Notes</b>
Under £5,000	Single quotation required	No	A formal procurement process does not need to be followed but the quotation should be in writing

between £5,000 and £15,000	three written quotations to be requested	No	Although a formal procurement process does not need to be followed, value for money still needs to be demonstrated e.g. obtain written quotations.
Between £15,001 and £74,999	3 written quotations required*	No	Unless a recognised trade or professional contract is to be used (e.g. JCT) then the Council's standard terms and conditions must be used. Consideration should also be given to the use of Liquidated Damages (a predetermined and realistic estimate of potential loss arising from default under a contract). If Liquidated Damages are not considered appropriate then the reason should be given on the contract file. *In a case where it is not possible to obtain three quotations, written advice of the Chief Financial Officer/ Monitoring Officer should be obtained.
£75,000 – up to UK Procurement Thresholds	3 tenders	Yes	In addition to the above the finance department as part of the procurement process should undertake a financial appraisal of all potential suppliers. Consideration should also be given to whether a performance bond is appropriate and if UK Procurement Directives apply. Both the Chief Financial Officer and Monitoring Officer must be actively involved in the procurement process of the project where the estimated value is £100,000 or above. Refer to 22 for performance bond or a parent company guarantee requirements
Over UK procurement threshold	An advertisement should be placed on the Government 'Find a Tender' service		Standard Selection Questionnaire [SSQ] should be considered in the circumstances (The procurement officer must be consulted in these circumstances)

5.2 Those officers wishing to enter into contracts must use reasonable endeavours to achieve the minimum number of quotations/tenders referred to in the above table. If it is not possible to achieve the minimum number of quotations/tenders a clear note must be placed on the contract file giving the reasons why the minimum number could not be achieved.

5.3 In situations where there is only one quotation or tender and one of the circumstances referred to in Procedure Rule 9 does not apply, the agreement of the Chief Financial Officer must be obtained before any contract is entered into in respect to all contracts with an estimated value exceeding £74,999.

## 6. Calculating the Contract Value

6.1 The value of the contract is the total amount (including VAT at the appropriate rate) the Council, as a whole, plans or might spend over the whole duration of the contract (including extensions) on a given requirement. The estimated value should be calculated as follows:

6.1.1 A lump sum contract inclusive of VAT – this is a one off, capital project, only used by one person/department – the value is the total budget available (including any contingency)

6.1.2 A periodic contract – this is where this is an annual, regular, potentially on-going requirement, by either one or more departments – the contract value is the potential complete spend inclusive of VAT and for the overall duration. For example, if one service purchased 30 units of a product at £100 per unit (total cost of £3,000), the procedure rules would not be triggered. However, if each of the 30 services within the Council each purchases 30 units of a product at £100 per unit (costing £90,000) then these Procedure Rules will apply.

6.2 In no circumstances may any item or group of items be broken down into small purchase packages to avoid the requirements of these Procedure Rules.

## 7. Invitation to Tender/Quotations

The following methods should be used for selecting potential suppliers:

Value of Contract	Method of Selecting List	Standard Selection Questions (“SSQ”)
Below £75,000	Advertising on Council website and contracts finder. If appropriate advertisement with a relevant trade publication.	Not essential.

Over £75,000 and below UK Thresholds	An advertisement should be placed on the Council's website and Contracts Finder inviting applicants to apply through the use of an automated, interactive e-tendering system.	SSQ should be considered in the circumstances.
Over UK Thresholds	An advertisement should be placed on the Government 'Find a Tender' service	SSQ should be considered in the circumstances.

## 8. Standard Selection Questionnaires (“SSQ”)

- 8.1 The purpose of using an SSQ is to form a reasonable basis on which to justify the exclusion of potential suppliers from participating in a formal tender exercise before its commencement.
- 8.2 The Council is not obliged to use an SSQ and will consider in the circumstances whether or not it is appropriate. Where an SSQ is used the Crown Commercial Services template SSQ shall be used unless the Chief Financial Officer agrees in writing to a different form.

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## **9. Electronic Tendering**

9.1 The Council is required to advertise and manage all procurements of £75,000 and above electronically through its online tendering system portal.

9.2 In accordance with the above the Council will:

9.2.1 Issue all tender information via the portal;

9.2.2 Manage all questions through the portal, ensuring all information is made public (except where commercially sensitive or subject to the Data Protection Act);

9.2.3 Only accept tenders correctly returned via the portal;

9.2.4 Only accept on-time tenders (unless expressly agreed otherwise by Procurement, Legal, Audit and the Chief Financial Officer);

Deviation from the requirements must be with the express approval of Procurement, Audit and the Chief Financial Officer.

9.3 All post tender clarifications must be via the portal.

9.4 All successful and unsuccessful award notifications must be via the portal.

## **10. Specification**

10.1 All invitations to quote or tender for works (a building contract) must be based on a definitive specification. The purpose of a service (where a supplier is carrying out a service such as Grounds Maintenance) specification is to define the Council's objectives for the service to be provided and the requirements of potential suppliers. As far as possible requirements should be specified in terms of output and performance rather than how the potential supplier is to go about providing the service.

10.2 Technical specifications should refer to national standards or schemes and or equivalent where available.

## **11. Exemptions**

11.1 It is acknowledged that the market place or extenuating circumstances does not always allow the procedures to be followed. Subject to compliance at all times with procurement rules, contracts can also be entered into in the following circumstances:

There is no genuine competition, for example, works, supplies and services:

- (a) are sold only at a fixed price and no reasonably satisfactory alternative is available;
- (b) are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available;
- (c) are of a proprietary type only available from a single supplier;
- (d) are required for repairing or servicing existing specialist plant or equipment;
- (e) involve the provision of highly specialised professional legal or other services;

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- (f) constitute a reasonable short term extension (under 6 months) of a time-based contract or form part of a serial programme, the terms having been negotiated with the contractor on the basis of rates and prices contained in an initial contract awarded competitively;
  - (g) are for the supply of goods or services where there is only one supplier and no acceptable alternative;
  - (h) are for loans arrangements;
  - (i) are for the extension, addition to or maintenance of existing buildings, works plant or equipment, where the Cabinet has decided that this can only be done satisfactorily by the original supplier; or
  - (j) where the Cabinet considers it desirable on commercial grounds to accept a quotation from a supplier already engaged by the Council on a project provided that further services have a connection with the original project and that the price is not more than 75% of the original contract sum.

**Emergencies:**

- (k) A waiver is necessary because of unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services. In extreme circumstances it is accepted that prior written approval may not be possible.

**Disruption;**

- (l) The contract is an extension to an existing contract and a change of supplier would cause disproportionate technical difficulties, diseconomies of scale or significant disruption to Council services (such as software procurement).

**Other;**

- (m) That, in the view of the Monitoring Officer, the timescales involved with a traditional procurement process would disadvantage the Council.

11.2 All exemptions, and the reasons for them, must be recorded within the Procurement Exemption form. Exemptions shall be signed by the Officer raising the exemption request and countersigned by the Procurement Officer, the Section 151 Officer and the Monitoring Officer. A process guide is included as part of the Exemption Form.

11.3 Exemptions will be summarised and reported to the Governance, Risk and Audit Committee as a standing item at each meeting and then at year end as part of the Monitoring Officer's Annual Report (covering the full financial year).

11.4 It should be noted that the contract cannot commence until the exemption form has been satisfactorily completed, with the exception of an emergency situation, when the form must be completed as soon as practical.

## **12. Procurement with Others/ Collaborative Procurement**

12.1 In order to secure value for money the Council may enter into collaborative procurement arrangements. The relevant Director must consult the Monitoring Officer where the purchase is to be made using collaborative procurement

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arrangements with another local authority, government department or statutory undertaker.

- 12.2 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Procedure Rules and no exemption is required. However, agreement must be sought from the Monitoring Officer.
- 12.3 All purchases made via a local authority purchasing and distribution consortium (Framework agreements) are deemed to comply with these Procedure Rules and no exemption is required. However, purchases above the UK Threshold must be let under the UK Procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the UK Procedures on behalf of the Council and other consortium members.
- 12.4 The use of e-procurement technology does not negate the requirement to comply with all elements of these Procedure Rules, particularly those relating to competition and value for money.

### 13. **Standards and Award Criteria**

- 13.1 The officer must ascertain what are the relevant British, or equivalent International standards that apply to the subject matter of the contract. The officer must include those standards that are necessary properly to describe the required quality. The Chief Financial Officer must be formally consulted before any officer decides to use standards other than UK standards.
- 13.2 The officer must define and document award criteria that are appropriate to the purchase, before tenders are sought. Award criteria must be designed to secure an outcome giving best value for money for the Council. The basic criteria shall be:
- 13.2.1 Whole life cost - where payment is to be made by the Council. Whole life cost is defined as total cost paid by the Council regarding this product or service for the duration of the contract period. Examples include vehicles: - initial purchase price, plus fuel, plus maintenance, road tax, insurance etc.
  - 13.2.2 Highest price - if payment is to be received.
  - 13.2.3 Most economically advantageous offer - where considerations other than purchase price also apply.
- 13.3 If the last criterion is adopted, it must be further defined by reference to sub-criteria. Sub-criteria may refer only to relevant considerations. These may include price, service, quality of goods, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance, partnering, long term relationships, and any other relevant matters.



- 13.4 Award criteria must not include:
- 13.4.1 Non-commercial considerations.
  - 13.4.2 Matters that discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.
  - 13.4.3 Matters that are anti-competitive within the meaning of the Local Government Act 1988.

#### 14. **Invitation to Tender/ Quotations**

- 14.1 The Invitation to Tender shall state that no tender will be considered unless it is received by the time and date stipulated in the Invitation to Tender and through the e-tendering system. No tender delivered in contravention of this clause shall be considered.

- 14.2 All Invitations to Tender shall include:

- 14.2.1 A specification that describes the Council's requirements in sufficient detail and providing such information to enable the submission of competitive offers;
- 14.2.2 A requirement for suppliers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the supplier to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- 14.2.3 A requirement for suppliers to complete fully and sign all tender documents including a Form of Tender and certificates relating to canvassing and non-collusion;
- 14.2.4 Notification that tenders are submitted to the Council on the basis that they are compiled at the supplier's expense.
- 14.2.5 A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance;
- 14.2.6 A stipulation that any tenders submitted by fax or email shall not be considered;
- 14.2.7 The method by which any Invitation to Tender or Quote must state that the Council is not bound to accept any quotation or tender;
- 14.2.8 How arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

- 14.3 All Invitations to Tender or Quote must specify the service, works or goods that are required, together with the terms and conditions of contract that will apply.

- 14.4 All suppliers invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

#### 15. **Shortlisting**

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15.1 Any short listing must have regard to financial and technical standards relevant to the contract and the pre-defined award criteria. An SSQ and evaluation matrix can be obtained from the Procurement Officer if required.

## **16. Submission, Receipt and Opening of Tenders**

16.1 Period for suppliers' response:

16.1.1 Suppliers invited to quote or tender must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the urgency of the contract requirement. Normally at least 21 days should be allowed for submission of tenders.

16.1.2 The UK Procedure / Directives lay down specific time periods regarding the minimum tender period.

16.2 Tenders received by fax or email must be rejected.

16.3 The Procurement Officer or nominated officer must ensure that all tenders are downloaded at the same time when the period for their submission has ended.

16.4 Tenders over the value of £74,999 must be returned electronically via the Council's e-tendering system.

## **17. Post Tender Procedures**

17.1 Providing clarification of an 'Invitation to Tender' to potential or actual suppliers or seeking clarification of a tender whether in writing or by way of a meeting is permitted.

17.2 The Chief Financial Officer and Procurement Officer must be formally consulted wherever it is proposed to enter into post-tender negotiation, and such negotiations must only be conducted in accordance with the guidance issued by the Chief Financial Officer.

17.3 Negotiations must be conducted by a team of at least two officers; one must be from a division independent to that leading the negotiations.

17.4 Officers appointed to carry out post tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

17.5 Where post tender negotiation results in a substantial change to the specification (or contract terms) the contract must not be awarded but re-tendered.

## **18. Evaluation and Award of Contract**

18.1 Contracts must be evaluated and awarded in accordance with the award criteria.

- 18.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the supplier, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price must be requested to accord with the rates given by the supplier.
- 18.3 Directors shall ensure that submitted tender prices are compared with the respective budget and any pre-tender estimates, and that any discrepancies are examined and resolved satisfactorily.
- 18.4 Where the total value is over the UK Threshold for Public Procurement, the Officer must notify all suppliers simultaneously and as soon as possible of the intention to award the contract to the successful supplier and stipulating the standstill period applied in the notification. If an unsuccessful supplier challenges the decision the Officer shall not award the contract and shall immediately seek the advice of the Chief Financial Officer.
- 18.5 The Officer shall debrief in writing all those suppliers who submitted a bid about the characteristics and relative advantages of the leading supplier. No information, other than the following, should be given without taking the advice of the Chief Financial Officer:
- 18.5.1 the bidders own score against the award criteria.
  - 18.5.2 Total score of the winning bidder.
  - 18.5.3 The name of the supplier who has been awarded the contract.
  - 18.5.4 The standstill period applied.
- 18.6 The approval level for accepting tenders and quotations is as follows:

Up to £100,000	Directors
Up to £500,000	Chief Officer
Above £500,000	Cabinet

## 19. Contract Formalities

- 19.1 Agreements shall be completed as follows (subject to delegated financial limits):

Total Value	Method of Completion
Up to and including £100,000	Signature
Above £100,000	Sealing

- 19.2 All contracts must be concluded before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the relevant Chief Officer. An award letter is insufficient.

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## 20. **Signature**

20.1 The officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

## 21. **Sealing**

21.1 Where contracts are executed under seal, the affixing of the Council's common seal must be attested to, by or on behalf of the Assistant Director Finance Assets and Legal. The Assistant Director Finance Assets and Legal is responsible for the process of sealing contracts and will also provide advice as to whether a contract requires sealing or otherwise.

21.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the Cabinet or Directors acting under delegated powers.

21.3 A contract must be sealed where:

21.3.1 The Council wishes to enforce the contract for more than six years after its end.

21.3.2 The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services.

21.3.3 Where there is any doubt about the authority of the person signing for the other contracting party.

21.3.4 Where a bond is established on behalf of the contractor(s) or their guarantors.

21.3.5 Where the total value is expected to exceed £100,000.

## 22. **Bonds and Parent Company Guarantees**

22.1 The officer must consult the Chief Executive and Chief Financial Officer about whether a Parent Company Guarantee is necessary where a bidder is a subsidiary of a Parent Company and where:

22.1.1 The total value exceeds £500,000;

22.1.2 The award is based on evaluation of the parent company;

22.1.3 it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract;

22.1.4 There is some concern about the stability of the supplier; or

22.1.5 the potential risks in the contract merit it.

22.2 The officer must consult with the Corporate Directors and Chief Financial Officer about whether a Bond is needed where:

22.2.1 The total value exceeds £1,000,000;

22.2.2 It is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the supplier.

## 23. **Prevention of Corruption**

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- 23.1 The Officer must comply with the Employee Code of Conduct and the Council's Anti-Fraud & Corruption Strategy and must not invite or accept any gift or reward in respect of the award or performance of any contract.
- 23.2 It will be for the Officer to prove that anything received was not received corruptly.
- 23.3 High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Procedure Rule 23.4.
- 23.4 The following clause must be inserted in every written Council contract:

*“The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:*

- (a) *offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or*
- (b) *commit an offence under Section 117(2) of the Local Government Act 1972 or the Bribery Act 2010; or*
- (c) *commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council Members, contractors or employees.*

*Any clause limiting the Contractor’s liability shall not apply to this clause.”*

## 24. Declaration of Interests

- 24.1 If it comes to the knowledge of a Member or an employee of the Council that a contract in which he or she has a personal interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Chief Executive, who shall report such declarations to the Executive.
- 24.2 Such written notice is required, irrespective of whether the personal interest is direct or indirect. An indirect personal interest is distinct from a direct personal interest in as much as it is not a contract to which the Member or employee is directly a party.
- 24.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a personal interest for the purposes of this Procedure Rule.
- 24.4 Democratic Services shall maintain a record of all declarations of interests notified by Members and Officers.

## 25. Post Contract Monitoring and Evaluation

- 25.1 During the life of the contract the Officer must monitor in respect of:
- Performance

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- Compliance with specification and contract
  - Cost
  - Any Best Value requirements
  - User satisfaction and risk management

25.2 Where the total value of the contract exceeds £200,000, the relevant Officer must make a written report to the Chief Executive and to the relevant Portfolio Holder evaluating the extent to which the purchasing need was met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

## **26. Failure to Comply with the Contract Procedure Rules**

26.1 Officers must comply at all times with the Contract Procedure Rules. The only exceptions to this are contained within paragraph 11 cited above.

26.2 If an Officer does fail to comply or discovers that another Officer has failed to comply with the Contract Procedure Rules, then this must be reported to their line manager immediately. Failure to comply and/or failure to report may be considered under the Disciplinary Procedures of the Council in force.

26.3 In addition to the possible disciplinary consequences, a report will need to be prepared for consideration by the Council's Cabinet explaining the circumstances of the failure to comply with the Contract Procedure Rules and seeking a retrospective waiver accordingly.

## **CHAPTER 10**

### **OFFICER EMPLOYMENT PROCEDURE RULES**

#### **1. Responsibility for the Discharge of Employment Functions**

1.1 The final decision on the appointment or dismissal of the Head of Paid Service or on the appointment of any chief officer shall be by resolution of the Council on the recommendation of the Employment and Appeals Committee.

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- 1.2 The appointment, dismissal of and the taking of any disciplinary action against any chief officer shall, except where required to be by resolution of the Council under Rule 1.1 above, be conducted by the Employment and Appeals Committee (or a sub-committee appointed for that purpose).
  - 1.3 The Employment and Appeals Committee must include at least one member of the Cabinet.
  - 1.4 The functions of appointment and taking disciplinary action against any Officer of the Authority other than those listed in paragraph 1.5 below, shall be discharged on behalf of the Council by the Chief Executive or an Officer nominated by him/her.
  - 1.5 Rule 1.4 above shall not apply to the appointment of or disciplinary action against:
    - (i) the Head of Paid Service;
    - (ii) a Statutory Chief Officer;
    - (iii) a non-statutory Chief Officer.

## **2. Recruitment and Appointment**

### **Declarations**

- 2.1 The Council requires any candidate for appointment as an Officer to state in writing whether they are the spouse, co-habitee, partner, parent or child, or other close family relative or friend of an existing Councillor or Officer of the Council; or the partner of such persons.
- 2.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Head of Service or an Officer nominated by him/her.

### **Seeking support for appointment**

- 2.3 Subject to paragraph 2.5 below, 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.
- 2.4 Subject to paragraph 2.5 below, no Councillor will seek support for any person for any appointment with the Council.
- 2.5 Nothing in paragraphs 2.3 and 2.4 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **Conflicts of interest**

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- 2.6 No Officer shall take part in the appointment or dismissal of, or take any disciplinary action against any Officer, where the officer or candidate is the spouse, co-habitee, partner, parent or child or other close family relative or friend of the Officer concerned.
- 2.7 Where an Officer would be in breach of the rule in paragraph 2.6 above, he/she shall notify the Chief Executive who shall arrange for another Officer to take over that Officer's responsibility for the matter. Where the Officer with the conflict of interest is the Chief Executive, he/she shall inform the Leader and the Monitoring Officer, who shall make such arrangements as are necessary to avoid such conflict.
- 2.8 A candidate who fails to comply with the provisions in paragraphs 2.1 to 2.7 above shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice.

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

- 3.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
- (a) draw up a statement specifying:
    - i) the duties of the Officer concerned; and
    - ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.

### **4. Appointment of Head of Paid Service**

**Note:** *This process is subject to mandatory standing orders regulations.*

- 4.1 The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.
- 4.2 The Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Council.



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## **5. Appointment of Chief Officers**

*This process is subject to mandatory standing orders regulations.*

- 5.1 A committee or sub-committee of the Council will appoint Chief Officers. That committee or sub-committee must include at least one member of the Cabinet.
- 5.2 An offer of employment as a Chief Officer shall only be made where no well-founded objection from any Member of the Council has been received.

## **6. Other appointments**

- 6.1 Officers below Chief Officer. The appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- 6.2 Assistants to political groups. The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **7. Disciplinary action**

- 7.1 The Head of Paid Service, Monitoring Officer and Chief Financial Officer may be suspended by the Employment and Appeals Committee whilst an investigation takes place into alleged misconduct. The Chairman of the Employment and Appeals Committee shall have the power to suspend the Statutory Officers immediately in an emergency if an exceptional situation arises whereby allegations of misconduct by the officer are such that his / her remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the authority. The suspension will be on full pay and should be reviewed after two months.
- 7.2 Disciplinary action relating to the Chief Executive and the Statutory Officers, shall be undertaken in accordance with the Model Disciplinary Procedure as published by the Joint Negotiating Committee (JNC) for Local Authority Chief Executives.
- 7.3 No disciplinary action, other than suspension, shall be taken against any of these Statutory Officers except in accordance with a recommendation in a report of a designated independent person.
- 7.4 Disciplinary action relating to Chief Officers, other than the Chief Executive and the Statutory Officers, shall be undertaken in accordance with the Model Disciplinary Procedure as published by the Joint Negotiating Committee (JNC) for Local Authority Chief Officers.
- 7.5 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary (e.g. as a witness) for any investigation or inquiry into alleged misconduct, though the Council's

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disciplinary procedures, as adopted from time to time, allow a right of appeal to an independent senior officer of the Council in respect of disciplinary action.

## **8. Dismissal**

8.1 In the following paragraphs—

(a) “*local government elector*” means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts.

(b) “*the Panel*” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority.

(c) “*relevant meeting*” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer.

8.2 A chief finance officer, head of the authority's paid service or monitoring officer (each defined as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.

8.3 The authority must invite relevant independent persons (meaning persons appointed under section 28(7) of the Localism Act 2011) to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

8.4 “*relevant independent person*” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

8.5 The authority must appoint to the Panel at least two such relevant independent persons who have accepted an invitation issued in accordance with paragraph 8.3 in accordance with the following priority order—

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

8.6 The authority must appoint any Panel at least 20 working days before the relevant meeting.

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

(a) any advice, views or recommendations of the Panel;

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- (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.

- 8.7 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011.
- 8.8 Councillors will not be involved in the dismissal of any Officer below Chief Officer except where such involvement is necessary (e.g. as a witness) for any investigation or inquiry into alleged misconduct; the Council's disciplinary procedures allow a right of appeal to an independent senior officer of the Council in respect of dismissals.

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

Councillors will not be involved in the dismissal of any Officer below Chief Officer except where such involvement is necessary (e.g. as a witness) for any investigation or inquiry into alleged misconduct; the Council's disciplinary procedures allow a right of appeal to an independent senior officer of the Council in respect of dismissals.

## **9. Other Policies**

- 9.1 Except as set out in these Employment Rules, or as required by law or under a contract of employment, all appointments shall be made and disciplinary action taken in accordance with the Council's Human Resources policies and procedures which may add to these Rules but not override them.

## **10. Definitions**

- 10.1 In these Rules "the Statutory Chief Officers" means the Officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 Local Government Finance Act 1988 for the administration of the authority's financial affairs.
- 10.2 In these Rules "Non-Statutory Chief Officer" means, subject to the following provisions of this section—
- (a) a person for whom the head of the Authority's paid service is directly responsible;

- (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the Authority's paid service; and
- (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

## **CHAPTER 11**

### **MEMBERS' ALLOWANCES**

#### **1. Introduction**

- 1.1 The Council established a panel of independent persons to review its Members' Allowances Scheme. The Council amended this scheme on 26 February 2020 after taking account of the Panel's recommendations.

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- 1.2 This Scheme is made pursuant to the Local Authorities (Members' Allowances) (England) Regulations 2001 and the Local Authority (Members' Allowances) (England) Regulations 2003 ("the Regulations").
  - 1.3 Details of the roles and responsibilities of a District Councillor can be found at Schedule 2.
  - 1.4 When attending a formal meeting of the Council, it is important that each Member checks they have signed the attendance record. There is an attendance requirement under section 85 Local Government Act 1972. Where a Member fails throughout a period of six consecutive months, from the date of the last attendance, to attend any formally constituted meeting of this Local Authority, then, subject to certain exceptions, they cease to be a Member of the Council and there is a general duty to then declare the office vacant, unless the Member has provided prior written reason which has been approved, in writing by the Monitoring Officer, before the expiry of the six month period. Where such approval is granted, it will be for a specific period. Thereafter, unless a further period has been granted, the approval will cease to apply.

## **2. Schemes of Allowances**

- 2.1 The allowances payable to Members are:
  - (a) The Basic Allowance
  - (b) Special Responsibility Allowance
  - (c) Travelling and Subsistence Allowance
  - (d) Carers' Allowance

## **3. The Scheme**

- 3.1 North Norfolk District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2001 and the Local Authorities (Members' Allowances) (England) Regulations 2003 and any subsequent amendments (hereinafter referred to as "the Regulations"), made this Scheme of Allowances, which may be cited as the "North Norfolk District Council Members' Allowances Scheme", on 26 February 2020.

## **4. Definitions**

- 4.1 Except as follows or where the context otherwise admits, this Scheme shall be interpreted in accordance with the Council's Constitution.
- 4.2 "The Authority" means North Norfolk District Council or any person or body authorised to act on its behalf in relation to this Scheme.

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- 4.3 "Co-opted Member" means any co-opted or added Member of a committee or other body to which this scheme relates regardless of whether or not the Co-opted Member receives a Co-opted Members' Allowance.
- 4.4 In this Scheme, "approved duties" means attendance by a Member at any:
- (a) formally convened meeting of the Council or of the Cabinet, a committee or sub-committee to which he/she has been appointed by the Authority
  - (b) formally convened meeting of the Cabinet, committee or sub-committee as the local ward Member, for the purposes of making any representations at that meeting under any procedures approved by that body or under the Constitution of the Authority
  - (c) a formally convened meeting of any body (including any body such as a working party or consultative group) to which the Authority makes appointments or nominations or of any committee or sub-committee of such a body
  - (d) other meeting the holding of which is authorised by the Council, the Cabinet, the Leader, a Cabinet Member (acting within the scope of his/her portfolio), a committee or sub-committee, a Chairman, a joint committee of the Authority and one or more other authorities, a sub-committee of such a joint committee or by the Chief Executive
  - (e) training sessions and presentations for Members organised by or on behalf of the Authority
  - (f) meeting with a Corporate Director or Head of Service where the Officer has requested the Member's attendance in writing or by e-mail or where the Member is a Member of the Cabinet or the Leader of an opposition Political Group
  - (g) a meeting of any association of authorities of which the Authority is a Member
  - (h) duties undertaken on behalf of the Authority
- 4.5 "Sub-committee" means, unless the context otherwise requires, a sub-committee appointed by the Council, a Committee or an Officer acting under delegated powers and shall include a working party or panel.
- 4.6 "Year" means the 12 months ending with 31 March.

## **5. Basic Allowance**

- 5.1 A Basic Allowance shall be paid to each Member in accordance with Schedule 1 of this Scheme.

## **6. Special Responsibility Allowances**

- 6.1 Special Responsibility Allowances shall be paid in accordance with Schedule 1 to this Scheme. Where a Member undertakes a number of roles that may

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attract the payment of Special Responsibility Allowances, then that Member shall be paid for only one of these roles. Such payment will be at the highest level of Special Responsibility Allowance to which the Member is entitled.

- 6.2 In the event of a person receiving a Special Responsibility Allowance being absent or substantially unable to act for a period of at least three months, the Council may by resolution for such period as it determines reduce the level of Special Responsibility Allowance payable to that person and instead resolve to pay the allowance, or part of it, to any person appointed as a deputy or Vice-Chairman.

## **7. Travelling and Subsistence Allowances**

- 7.1 Subject to paragraphs 7.2 to 7.4 below, travelling and subsistence allowances in respect of Approved Duties undertaken by Members and Co-opted Members are payable in accordance with Schedule 1 to this Scheme.

- 7.2 Travelling and subsistence costs by or on behalf of Members shall only be incurred and accounted for in accordance with this Scheme.

- 7.3 The following provisions apply to Travelling Allowances:

- (a) Members are asked to ensure that their journey is necessary and that other means of communication - e-mail, telephone etc are not available or appropriate
- (b) Members are encouraged to use public transport where practicable
- (c) Public transport is reclaimable at standard rates wherever possible
- (d) Taxi and private hire fares may be claimed where alternative public or private transport arrangements are not reasonably available
- (e) Where taxi or car travel is unavoidable, Members travelling to the same location are encouraged to share vehicles
- (f) Public transport, taxi, private hire and parking costs will only be reimbursed against a ticket or formal receipt.

- 7.4 The following provisions apply to Subsistence Allowances:

- (a) The allowance is only payable on proof of actual expenditure
- (b) For the purpose of calculating time, account should be taken of the time on Approved Duties, including travelling time, from leaving home until return
- (c) If a Member on an Approved Duty is staying at a hotel, he/she may claim the actual cost of standard meals supplied at that hotel; no payment will be made in respect of the purchase of alcohol.

## **8. Carers' Allowances**

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- 8.1 Subject to paragraph 8.2 below, Members and the co-opted members listed in Schedule 1 shall be entitled to claim for the care of dependants in accordance with the rates in Schedule 1 to this Scheme.
- 8.2 The following provisions apply to Carers' Allowances:
- (a) Payments shall be claimable in respect of children up until their fourteenth birthday or in respect of dependants where there is medical or social worker evidence that care is required
  - (b) The Council reserves the right to require evidence that there is a reasonable need for the level of care in respect of which a claim is made.
  - (c) The allowance shall be paid as a reimbursement of actual incurred expenditure against receipts. If receipts are unavailable the payment will be made through the Council's payroll and be subject to tax and national insurance contributions
  - (d) When there is more than one Member in a household, only one claim can be made in respect of each person cared for
  - (e) The allowance shall not be payable to a Member of the claimant's own household
  - (f) Any allegation of abuse of the Scheme shall be referred to the Council's Standards Committee for adjudication
  - (g) The payment of a carers' allowance shall also be paid in relation to the attendance at approved outside bodies.

## **9. Co-opted Members**

- 9.1 Co-opted members are able to claim travelling expenses for attending meetings. In addition they will be paid 2% of the basic allowance per meeting attended.

## **10. National Insurance and Social Security and Income Tax**

- 10.1 Payment of allowances shall be subject to such deductions as may be statutorily required in respect of national insurance and social security and income tax.

## **11. Renunciation**

- 11.1 A Member may, by notice in writing to the Democratic Services Manager, elect to forgo any part of his / her entitlement to an allowance.

## **12. Payments and Claims**

- 12.1 Payment of Basic and Special Responsibility Allowances shall be made in instalments of one-twelfth of the amounts specified on a monthly basis.



- 12.2 Where a person takes office part way through a Year, a proportionate part of any annual allowance is payable unless the allowance is a Special Responsibility Allowance for serving on a committee which is appointed for a period of less than a year.
- 12.3 The Council may determine that an allowance or a rate of allowance will not come into effect until a date during the Year.
- 12.4 Claims for travelling and subsistence allowances and dependents carers' allowance should be completed monthly.

### 13. Record of Allowances Paid

- 14.1 A record of the payments made by the Authority to each Member and Co-opted Member shall be maintained in accordance with the Regulations and shall be published in accordance with the Regulations.

### 14. Publication of Scheme

- 15.1 In accordance with the Regulations, as soon as practicable after the making or amendment of any scheme made under the Regulations, arrangements shall be made for its publication within the Authority's area.

### Schedule 1

A Basic Allowance to all elected Councillors of £5,434 pa (to include £180 Broadband Allowance)

Special Responsibility Allowances (a maximum of one per Councillor) are payable, per annum, to the holders of the following positions:

Position	Basic Allowance*	Special Responsibility Allowance	Total Allowance
Leader	£5,905.00	£11,810.00	£17,715.00
Cabinet Members (up to 7)	£5,905.00	£7,854.00	£13,759.00
Committee Chairmen:			
- Overview and Scrutiny	£5,905.00	£3,956.00	£9,861.00
- Audit (GRAC)	£5,905.00	£3,956.00	£9,861.00
- Licensing	£5,905.00	£3,956.00	£9,861.00
- Development	£5,905.00	£4,429.00	£10,334.00

Vice-Chairman of Development Committee	£5,905.00	£1,476	£7,381.00
Chairman of Standards Committee	£5,905.00	£108.68 per meeting chaired	£5905.00 + £108.68 per meeting chaired
Chairman of the Council	£5,905.00	£2,953.00	£8,858.00
Vice-Chairman of the Council	£5,905.00	£1,476.00	£7,381.00
Leader of Opposition Group: Conservative (6 Members)	£5,905.00	£1,771.00	£7,676.00
Leader of Opposition Group: Independent (4 Members)	£5,905.00	£708.00	£6,613.00
Member	£5,905.00	n/a	£5,905.00
Co-opted Member of a committee	n/a	£108.86 per meeting	£108.86 per meeting

\*Includes £180.00 Broadband Allowance

The total allowance payable combines both the basic allowance and the Special Responsibilities Allowances.

The Carers' Allowance is set at £10 per hour wage for Child care and £20 per hour wage for specialist care, with discretion being delegated to the Democratic Services Manager to increase this amount when individual circumstances justify a higher payment. Travel and subsistence payable for approved Council duties is calculated in accordance with the prevailing national levels for local authority Councillors. These are as follows for the year ended April 2020:

#### **Mileage**

Car (regardless of engine size)	45 pence per mile
Motorcycle	24 pence per mile
Cycle	20 pence per mile
Car Share	5 pence per mile

#### **Subsistence**

Breakfast	£6.88 (Where an overnight stay is required))
Lunch	£8.00 (When away for entire lunch period 12.00 – 14.00)
Evening meal	£20.00 (When duty/absence extends beyond 7.30 pm)

#### **Internet**

A contribution is also made to the cost of internet connection to facilitate electronic access to information, enabling Members to fulfil their role effectively. The contribution available to all Members is currently £15 per month (£180 pa). This is incorporated into the Basic Allowance from 1 May 2020.

## Schedule 2

### **THE ROLES AND RESPONSIBILITIES OF AN ELECTED MEMBER TO NORTH NORFOLK DISTRICT COUNCIL**

As well as taking part in the decision making process of the Council, Members also represent the local community in the District. In carrying out their duties as representatives of the Council the highest standards of conduct and ethics should be maintained at all times.

#### **All Members of North Norfolk District Council, Executive or Non – Executive have to:**

- participate in the Governance and Management of the Council by attending and taking up an active role in the Council's meetings and the Committee's, Working Groups and Panels they have been appointed to.
- represent the Council on outside bodies to which they are appointed and report back at least annually on issues relevant to the Council via the Members Bulletin and or the Cabinet/Council.
- at all times, act as an ambassador for the Council and the District.

#### **There is also a clear Constituency Role for Members in representing the community within the District and a requirement to:**

- engage with the key partners and stakeholders in the District such as town and parish councils, tenant associations and resident associations.
- where appropriate, attend meetings in their Ward such as with voluntary organisations.
- be available for all members of the community acting as a facilitator in meeting local needs.
- Keep informed on key issues that affect the District and their community.
- promote their community.
- represent the interests of their Ward and individual constituents by responding to enquiries and representations in a fair and impartial way.
- consult their community on the development and implementation of policies.

#### **All Members must ensure that they maintain at all times the highest standards of conduct and ethics and in doing so:**

- act within the Law and the Council's Standing Orders and Rules for Financial Governance.
- Observe the Code of Conduct
- accept a personal responsibility to undertake training and development opportunities to enable them to effectively carry out their responsibilities as a member.

**According to the collective and individual duties allocated to Members, the following responsibilities apply:**

### **THE CHAIRMAN OF THE COUNCIL**

The Chairman of the Council promotes North Norfolk in a positive manner and:

- represents the whole Council during his/her term of office
- promotes public involvement in the Council's activities
- as the first citizen of North Norfolk, performs an ambassadorial role both inside and outside the District and to attend such civic and ceremonial functions as the Council or (s)he determines appropriate and also to host such functions as the Council or (s)he determines appropriate
- acts as a link between the Council and various groups and organisations
- presides over meetings of the Council so that its business can be undertaken efficiently and with regard to the rights of Councillors and the interests of the Community
- upholds and promotes the purposes of the Constitution and interprets rules of procedure at meetings of Full Council
- ensures that the Council meeting is a forum for the debate of matters of relevance and concern to the local community
- calls meetings of the Full Council in addition to ordinary meetings
- attends meetings of the Cabinet and other Committees as appropriate
- receives recommendations from the Cabinet and Scrutiny Committee

The Vice Chairman of the Council, in the absence of the Chairman, should carry out the above roles and responsibilities.

### **Required Key Knowledge and Skills for the Chairman/Vice-Chairman of the Council** (in addition to that required for all Members)

- civic/ceremonial protocol
- procedures of Council meetings
- chairing meetings
- dealing with the media
- presentation skills

### **THE CABINET**

The Cabinet Members together, provide clear leadership for the community and:

- lead the corporate planning process, with input and advice from the Scrutiny Committee and other bodies as appropriate.
- lead the preparation of policies and budget and regularly review and monitor performance.

- 
- are the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs and ensure good links with national, regional and local levels of government.
  - take decisions on resources and priorities within the policy and budget framework set by Council in order to deliver and implement the budget and the policies decided by the Council.
  - respond to any recommendations from the Scrutiny Committee and Non – Executive Members.
  - respond to the needs of local communities, seeking to resolve conflict through clear leadership.
  - attend Scrutiny Committee meetings as required and assist the Scrutiny process

### **THE LEADER OF THE COUNCIL**

The Leader of the Council represents the Council to its community and partners, and provides political leadership for the Cabinet, the Council and the District and:

- appoints Cabinet Members
- determines the allocation of Cabinet Portfolios to Cabinet Members
- chairs meetings of the Cabinet
- agrees the schedule and venue for Cabinet meetings and make arrangements for special meetings
- has an overview of, and advise on, the policy making of the Council
- acts as principal spokesperson on overall strategy
- monitors the overall performance of the council in delivering its agreed policies
- co-ordinates and manages Cabinet activities
- represents Council policy to the community and partners
- works closely with the Corporate Leadership Team on strategic matters to ensure the co-ordination, consistency and delivery of Council Services
- represents the Council on local, regional and national bodies
- consults with the Chief Executive on strategic, policy and resources matters where an urgent decision or action is required
- promotes and develops partnership working and stakeholders, ensuring that the Council's priorities are met
- where necessary, consults with leaders of other political groups on the Council to expedite the efficient and effective delivery of Council business
- liaises with the Chairman and Vice-Chairman of the Scrutiny Committee to ensure that work programmes are co-ordinated properly
- ensures that the Cabinet responds to reports from the Scrutiny Committee and other Committees/Panels of the Council as appropriate
- keeps the Council informed of progress in implementing its priorities

**Required Key Knowledge and Skills for the Leader of the Council** (in addition to that required for all Members)

- 
- ability to lead, inspire and motivate colleagues as well as partners in the wider community, bringing people together and building alliances
  - ability to think strategically , analyse complex and often conflicting information, and develop a clear vision
  - ability to focus on the vision and not be distracted by the detail of day to day events
  - ability to provide strong political vision to the direction of the Council and the community
  - excellent communication skills, including the ability to manage the reputation of the Council, as well as interacting with staff, stakeholders, partners and the community
  - ability to drive the delivery of a corporate vision in an inclusive way, understanding the dynamics and culture of comparable organisations
  - ability to network effectively and act as an ambassador for the Council with the ability to identify and exploit opportunities to achieve corporate and community objectives
  - ability to understand the business of local government, including budgets, business planning and performance management
  - ability to think creatively, challenge and generate innovative and effective solutions
  - ability to lead change, engender trust and empower others
  - ability to inspire and motivate others, enabling them to share the Leader's vision and inspiring commitment and enthusiasm
  - ability to listen, step back and delegate
  - ability to balance needs and demands and adapt to new challenges
  - ability to recognise and celebrate achievement
  - posses a high level of political judgement
  - posses a high degree of probity and integrity
  - able to command respect and credibility
  - robust when faced with challenges
  - flexible and adaptable
  - prepared to take risks
  - a forward thinker

## **CABINET MEMBERS/PORTFOLIO HOLDERS**

In addition to their collective Cabinet Role, Cabinet Members/Portfolio Holders general responsibility and purpose is to promote the economic and social well-being and development across the District through the effective exercise of collective and individual responsibilities within the Council's decision making process. Shared responsibilities as a member of the Cabinet include:

- co-ordinating, promoting and implementing the Council's statutory plans and strategies and for setting the Council's objectives
- co-ordinating activity within their Cabinet Portfolio by overseeing, developing, monitoring and promoting all services provided by the Council within the appropriate performance and management framework

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- responsibility for the budgets within their Cabinet Portfolio and contributing to the budget setting process, in a way that assists the Council in meeting its objectives and complying with its statutory obligations
  - maintaining a strategic overview of their Cabinet Portfolio and suggest strategies to Cabinet to carry out the policy framework
  - reviewing policies and suggest changes to Cabinet
  - attending any appropriate meetings (internal or external) and/or provide written or oral information as necessary
  - involving themselves in representation of cross-agency boundaries within the remit of their Cabinet Portfolio and as appointed by the Council
  - ensuring that a community leadership role is taken by the Council across the public, voluntary and business sectors, involving the development of good and effective working links and partnerships with all sectors
  - ensuring that suitable and proper arrangements are made for the procurement, development, monitoring and promotion of all services relating to Cabinet functions which are provided under contract to the Council
  - assisting Officers in monitoring performance within their Cabinet Portfolio and make service improvements as required, whilst observing and following the Officer/Member protocol at all times
  - promoting the interests of the District and of all the residents, businesses, other organisations and stakeholders within North Norfolk

### **The Overview and Scrutiny Committee**

Members of the Overview and Scrutiny Committee should carry out their functions in accordance with the constitution and the agreed working style of the Committee. Overview and Scrutiny Committee Members should also “impartially challenge and evaluate” the actions of the Cabinet before and after decisions are taken by:

- questioning the basis of decisions
- ensuring the policies proposed are consistent with the Council’s aims and objectives and needs of the community.
- ensuring that the views of the Non – Executive Members and the wider community are taken into account by the Cabinet,
- making recommendations for further action or amendments to the Cabinet or Full Council.

Overview and Scrutiny Committee Members should also be proactive in seeking information about and be aware of:

- all Council activities, including existing and new policies, procedures and key issues
- the formulation and management of the Council’s budget.
- national developments and best practice relating to scrutiny and keep the scrutiny process under review.

The Overview and Scrutiny Committee Members should also consider and investigate broad policy issues and make recommendations to the Cabinet or Council, and review and monitor performance and operational effectiveness in key service areas or themes including their own effectiveness and work schedule.

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**Quasi-judicial Committees – Licensing and Appeals & Development Committees**

Those Members on quasi-judicial committees should:

- carry out their functions in accordance with the constitution.
- consider and determine issues of a quasi-judicial nature (e.g. Licensing & Appeals committee work and Development) , keeping informed of any changes in law and guidance and Council Policy.
- be sufficiently knowledgeable in these areas to enable them to take proper informed decisions.
- co-operate fully in any appeals or inspections following decisions.

**The Standards Committee**

Members of the Standards Committee should:

- maintain an independent and unbiased view in assessing matters before the Committee.
- ensure they are fully versed in the ethical principles and codes which relate to the Committee's terms of reference.
- approach relevant points of the Committee's work in a quasi-judicial capacity.
- support the Committee's role in training Parish Councillors in the requirements of the Code of Conduct.



## **CHAPTER 12**

# **PARTNERSHIP ARRANGEMENTS AND OUTSIDE BODIES**

### **Part 1. Partnership Arrangements**

#### **1. Arrangements for Community Involvement**

- 1.1 The Council will create, facilitate or participate in partnerships, forums, focus groups and service or user based consultative groups as part of its community leadership role.

#### **2. Composition**

- 2.1 The Council will participate in the joint partnerships together with the County Council and Town and Parish Councils and other appropriate organisations.

#### **3. Conflicts of Interest – membership of partnerships and forums**

- 3.1 A Member has a conflict of interest in any business before the Overview & Scrutiny Committee of their Authority where the business relates to a decision made (whether implemented or not) or action taken by the Council's Cabinet or another of the Authority's committees, sub-committees, joint committees or joint sub-committees and at the time of the decision was taken that Member was a member of the Cabinet or Committee which made the decision and was present at any of the above.

#### **4 Members of the Cabinet on partnerships and forums**

- 4.1 A member of the Cabinet may serve on or attend partnerships or forums if otherwise eligible to do so as a Councillor.

#### **5 Joint arrangements**

- 5.1 The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 5.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such

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arrangements may involve the appointment of joint committees with these other local authorities.

- 5.3 Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- 5.4 The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
- (a) 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 Cabinet 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 political balance requirements do not apply to such appointments.

- 5.5 Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegation in Chapter 6, Part 2 of this Constitution.

## **6 Access to information**

- 6.1 The Access to Information Rules in Chapter 8 of this Constitution apply.
- 6.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- 7.3 If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules of the Local Government Act 1972 will apply.

## **7 Delegation to and from other local authorities**

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

## **8 Contracting out**

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

**Part 2. Outside Bodies**

- 1.1 A list details those outside bodies and their successor organisations where the Council's representatives thereon may claim travelling and subsistence expenses incurred in attending meetings of those bodies. This list will be published on the Council's website.
- 1.2 For the avoidance of doubt, whenever a Member is appointed to represent the Council on any Outside Body or acts in their capacity as a Member of the Council on any Outside Body, then that representation should be declared in the Member's register of interests.
- 1.3 Members appointed to represent the Council on any Outside Body will be required to report at least annually to Council or via the Members' Bulletin on the work of the outside body and any matters relating to that body which may be of interest to Members.

## **Appendix 1**

### **Protocol for Working Parties & Working Groups**

#### **1. INTRODUCTION**

- 1.1 There is no legal definition of a working party. Generally, however, a working party consists of a small group of members (but with officers in attendance at meetings to provide support and advice) with the remit to consider policy development and review and other specific matters. They can have a particular role in relation to projects which need to be completed within a specified time period (task and finish based work)
- 1.2 A working party/group conducts its business on a less formal basis than that of a committee. It does not have any decision-making powers and can only make recommendations to the body from which it was formed, or to another body as the parent body decides, or to an officer.
- 1.3 At NNDC, the terms “working party” and ‘working group’ refers to all informal bodies appointed by the Council, its committees, including the Overview and Scrutiny Committee and Cabinet. It does not include sub-committees. These are covered Chapter 5, section 3 of the Constitution.
- 1.4 The purpose of this protocol is to provide guidance in relation to the operation of working parties and working groups.

#### **2. APPOINTMENT OF WORKING PARTIES & GROUPS**

- 2.1 The Council, its committees and Cabinet (the Executive) may establish a working party/group or amend the terms of reference or membership of existing working parties/groups. In establishing such bodies, the appointing body will determine the precise terms of reference (having regard to the terms of reference of any other working parties), initial membership and, if appropriate, duration of the working party or group.
- 2.1 At NNDC, to differentiate between their roles, working parties will operate on a long-term basis, working on projects or policy development and making recommendations through to their appointing body. Due to their higher profile, working parties may hold their meetings in public and allow the public to ask questions or make statements. Working groups, however, will usually operate on a short-term basis, with a limited remit – often a single, focused task or project.
- 2.2 In exercising the powers under paragraph 2.1 above, the appointing body shall ensure that member and officer time and the financial resources of the Council are used in such way that is considered to be in the best

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interests of the Council and local residents.

- 2.3 It is good practice for working parties and groups to be appointed in accordance with the principles of political balance. Cabinet can choose to appoint on a non-politically balanced basis if the remit of the body requires it. This would be an exception however and there is an expectation that generally, working parties/groups will reflect the political balance of the Council.
3. AGENDAS, REPORTS AND MINUTES AND METHODS OF WORKING
- 3.1 Working parties/groups may be required to act in the manner of “consultative panels” receiving reports from officers on matters on which they will be expected to provide guidance to the decision maker. On other occasions they could be tasked with investigating policy issues and will be expected to formulate recommendations for the relevant appointing body which could be Council or one of its committees (including Overview & Scrutiny Committee) and Cabinet.
- 3.2 Working parties appointed by the Overview & Scrutiny Committee will often take the form of a consultative panel and must undertake their work in accordance with the principles of overview and scrutiny as set out in Chapter 4 of the Constitution and in the Executive / Scrutiny Protocol. In these instances, the recommendations of the working party/ panel will be considered by the Overview and Scrutiny Committee or the appointing sub-committee before they are forwarded to the appropriate decision-making body.
- 3.3 An agenda for a working party/group meeting will be sent out prior to a meeting of the working party setting out its business. For meetings of working parties held in public, agendas will be despatched in line with statutory requirements.
- 3.4 Minutes will be taken by a member of the Democratic Services team. They will be reported to a subsequent meeting of the appointing body for information. If recommendations are made they will be debated and then formally voted on.
- 3.5 Working parties/groups may consider whether to invite external representatives e.g. stakeholders or business representatives and members of the public to assist with their work. The role of such representatives would be to act as advisors to the working party using their particular expertise/experience.
4. LOCATION OF MEETINGS
- 4.1 As working parties/groups are non-decision making and can operate in a less formal manner than committees, it may be appropriate to hold them remotely. However, any working parties that allow the **public** to attend will be held in person – usually in the Council Chamber. This reflects best practice and is in line with NNDC committee meetings which are open to the public.

## 5. ACCESS TO MEETINGS BY THE PRESS AND PUBLIC

- 5.1 Details of meetings that the press and public can attend will be set out on the Council's published notice of meetings. As for formal committee meetings, if an exempt matter is discussed, the press and public will be asked to leave the meeting. As stated above, meetings of working parties open to the public will take place in person.

## 6. ACCESS TO INFORMATION BY THE PRESS AND PUBLIC

- 6.1 Agendas for those working party meetings that are open to the press and public will be published on the Council's website. Meeting dates will be advertised in advance. Exempt information will be marked as confidential.

## 7. ACCESS TO INFORMATION BY NON WORKING PARTY MEMBERS

- 7.1 All elected members will be able to access copies of agendas and supporting information. They can attend meetings of working parties/groups as an observer if they wish.

## 8. INTERESTS OF MEMBERS AND OFFICERS

- 8.1 Elected members, co-opted members and officers acting in an official capacity when attending meetings of working parties shall declare any personal interests and shall not take part in any discussions in which they have an interest and withdraw from a meeting in accordance with the respective Codes of Conduct for Members and Employees.

## 9. PROCEDURES AT MEETINGS OF WORKING PARTIES

### 9.1 Quorum

A working party/group must have a quorum of three if it consists of fewer than nine elected members.

### 9.2 ELECTION OF CHAIRPERSON

Working parties/groups shall elect a chairperson at their first meeting. In the case of the chairperson being absent a chairperson shall be elected for that meeting. The chairperson will have a second or casting vote.

### 9.3 FORMULATION OF RECOMMENDATIONS

A recommendation arising from the deliberations of a working party or group will normally be reached by a consensus. It may, however, be appropriate to determine a way forward by taking a vote on a proposal. In such circumstances, the recommendations before the working party shall be determined by a simple majority of those members present in the room at the time proposal was put.

