



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

# CONSTITUTION OF THE COUNCIL

FIFTEENTH EDITION

AUGUST 2018

1. PART 1 - SUMMARY AND EXPLANATION (Pages 1 - 14)  
Last updated 7 August 2018.
2. PART 2 - RESPONSIBILITY FOR FUNCTIONS (Pages 15 - 16)  
Last updated 7 August 2018.
  - (a) Introduction to responsibility for functions (Pages 17 - 18)  
Last updated 11 July 2017.
  - (b) Terms of reference of council bodies (Pages 19 - 26)  
Last updated 7 August 2018.
  - (c) Terms of reference of working groups (Pages 27 - 30)  
Last updated 7 August 2018.
  - (d) Terms of reference of the Executive (Pages 31 - 34)  
Last updated 7 August 2018.
  - (e) Terms of reference for overview & scrutiny (Pages 35 - 36)  
Last updated 11 July 2017.
  - (f) Scheme of delegation to officers (Pages 37 - 54)  
Last updated 7 August 2018.
  - (g) Member champions (Pages 55 - 56)  
Last updated 11 July 2017.
3. PART 3 - PROCEDURE RULES (Pages 57 - 58)  
Last updated 7 August 2018.
  - (a) Introduction to procedure rules (Pages 59 - 60)  
Last updated 11 July 2017.
  - (b) Council procedure rules (Pages 61 - 76)  
Last updated 7 August 2018.
  - (c) Planning Committee procedure rules (Pages 77 - 80)  
Last updated 11 July 2017.
  - (d) Access to information procedure rules (Pages 81 - 88)  
Last updated 7 August 2018.
  - (e) Budget and policy framework procedure rules (Pages 89 - 92)  
Last updated 11 July 2017.
  - (f) Executive procedure rules (Pages 93 - 96)  
Last updated 11 July 2017.
  - (g) Overview & scrutiny procedure rules (Pages 97 - 104)  
Last updated 11 July 2017.

- (h) Financial procedure rules (Pages 105 - 144)  
Last updated 7 August 2018.
- (i) Contract procedure rules (Pages 145 - 152)  
Last updated 11 July 2017.
- 4. PART 4 - CODES AND PROTOCOLS (Pages 153 - 154)  
Last updated 11 July 2017.
  - (a) Introduction to codes & protocols (Pages 155 - 156)  
Last updated 11 July 2017.
  - (b) Code of conduct (Pages 157 - 162)  
Last updated 11 July 2017.
  - (c) Protocol on member/officer relations (Pages 163 - 170)  
Last updated 11 July 2017.
  - (d) Attendance at party group meetings (Pages 171 - 172)  
Last updated 11 July 2017.
  - (e) Code of recommended practice on local authority publicity (Pages 173 - 178)  
Last updated 11 July 2017.
  - (f) Protocol relating to gifts and hospitality (Pages 179 - 184)  
Last updated 11 July 2017.
  - (g) Code of conduct and guidance for members of the Planning Committee (Pages 185 - 188)  
Last updated 11 July 2017.
  - (h) Politically restricted posts (Pages 189 - 190)  
Last updated 11 July 2017.
- 5. PART 5 - SCHEME OF MEMBERS' ALLOWANCES (Pages 191 - 196)  
Last updated 15 May 2018.

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# Part 1

## SUMMARY AND EXPLANATION

Last updated August 2018

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# Part 1 - Summary and explanation

## CONTENTS

Paragraph no.

- 1 The constitution
- 2 Hinckley & Bosworth Borough Council
- 3 Councillors
- 4 The Mayor
- 5 The overview & scrutiny function
- 6 The Executive, the Leader and members of the Executive
- 7 Committees
- 8 Decision making
- 9 Joint arrangements and partnerships
- 10 Officers
- 11 Finance, contracts and legal matters
- 12 Voting

### 1. The constitution

#### 1.1 Introduction

Hinckley & Bosworth Borough Council's constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure they are efficient, transparent and accountable to local people. There are other documents which are not included in the constitution, but should be read in conjunction with it, for example the petitions' scheme and the corporate complaints procedure and other policies and procedures. The council will exercise all its powers and duties in accordance with the law and this constitution. Nothing in this constitution supersedes legislation.

#### 1.2 Content of the constitution

The constitution is split into four sections:

Decision making – this includes details of which bodies or officers are responsible for making particular decisions

Procedure rules – this sets out how decisions are taken

Codes and protocols – this section contains the expected standards of behaviour for officers and members

Members allowance scheme.

#### 1.3 Purpose of the constitution

To enable the council to provide clear leadership to the community  
To support the active involvement of citizens in the council's decision-making  
To help councillors represent their constituents more effectively  
To enable decisions to be taken efficiently and effectively  
To create an effective way of holding decision-makers to public account  
To ensure that no one will review a decision in which they were directly involved  
To ensure those taking decisions are clearly identifiable to local people and can explain the reasons for their decisions  
To provide a way of improving the delivery of services  
To enable the council to review its governance arrangements.

#### 1.4 Interpretation of the Constitution

The Monitoring Officer or their nominee will advise the council on interpretation of the constitution in accordance with the principles above. The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of Council shall not be challenged at any meeting of Council. Such ruling will have regard to any legal or procedural advice given by officers.

#### 1.5 Suspension of the constitution

Only the council procedure rules may be suspended, except those specified within the procedure rules and only where permitted by law or in accordance with this constitution.

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors is present at the meeting. 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 above.

#### 1.6 Review of the constitution

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

Changes to the constitution will only be approved by Council by a two thirds majority of those members present and voting on a report of the Monitoring Officer or of a working group of councillors appointed for the purpose.

#### 1.7 Publication of the constitution

The Monitoring Officer will make available a copy of this constitution for any member on request and will ensure that copies are available for inspection at Hinckley Hub. The constitution will also be available on the council's website.

### 2. Hinckley & Bosworth Borough Council

Hinckley & Bosworth Borough Council is one of seven district (including borough) councils in Leicestershire, which operate within a two tier system where responsibilities are divided between the district council and Leicestershire County Council.

The district of Hinckley & Bosworth was formed in April 1974 by the merger of the former Hinckley Urban District Council and Market Bosworth Rural District Council. The grant of a charter gave the council "Borough" status and authorised the office of Mayor as first citizen of the borough.



Within the borough are 24 parish councils (including a town council) which exercise very local functions and with which the borough council works closely on a range of issues.

### 3. Councillors

3.1 The Council is composed of 34 councillors elected every four years, usually on the first Thursday in May. A person intending to stand for election must be 18 years old and must be a registered voter of the borough or be living or working in the borough. The term of office of a councillor starts on the fourth day after being elected and will finish on the fourth day after the next regular election. Sometimes a by-election is needed due to a vacancy. Councillors are elected by the voters of each ward and are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

### 3.2 Roles and functions of councillors

- To be policy-makers and carry out a number of strategic and corporate functions
- To represent their communities and bring their views into the council's decision-making process and act as an advocate for constituents in resolving particular concerns
- Balance different interests identified within the ward and represent the ward as a whole
- Represent the council on other external bodies and report back to the council
- Actively encourage community participation and citizen involvement in decision-making
- Maintain the highest standards of conduct and ethics (councillors have to agree to follow a code of conduct which they must then observe at all times)
- Participate in the governance and management of the council.

### 3.3 Meetings of Council

All councillors meet together as the Council. Meetings of Council are open to the public, unless confidential information is to be discussed. Council is responsible for deciding on the overall policies and for setting the budget each year. Council appoints the Mayor, the Leader, Scrutiny Commission and committees, and holds them all to account on behalf of the community. There are some matters that only Council can make decisions on and these are set out in the next part of the constitution 'responsibility for functions'. Some decisions are delegated to committees, members or officers.

There are four types of council meeting – the annual meeting; the ordinary business meeting; the extraordinary business meeting and meetings for topic debates (which cannot make decisions).

### 3.4 Rights and duties of councillors

Councillors will have rights of access to such documents, information, land and buildings of the council as are necessary for them to be able to carry out their role and in accordance with the law

Councillors will not make public information that is exempt or confidential (as defined in the Access to Information Rules) or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

### 3.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowance Scheme.

#### 4. The Mayor

In Hinckley & Bosworth, the role of Mayor is one of civic leader only. The Mayor is elected each year by Council. The Mayor, and in their absence, the Deputy Mayor, will have the following roles and functions:

- First citizen: The Mayor shall take precedence and shall be the first citizen of Hinckley & Bosworth
- Promotion of the council: The Mayor will positively promote the council as a whole and act as the focal point for the community
- Ceremonial matters: The Mayor will carry out all civic and ceremonial functions on behalf of the council.
- To uphold and promote the purposes of the constitution and to interpret the constitution when necessary
- To preside over meetings of Council so that its business can be carried out efficiently, transparently and with good conduct and regard to the rights of councillors and the interests of the community
- To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which all members are able to hold the Executive and other committees of the council to account
- To promote public involvement in the council's activities.

Whilst holding the position of Mayor or Deputy Mayor, a councillor will not also hold the position of leader or deputy leader of a political group, a member of the Executive, party whip, chairman or vice chairman of a committee or member of an overview & scrutiny body.

#### 5. The overview & scrutiny function

The overview & scrutiny function consists of the Scrutiny Commission and Finance & Performance Scrutiny. These are appointed by Council to discharge functions set out in the Local Government Act 2000.

The terms of reference of the overview & scrutiny bodies, procedure rules for their meetings and membership details are set out in the relevant part of this constitution.

Two or more overview & scrutiny bodies may hold joint meetings from time to time, to which the same procedure rules apply.

The use of the party whip is not appropriate for the business of overview & scrutiny bodies.

#### 6. The Executive, the Leader and members of the Executive

##### 6.1 Responsibilities of the Executive

The Executive will carry out all of the authority's functions that are not the responsibility of any other part of the authority, whether by law or under this constitution.

Proceedings of the Executive will be in accordance with relevant legislation and the Executive procedure rules set out in this constitution.

The constitution contains a list which sets out which functions of the Executive are delegated to individual members of the Executive or its committees, or if the function is delegated to an officer or joint arrangement.

The Executive will consist of the Leader of Council together with at least two but not more than nine councillors.

## 6.2 The Leader

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

- the annual meeting of Council four years from the date of the appointment following a Borough election, subject to the provisions below
  - he/she resigns from the office
  - he/she is no longer a councillor
  - he/she is removed from office by resolution of the Council
  - his/her successor is appointed by Council
- (whichever is the earliest).

In the event of the Leader no longer being a councillor following a borough election, the Chief Executive, in consultation with group leaders, will have delegated authority to take any urgent decisions until such a time that a Leader is appointed at the annual meeting of Council.

## 6.3 Other executive members

Only borough councillors may be appointed to the Executive, but neither the Mayor nor Deputy Mayor may be members of the Executive. The Executive will be appointed by the Leader of Council and one member of the Executive will be appointed Deputy Leader by the Leader.

Executive members will hold office until:

- the annual meeting of Council four years from the date of the appointment following a Borough election, subject to the provisions below
  - they resign from the office
  - they are no longer councillors
  - they are removed from office, either individually or collectively, by the Leader of the Council
- (whichever is the earliest).

## 7. Committees

### 7.1 The Council will appoint the following committees:

Appeals Panel  
Audit Committee  
Ethical Governance & Personnel Committee  
Hinckley Area Committee  
Licensing Committee  
Licensing (Regulatory) Committee  
Planning Committee.

The terms of reference and membership for these bodies are contained in the relevant part of this constitution.

7.2 Council will also appoint the following other bodies:

Asset & Regeneration Strategy Group  
Member Development Group  
Overview & scrutiny bodies

The terms of reference and membership for these groups are contained in the relevant part of this constitution.

8. Decision making

Some decisions may be made by Council or delegated by Council to committees, joint committees, officers or other authorities. Other decisions are for the Executive to make, and it is for the Executive to decide whether to delegate the power to make any of those decisions. Only the Executive may decide to delegate Executive functions to joint arrangements or other local authorities.

8.1 Principles of decision making

All decisions will be made in accordance with the following principles

- Having regard to all relevant principles
- Operating within the law
- Observing any procedural requirements (unless a decision is made to suspend these)
- Carrying out a realistic evaluation of alternatives
- Taking professional advice from officers
- Having clear aims and desired outcomes
- Carrying out appropriate consultation
- Observing proportionality
- Having respect for human rights
- Having a presumption in favour of openness
- Having due regard to the likely effect on crime & disorder within the area
- Having due regard to the needs of all citizens and communities
- Having due regard to the impact of decisions on rural areas
- Pursuing the aims and objectives of the community, corporate plan, strategies and policies
- Having regard to the Nolan Principles.

8.2 Types of decision

- Decisions reserved to Council as listed in this constitution will be made by Council and not delegated
- Key decisions. These are defined as a decision which involves expenditure (or reduction of income over £50,000) on any particular scheme or project (totalled across financial years); involves the adoption or amendment of a policy or strategy which the Executive has power to adopt; involves the adoption or amendment of the scale of fees & charges; affects the whole of the borough and is one which the residents of Hinckley & Bosworth would normally expect to be notified or consulted; or involves a recommendation by Executive to a partnership organisation which will take the ultimate decision. A decision taker may only make a key decision in accordance with the Executive Procedure Rules in this constitution
- Non-key decisions taken by the Executive, Council, its committees or officers.

8.3 Decision making by council bodies acting as tribunals (Appeals, Planning, Licensing (including Licensing (Regulatory)) and Ethical Governance & Personnel Committees)

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner in 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. Advice on such procedure, including having regard to human rights, can be obtained from the Monitoring Officer.

9. Joint arrangements and partnerships

A partnership has an agreed framework for jointly delivering common goals, shared risks and resources, identified added value and measurable impact and shared accountability for outcomes. The council has a number of formal and informal partnership arrangements with other local authorities and may enter further joint arrangements as it sees fit. Such arrangements may involve the appointment of joint committees with these other local authorities. Formal partnerships must be approved by the appropriate body, member or officer.

Details of current joint committees in operation can be found on our website or provided on request.

9.1 Appointments to joint bodies

Where joint arrangements involve a joint committee to discharge a number of functions on behalf of the council, some of which are the responsibility of the Executive and some which are the responsibility of the local authority as a whole, appointment of members to that joint committee are made by the Council with agreement of the Leader. Where there is more than one member of Council appointed, at least one member will be an executive member and political balance requirements will apply.

The Executive may appoint members to a joint committee from outside the Executive if the joint committee has functions for only part of the area of the authority and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for any ward which is wholly or partly contained within the area.

9.2 Delegation of functions to other local authorities

The council may delegate functions to another local authority or, in certain circumstances, to the Executive of another local authority. The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances. The decision whether or not to accept a delegation from another local authority shall be reserved to Council or to the Executive if it is an Executive function.

9.3 Access to information procedure rules

The access to information rules in this constitution apply to joint committees. If all members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive, otherwise the rules in the Local Government Act 1972 will apply.

9.4 Contracting arrangements

The Council, for functions which are not Executive functions, and the Executive, for Executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## 10. Officers

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

Council will engage persons for the following posts which will form the Strategic Leadership Team:

- Chief Executive
- Director (Community Services)
- Director (Corporate Services)
- Director (Environment & Planning).

The Council must designate a Head of Paid Service, Monitoring Officer and Proper Officer for Financial Affairs (Section 151 Officer).

### 10.1 Functions of the Head of Paid Service

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

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Proper Officer for Financial Affairs if a qualified accountant.

At Hinckley & Bosworth Borough Council, the Chief Executive is the Head of Paid Service.

### 10.2 Functions of the Monitoring Officer

The Monitoring Officer will maintain an up to date version of the constitution and will ensure that it is widely available for consultation by members, staff and the public.

The Monitoring Officer will ensure lawfulness and fairness of decision making. After consulting with the Head of Paid Service and Proper Officer for Financial Affairs, the Monitoring Officer will report to Council, or to the Executive in relation to an Executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. All members of Council must receive a copy of such a report. Where the report is considered by the Executive, it must report to Council and the Monitoring Officer explaining what, if any, action is to be taken.

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethical Governance & Personnel Committee. He or she will receive and act on complaints received regarding member conduct and will conduct investigations and make reports or recommendations in respect of them to the Ethical Governance & Personnel Committee.

The Monitoring Officer will ensure that Executive, Council and delegated decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available.

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the policy framework.

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and budget and policy framework issues to all councillors.

The Monitoring Officer cannot be the Proper Officer for Financial Affairs or the Head of Paid Service.

### 10.3 Functions of the Proper Officer for Financial Affairs (Section 151 Officer) and his/her Deputy

The Proper Officer for Financial Affairs will ensure lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Proper Officer for Financial Affairs will report to Council, or to the Executive in relation to an Executive function, and the council's external auditor if he or she considers that any proposal, decision or course of action will involve occurring 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. All members of Council must receive a copy of such a report. Where a report is considered by the Executive, it must report to Council and the Proper Officer for Financial Affairs and the council's auditor, explaining what action, if any, is to be taken.

The Proper Officer for Financial Affairs will have responsibility for the administration of the financial affairs of the council.

The Proper Officer for Financial Affairs will contribute to the corporate management of the council, in particular through the provision of professional financial advice.

The Proper Officer for Financial Affairs will advise whether decisions of the Executive are in accordance with the financial and budget framework.

The Proper Officer for Financial Affairs will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and budget and policy framework issues to all councillors and the mayor and will support and advise councillors and officers in their respective roles.

The Proper Officer for Financial Affairs will provide such financial information as he or she considers appropriate to the media and members of the public.

### 10.4 Duty to provide sufficient resources to the Monitoring Officer and Proper Officer for Financial Affairs

The council will provide the Monitoring Officer and Proper Officer for Financial Affairs with such officers, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

### 10.5 Conduct

Officers will comply with the officers' code of conduct and the protocol on member/officer relations. These are available on request.

## 10.6 Employment

The recruitment, selection and dismissal of officers will comply with the council's policies and procedures.

## 10.7 Politically restricted posts

Under section 2(2) of the Local Government and Housing Act 1989, certain posts are required to be included on a list of politically restricted posts which precludes the post holder from holding any political office. The list of politically restricted posts can be found in this constitution.

## 10.8 Officer scheme of delegation

The areas of responsibility of certain officers and decisions that they have authority to take can be found in the officer scheme of delegation in this constitution.

## 11. Finance, contracts and legal matters

### 11.1 Financial management

The management of the council's financial affairs will be conducted in accordance with the financial procedure rules.

### 11.2 Contracts

Every contract made by the council will comply with the contract procedure rules.

### 11.3 Legal proceedings

The Legal Services Manager is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary.

### 11.4 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 proper officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function 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 the proper officer.

### 11.5 Common seal of the council

The common seal of the council will be kept in a safe place in the custody of the Legal Services Manager. 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 proper officer, should be sealed. The affixing of the common seal will be attested by the proper officer or some other person authorised by him or her.



## 12. Citizens and the council

Citizens have a number of rights in their dealings with the council – some of these are legal rights, others depend on the council's own processes. Their rights and responsibilities are set out below.

### 12.1 Voting

Citizens on the electoral roll for the area have the right to vote at council elections.

### 12.2 Information

Citizens have the right to:

- Attend meetings of the Council, Executive and committees, except where confidential or exempt information is likely to be disclosed
- Find out what decisions will be taken by the Executive and when
- See reports and background papers and records of decisions made by Council, committees, the Executive and certain decisions made under delegated powers
- Inspect the council's accounts and make their views known to the external auditor.

### 12.3 Participation

Citizens have the right to participate in the council's business by

- Signing a petition to request a referendum on a mayoral form of Executive
- Asking questions at Executive or meetings of any committee (in accordance with the rules set out in this constitution) or to speak against a planning application being considered by Planning Committee
- Submitting a petition in accordance with the council's petitions scheme
- Joining our citizens' panel
- Becoming a councillor.

### 12.4 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers.

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# Part 2

## RESPONSIBILITY FOR FUNCTIONS

Last updated August 2018

# CONTENTS

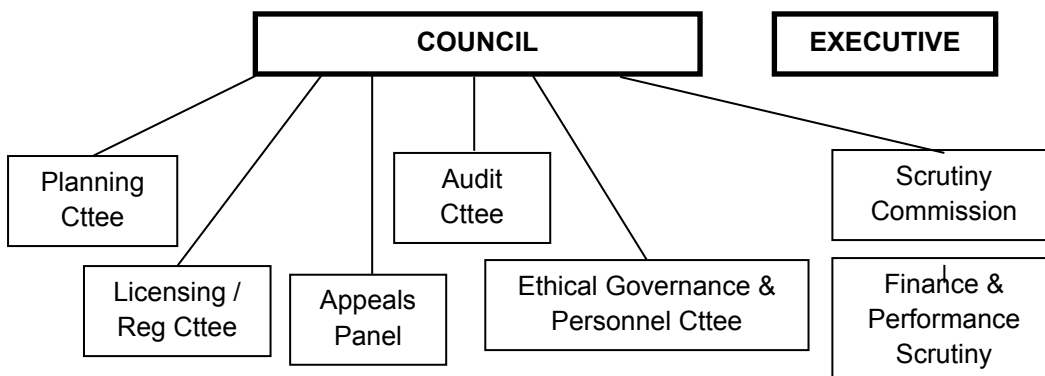
- a. Introduction
- b. Council bodies
- c. Working groups
- d. The Executive
- e. Overview & Scrutiny
- f. Scheme of delegation to officers
- g. Member champions

## Part 2 - Responsibility for functions

### a. Introduction

The Local Government Act 2000 and associated regulations requires that the majority of the authority's functions are carried out by its Executive. This part of the constitution sets out the responsibility of Council, committees and the Executive, and goes on to look out how decisions can be carried out by them, including by delegating to officers under the 'scheme of delegation'.

The diagram below shows the current decision making structure:



The terms of reference for Council, the Executive, committees, scrutiny bodies and working groups are included in this section of this constitution. The section following that contains the scheme of delegation to officers, which sets out which decisions can be taken by officers and how this will be exercised and recorded.

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## Part 2 - Responsibility for functions

### b. council bodies

#### CONTENTS

##### Paragraph

- 1 Council
- 2 Appeals Panel
- 3 Audit Committee
- 4 Ethical Governance & Personnel Committee
- 5 Hinckley Area Committee
- 6 Licensing Committee
- 7 Licensing (Regulatory) Committee
- 8 Planning Committee

All committees shall have the following general powers within their terms of reference:

- To authorise, order and manage contracts for goods and services within approved budgets and subject to financial and contract procedure rules (letting and management of contracts delegated to officers)
- To institute legal proceedings including proceedings for an injunction, to authorise the carrying out of works in default of a notice and to lodge an appeal against any court decision (this may be delegated to officers)
- To manage services within approved budgets according to financial procedure rules (management of services is delegated to officers)
- To meet more or less frequently than is laid down in the calendar of meetings
- To monitor service objectives and targets, programmes and strategies for the services within the terms of reference of each committee and in conjunction with the Executive (delegated to officers, with exception reporting to relevant committee).

#### 1. Council

Whilst the majority of decisions can be taken by the Executive, by law the functions of budget and council tax setting, the strategic plan framework, planning and licensing, elections, staffing, bylaws and local legislation can only be carried out by Council.

The following functions are reserved for Council, and cannot be the responsibility of the Executive. Unless otherwise stated, these will not be delegated to another council body or officer:

- 1.1 Adopting and amending the constitution including procedure rules
- 1.2 Approving or adopting the policy framework, including the following:
  - Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and section 32 of the Local Government Act 2000:
    - Corporate Plan
    - Performance Plan

Borough Community Plan (developed by the Local Strategic Partnership)  
Community Safety Strategy  
Local Plan (including Supplementary Planning Documents)  
Licensing policies.

- Other plans, policies and strategies that the Council chooses to be its responsibility.
- Decisions contrary to or not wholly in accordance with the policy framework are the responsibility of Council, subject to the urgency procedure contained in relevant part of this constitution

1.3 The budget, including:

- The allocation of financial resources to different services and projects
- Setting the council tax
- Decisions relating to control of the council's borrowing requirements
- Control of capital expenditure
- Setting of delegation and virement limits (financial procedure rules)
- Medium Term Financial Strategy
- Treasury management, including approving the annual strategy
- Approval of fees & charges for non-Executive functions
- Decisions contrary to or not wholly in accordance with the budget are the responsibility of Council, subject to the urgency procedure contained in the relevant part of this constitution

1.4 Housing land transfer (approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties)

1.5 Planning issues:

- Approval of supplementary planning guidance and informal policy statements on recommendation of the Planning Policy Working Group
- Approval for proceeding to referendum stage and for making of Neighbourhood Development Plans
- Making Simplified Planning Zones
- Duties in relation to conservation areas not otherwise delegated.

1.6 The licensing function

- Setting hackney carriage and other fees and charges
- Approval of licensing policies

1.7 Appointments

- Appointing the Leader
- Electing the Mayor and Deputy Mayor
- Appointing representatives to outside bodies, unless the appointment is an Executive function or has been delegated by Council
- Making appointments to joint committees (except for Executive functions)

1.8 Agreeing and/or amending the terms of reference for committees, deciding on their composition, and making appointments to them annually (in-year amendments to membership are delegated to the Chief Executive)

1.9 Adopting the Members' Allowance Scheme (on the recommendation of the Independent Remuneration Panel)

1.10 Adopting the Members' Code of Conduct and associated protocols



- 1.11 Changing the name of the area, conferring the title of honorary alderman or freedom of the borough
- 1.12 Giving consideration to matters relating to electoral boundaries, number of councillors and local government restructuring and making any decisions where appropriate
- 1.13 Staffing
  - Approval of the corporate management structure of the council at director level and above
  - Confirming the appointment or dismissal of and disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Officer
  - Approving job descriptions/person specifications for the Chief Executive, directors and those holding statutory accountabilities and confirming the appointment of the Chief Executive, directors and statutory officers
  - Approving the pay policy statement
  - Placing staff at the disposal of other local authorities for the purpose of joint arrangements or joint working for non-Executive functions in accordance with 13(4) and 13(5) of the Local Government Act 2000.
- 1.14 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills
- 1.15 Making of compulsory purchase orders
- 1.16 All local choice functions which Council decides should be undertaken by itself rather than the Executive, including functions under the Leicestershire Act 1985 (these are delegated to officers and outlined in the following section of this constitution)
- 1.17 Appeals against decisions of Council bodies or officers (may be delegated to the Appeals Panel)
- 1.18 Making orders relating to car parks or other off-street parking
- 1.19 Making a demolition order under the Housing Act 1985
- 1.20 Declaring the area in which the premises concerned are situation to be a clearance area under the Housing Act 1985
- 1.21 Introducing additional or selective licensing in relation to Houses in Multiple Occupation
- 1.22 Acquisitions and disposals in accordance with financial procedure rules.
- 1.23 All other matters which must, by law, be reserved to Council.
- 2. Appeals Panel – terms of reference
  - 2.1 Membership and procedure of the Appeals Panel

The Appeals Panel will consist of 12 members of the council, of which three will be called for a meeting of the Panel, with one reserve. These may not be members who were involved in the making of the original decision which is the subject of the appeal. Only other members of the Appeals Panel may sit as substitutes at the meetings.

Meetings will be conducted in accordance with the council procedure rules contained within this constitution, where applicable.

## 2.2 Functions of the Appeals Panel include, but are not limited to:

Considering any non-statutory or other appeal against a decision taken by any committee of the council or the Executive or an officer including:

Staffing:

- To hear employee appeals against a warning or dismissal not including appeals against the receipt of a warning or dismissal of an employee below director level unless it is a dismissal for gross misconduct or some other substantial reason
- To hear employee appeals against determination of individual grading issues and job evaluation for director level employees and above and those holding statutory accountabilities
- To hear appeals against any decision relating to the appointment of another person as an employee of the council

Other:

- Appeals against decisions made under part VI of the Housing Act 1996 as amended, in relation to homelessness and housing allocations, including introductory tenancy review decisions
- To hear any other appeals to any decision made by or on behalf of the authority, where authority exists.

## 3. Audit Committee – terms of reference

### 3.1 Membership and procedure of the Audit Committee

The Audit Committee will consist of 11 councillors including the Chairman of the Scrutiny Commission but not including members of the Executive. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

### 3.2 The functions of the Audit Committee include, but are not limited to:

- Approving the Annual Governance Statement and Statement of Accounts
- Approving the external auditor's annual letter
- Approving the internal audit plan and monitoring progress
- Overseeing audits and monitoring compliance with recommendations
- Monitoring the risk management framework and providing assurance
- Monitoring the counter-fraud strategy.

## 4. Ethical Governance & Personnel Committee – terms of reference

### 4.1 Membership and procedure of the Ethical Governance & Personnel Committee

The Ethical Governance & Personnel Committee will consist of nine members of the council, including a minimum of one member of the Executive. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

### 4.2 The functions and responsibilities of the committee include, but are not limited to:

Ethical Governance functions:

- Promoting and maintaining high standards of conduct by councillors, co-opted members and parish councillors
- Assisting councillors, co-opted members and parish councillors to observe the Members' Code of Conduct
- Advising Council on the adoption or revision of the Members' Code of Conduct and protocols for members and/or employees
- Monitoring the operation of the Members' Code of Conduct
- Advising, training or arranging to train councillors, co-opted members and parish councillors on matters relating to the Members' Code of Conduct
- Determining complaints about councillors
- Reviewing the members' and officers' register of interests
- Reviewing the council's corporate complaints procedures
- Maintaining an overview of Local Government Ombudsman investigations
- Dealing with dispensations in relation to politically restricted posts and granting dispensations to employees from political restrictions.

Personnel functions:

- Approval, adoption, amendment and administering the council's HR policies, providing there is no conflict with other strategies and they are not matters reserved for Council
- Approving codes of conduct in support of personnel policies
- Liaising with the Executive in HR policy development
- Appointing an independent person for the purposes of investigation of alleged misconduct by those officers holding statutory accountabilities and making recommendations to Council in relation to disciplinary and dismissal of those officers in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015
- Agreeing voluntary severance arrangements for the Chief Executive
- Considering and approving issues relating to the local government pension scheme
- Using the power of section 13(4) and 13(5) of the Local Government Act 2000 to place staff at the disposal of other local authorities for the purpose of joint arrangements or joint working for non-executive functions (authority to act in emergencies is delegated to officers)
- Monitoring staffing information reports
- Receiving minutes of and recommendations from the Staff Safety Group.

5. Hinckley Area Committee

5.1 Membership and procedure of Hinckley Area Committee

Hinckley Area Committee will consist of the ten members for the Hinckley wards of Castle, Clarendon, De Montfort and Trinity. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

5.2 The functions and responsibilities of the committee include, but are not limited to:

- Making recommendations to Council in relation to the budget requirements of the committee
- Considering the scale of fees and charges relating to the special expenses area of Hinckley
- Considering and making proposals in relation to the management, maintenance, acquisition or disposal of assets falling exclusively within the special expenses area
- Dealing with any business specifically delegated to the committee from time to time by Council or the Executive.

## 6. Licensing Committee

### 6.1 Membership and procedure of the Licensing Committee

The Licensing Committee will consist of eleven members. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable. The Licensing Committee is also authorised to create sub committees to carry out its functions.

Members of the Licensing Committee and their substitutes must undertake training relating to the functions of the committee within three months of being appointed (unless they have already undertaken training offered) and must also undertake refresher training when provided.

### 6.2 The functions and responsibilities of the Licensing Committee include, but are not limited to:

- Undertaking duties of Council as Licensing Authority for duties under the Licensing Act 2003, including the following which will be exercised by a sub-committee of the Licensing Committee:
  - Granting of provision statement (S29) where relevant representation received
  - Determining applications to vary premises licences (S34) / club premises certificate (S37) where relevant representation received
  - Determining variations of designated premises supervisor (S37) where police objection received
  - Determining applications to transfer premises licences where police objection received
  - Determining applications to review premises licences (S51) / club premises certificate (S87)
  - Determining applications for temporary events notices (S105) where police objection received
  - Deciding whether to object when local authority is a consultee (and not the relevant authority determining the application)
  - Determining applications for a personal licence (S117) where police objection received
  - Determining applications for a personal licence with unspent convictions (S118)
  - Determining applications for a premises licence (S17)/club premises certificate (S71) where relevant representation received
  - Determining applications to vary a premises licence at community premises to include alternative licence condition where police objection received
- Undertaking duties of Council as Licensing Authority for duties under the Gambling Act 2005 including
  - Fee setting
  - Refusal or cancellation of club gaming / club machine permit
  - Temporary use notice counter-notice (S224)
- Determining applications for private hire and hackney carriage drivers licences where applicant has previous convictions, cautions or medical issues or where soft information is received (delegated to a sub-committee of three members of the Licensing Committee)
- Determining applications for the granting, renewal, variation or transfer of sexual entertainment venue licences irrespective of whether objections have been received
- Granting or varying sex shop or sex cinema licences irrespective of whether objections have been received

- Renewal or transfer of sex shop or sex cinema licences where objections have been received.

## 7. Licensing (Regulatory) Committee

### 7.1 Membership and procedure of the Licensing (Regulatory) Committee

The Licensing (Regulatory) Committee will consist of eleven members made up of the same membership as the Licensing Committee. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

Members of the Licensing (Regulatory) Committee and their substitutes must undertake training relating to the functions of the committee within three months of being appointed (unless they have already undertaken training offered) and must also undertake refresher training when provided.

### 7.2 The functions and responsibilities of the Licensing (Regulatory) Committee include, but are not limited to:

- Undertaking duties of Council as the regulatory authority for environmental health, waste collection and finance authority
- Licensing and registration functions including (but not limited to) taxi and private hire vehicles, small lotteries and amusements, street collections, gaming, gaming machines and street trading consents in accordance with legislation where not otherwise delegated to an officer
- Authorising registration of special sites under section 78(c) and remediation of contaminated sites under section 78(e) of part IIA of the Environmental Protection Act 1990 and subordinate legislation
- Refusing permits under the Pollution, Prevention and Control Act 1999, Part 4 of the Environment Act 1995, Part 1 of the Environmental Protection Act 1990, the Clean Air Act 1993 and regulations made thereunder
- Approving designated air quality management areas under section 83 of the Environment Act 1995
- Passing a resolution that section 2 of the Noise and Statutory Nuisance Act 1993 (section 8) should apply to the authority's area.

## 8. Planning Committee

### 8.1 Membership and procedure of the Planning Committee

The Planning Committee will consist of 17 members of Council chosen to represent as closely as possible the political and geographical balance of Council. The committee will not include the executive member with responsibility for development services, but can include other executive members. Council will approve a list of members who may substitute on the Planning Committee. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

Members of the Planning Committee and their substitutes must undertake training relating to the functions of the committee within three months of being appointed (unless they have already undertaken training offered) and must also undertake refresher training when provided.

### 8.2 The functions and responsibilities of the Planning Committee include, but are not limited to:

- Considering amendments to the application of Local Plan policy documents
  - Determining the following types of planning applications:
    - An application that has received written comments from occupiers of five or more addresses (including the parish council), the views of which are contrary to the officer recommendation
    - An application where a member of Council requests in writing to the Head of Planning that the application be referred to Planning Committee for determination. The request must be received within 21 days of publication of the weekly list and based on sound planning reasons as determined by the Head of Planning
    - An application that the Head of Planning, in discussion with the chairman of the Planning Committee, considers necessary to be determined by the Planning Committee
- The exceptions to the above are the following application types:
- All tree preservation order applications (including those within a conservation area)
  - Certificates of lawful use (existing and proposed)
  - Prior notification of proposed development by telecommunications code system operators
  - General development order permitted development prior notification applications
  - County council matters
  - Neighbouring authority consultations
  - Non material amendments.
- Determining a major application that is submitted by, or on behalf of, the Borough Council for its own development
  - Determining any application made by, or on behalf of, a member of the Borough Council or an employee of the authority.

## Part 2 - Responsibility for functions

### c. working groups

#### CONTENTS

##### Paragraph

- 1 Asset Strategy & Regeneration Group
- 2 Member Development Group
- 3 Planning Policy Member Working Group

The Council will, from time to time, appoint working groups – some of these will look at a specific matter then will no longer need to meet, others will be ‘standing’ groups. The Council currently has three standing working groups.

#### 1. Asset Strategy & Regeneration Group

- 1.1 Membership will consist of six members appointed by Council. The group will be politically balanced and will be chaired by the Executive member with responsibility for asset management. There will be officer representation from key functions within the local authority.

Further consultation will also take place with relevant ward members as appropriate.

Further service specific representatives to be co-opted as and when necessary e.g. car parks, heritage, leisure.

- 1.2 Meetings will be held on a bi-monthly basis and will be informal and not open to the public. Meetings will be conducted in accordance with the council procedure rules contained within this constitution, where applicable. The standard agenda items will be:

- Minutes of the last meeting
- Progress on actions from last meeting
- Review of key sites
- Key actions and tasks
- Any other business.

- 1.3 Its purpose and role is:

- To provide the strategic lead and co-ordination on the development and implementation of key regeneration sites;
- To lead in the planning and development of a series of projects to support regeneration in key settlements including Hinckley, Barwell, Earl Shilton and Market Bosworth;
- To make recommendations for asset acquisition and disposal;
- To engage with relevant internal and external stakeholders to ensure effective coordination of projects.

- 1.4 Its role and objectives are:

- To assess the options for each of the sites and then draw up an action plan for each site;

- To take forward proposals and monitor against key milestones;
- To coordinate and influence delivery of Council owned sites, in particular Trinity Lane and Middlefield Lane;
- To coordinate with town teams and ensure delivery on their priorities;
- To oversee delivery of town centre vision documents;
- To coordinate delivery of public realm and highway projects linked to major developments that are coming forward across the borough.

## 2. Member Development Group

2.1 The Member Development Group will consist of seven members appointed by Council. Meetings will be held approximately quarterly and will be informal and not open to the public. Meetings will be conducted in accordance with the council procedure rules contained within this constitution, where applicable.

2.2 The functions of the Member Development Group include, but are not limited to:

### Member Development

- Ensuring member development is part of the day to day business of the authority;
- Ensuring member and officer support for Member development at all levels;
- Ensuring that all members are trained to a level at least appropriate to that required by their roles and responsibilities, as outlined in their role descriptions;
- Raising awareness of member development;
- Ensuring effective training is provided to a high level, whilst achieving value for money;
- Ensuring evaluation processes are in place to assess the value for money of training and to quantify improvements achieved both for the authority and the individual councillor;
- Seeking, promoting and taking advantage of opportunities to work and develop in partnership across the tiers of local government, with other community groups and with other authorities, sub-regionally, regionally or nationally;
- Guiding the process of assessing members' development needs and arranging and delivering of the resulting training programme;
- Monitoring the member development budget and make decisions on the use of that budget.

### Promoting democracy

- Developing programme for prospective councillor events and the preparation of information for prospective councillors
- Supporting work to promote democracy and the work of the council within the community (for example in schools, businesses and community groups) and encouraging attendance at community events.

### Member support

- Representing all councillors on matters regarding member information, support and wellbeing;
- Ensuring the support provided meets the changing needs of members;
- Ensuring provision of adequate facilities for members to operate effectively;
- Making recommendations for the provision of and support for members' ICT solutions and encouraging its use.

## 3. Planning Policy Member Working Group

3.1 The Planning Policy Member Working Group will be comprised of members of the Planning Committee, the Leader of the Council and the Executive members for development services



and for regeneration. Meetings will be chaired by the chairman of the Planning Committee. Other members may be invited by the Chairman.

3.2 The primary functions of the Planning Policy Member Working Group are:

- To consider draft evidence base documents relating to the preparation and development of new Local Plan policy
- To consider draft Local Plan documents prior to consideration at the relevant formal decision making body
- To provide informal feedback on those draft documents to guide officers in formulating formal proposals
- To consider and keep abreast of the initial three stages of Neighbourhood Development Plans undertaken by communities across the borough. These initial stages are:
  1. The identification and designation of a Neighbourhood Area
  2. Assistance with evidence gathering, consultation and publicity
  3. Assistance submission of the Plan
- To consider and keep informed of relevant work undertaken by the major projects team as required.

3.3 The Planning Policy Member Working Group is an informal working group. It has no formal delegated decision-making powers; however its advice and recommendations will be taken into account fully by the Head of Planning and Development in exercising their delegated authority in relation to the areas of responsibility listed in paragraph 3.2.

3.4 Meetings will generally be held six-weekly but additional meetings may be arranged as required.

3.5 Meetings will be informal and as such will not be open to the public and press.

3.6 Documentation for the meeting will be circulated to members on a confidential basis. All members will receive these via email with a paper copy available in the Members' Room.

3.7 Any papers, presentations or discussions held at these meetings are confidential and should not be shared outside of the meeting.

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## Part 2 - Responsibility for functions

### d. the Executive

#### CONTENTS

##### Paragraph

- 1 Functions of the Executive
- 2 Members of the Executive

The Executive will consist of the Leader plus at least two but no more than nine other councillors and has responsibility for carrying out any function that is not the responsibility of any other part of the authority, whether by law or under this constitution. It cannot make decisions that are outside of the budget and policy framework, except when the matter is urgent. Many functions of the Executive are delegated to individual members of the Executive or to officers.

All members of the Executive will have an area of responsibility and will also carry responsibility for individual decision making. These decision making powers are listed in this section of the constitution.

1. The functions of the Executive include, but are not limited to:
  - Implementing policies and spending in accordance with the budget and policy framework
  - Making recommendations on major policy and resource matters to Council for decision, and ensuring full and proper consultation occurs on all such proposals
  - Giving political direction and guidance to and monitoring the performance of the council
  - Providing political accountability for the council's performance to Council and the Scrutiny Commission
  - Fostering and improving the council's performance as a partner with other stakeholders
  - Supporting, promoting and monitoring the application of the council's objectives
  - Approving expenditure, variations, write-offs and virements of between £25,000 and £50,000 in accordance with the financial procedure rules
  - Receiving reports from the Monitoring Officer and internal auditor in relation to Executive functions
  - Recommending to Council the making of bylaws in relation to Executive functions
  - Recommending the capital and revenue budget to Council
  - Making compulsory purchase orders, other than in respect of listed buildings
  - Setting fees & charges for Executive functions within the budget set by Council
  - Determining borrowing policy and investment treasury management on advice of the Head of Finance
  - Approving the Private Sector Housing Renewal policy
  - Commenting upon plans, strategies, policies and consultation documents produced by the EU, government, regional bodies, other public bodies or local authorities which are likely to have a major impact on council policy
  - Making urgent decisions outside of the budget and policy framework in consultation with the chairman of the Scrutiny Commission and reporting on the decision to Council
  - Approving disposals in accordance with the financial procedure rules.
2. Members of the Executive

Members of the Executive may make individual decisions. Each Executive member has their own 'portfolio' which can be found on the council's website, and a list of decisions that they are permitted to take. In addition to this, a decision making body may delegate a specific decision to a member of the Executive.

Members of the Executive have strategic overview of their area, including monitoring service objectives targets, programmes and strategies, but should not involve themselves in operational matters. They may comment upon plans, strategies, policies and consultation documents produced by the EU, government, regional bodies, other public bodies or local authorities which may affect the borough.

Members of the Executive may meet with senior members of opposition groups to discuss policy matters before taking recommendations to Council or other body.

In the event of a decision being required on a matter that is delegated to the relevant member of the Executive, the Leader may take that decision (or the Deputy Leader in the Leader's absence). The Deputy Leader is authorised to take any decisions delegated to the Leader in the Leader's absence.

## 2.1 Leader of Council

The Leader is responsible for providing overall leadership and direction for the Council.

The Leader has the following responsibilities and decision making powers in their role as Leader:

- Chairing meetings of the Executive
- Appointing an Executive or non-Executive member to an outside body in respect of an Executive function
- Approving the emergency plan
- Co-ordinating multi agency implementation of civil contingency media and public relations policy

## 2.2 Decisions delegated to the relevant Executive member

A member of the Executive may take certain decisions which relate to their area of responsibility. The relevant Executive member may take the following decisions:

### Asset management

- Chairing meetings of the Asset & Regeneration Strategy Group
- Acting as consultee on issues of acquisition and disposal of land (including interests in land) for the purposes of providing social housing in partnership with registered social landlords or direct built
- Acquisitions in accordance with the financial procedure rules.

### Audit

- Receiving and monitoring internal and external audit plans.

### Car parks

- Recommending policy in relation to off-street parking

### Economic development

- Determining grant applications received from the borough's small and medium sized businesses (SMES) in accordance with conditions and criteria established and amended from time to time

#### Environmental health

- Monitoring the council's impact on the environment, maintaining an environmental action plan and overseeing the development of an environmental management system
- Authorising enforcement under section 7 of the Sunday Trading regulations

#### Finance

- Making recommendations to Council on council tax requirements
- Monitoring the performance of funds invested
- Determining applications from occupiers of non-domestic properties for reduction of rate liability on grounds of hardship (section 49 of the Local Government Act 1988); part occupation relief (section 44A of the Local Government Finance Act 1988); charitable relief (sections 43 – 47 of the Local Government Act 1988); village shops relief (Local Government Rating Act 1997) on advice of the Head of Finance and Head of Revenues & Benefits
- Acquisition and disposal of land or property in accordance with the financial procedure rules

#### Housing

- Determining applications for housing financial assistance in accordance with the Housing Renewal Policy where total assistance requested exceeds £20k

#### ICT

- Acting as the council's ICT champion

#### Parks & open spaces

- Approving design briefs for parks & open spaces
- Promoting cultural, social and commercial use of parks.

#### Partnerships

- Receiving recommendations from the Local Strategic Partnership and determining how they should be dealt with
- Making recommendations to the Local Strategic Partnership

#### Planning policy

- Making recommendations to Council in relation to supplementary planning guidance
- Making recommendations to the Highways Forum in relation to the borough council's information and objectives in the Leicestershire Transport Plan

#### Rural areas and parish councils

- Ensuring all policies and strategies of the council address the needs of the borough's rural areas
- Ensuring rural concerns are properly represented within community safety
- Promote rural economy and interests of rural businesses
- Advising other bodies, such as the Local Strategic Partnership, on addressing rural needs in their policies and activities
- Ensuring the long term transport policies of the borough help to reduce rural isolation and exclusion
- Promoting liaison and joint working with town and parish councils, including development of charters and devolving of functions

## Sustainability

- Advising on the council's approach to achieving sustainable development in the borough.

## Part 2 - Responsibility for functions

### e. overview & scrutiny

#### CONTENTS

##### Paragraph

- 1 General role
- 2 Specific functions

The overview & scrutiny function is made up of the Scrutiny Commission and Finance & Performance Scrutiny.

The Scrutiny Commission will consist of 11 members of Council and Finance & Performance Scrutiny of nine members of the council, and both will be politically proportionate. The Mayor, Deputy Mayor and members of the Executive may not be a member of the Scrutiny Commission or Finance & Performance Scrutiny. The chairmanship of the Scrutiny Commission will be allocated to a councillor who is not from the majority group, by decision of Council. Two vice-chairmen from the other two political groups will be appointed to the Scrutiny Commission, and one of these (who is not from the majority group) will be appointed chairman of Finance & Performance Scrutiny.

Non-council members may be co-opted to overview & scrutiny bodies in a non-voting capacity for specific areas of investigation, by agreement of the Scrutiny Commission.

Joint meetings may be held from time to time. The chairman of the Scrutiny Commission will chair any joint meetings of overview and scrutiny bodies. All other procedure rules will be observed.

#### 1. General role

1.1 Within their terms of reference and with the aim of improving services to the public and on their behalf, the Scrutiny Commission and Finance & Performance Scrutiny will:

- Review and/or scrutinise decision made or actions taken in connection with the discharge of any of the council's functions, as an internal 'critical friend'
- Make reports and/or recommendations to Council and/or the Executive in connection with the discharge of any functions
- Consider any matter affecting the area or its inhabitants or the activity of other public bodies operating within the borough
- Exercise the right to call-in for decisions made but not yet implemented by the Executive, or executive decisions delegated to individual Executive members or officers
- Approve an annual work programme
- Put in place a system to ensure that referrals to the Executive, either by way of report or for reconsideration, are managed efficiently within the terms of the constitution
- Appoint, where appropriate, a group to review a specific topic on a task and finish basis

## 2. Specific functions

### 2.1 The specific responsibilities of the Scrutiny Commission and Finance & Performance Scrutiny are:

- Assisting Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues
- Conducting research and consultation on analysis of policy issues and possible options
- Considering and implementing mechanisms to encourage and enhance community participation in the development of policy options
- Questioning members of the Executive, committees and the senior leadership team about their views and professional opinions on issues and proposals affecting the area
- Reviewing and scrutinising the decisions made by and the performance of the Executive and officers both in relation to individual decisions and over a period of time
- Reviewing and scrutinising the performance of the council in relation to its policy objectives, performance targets and/or particular service areas and monitoring the eventual effectiveness of decisions taken and comparing to original forecasts
- Ensuring effective scrutiny of the treasury management strategy and policies
- Ensuring effective scrutiny of the risk management processes of the council including corporate and service risks
- Making recommendations to Council, the Executive or appropriate committee as an outcome of the scrutiny process
- Liaising with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- Reviewing and scrutinising the performance of other public bodies operating in the area and inviting reports from them
- Questioning and gathering evidence from any person, with their consent
- Co-opting non-council members to assist in the scrutiny of specific issues on which they might have expert knowledge
- Consider “Councillor Calls for Action” and petitions as referred under the petitions scheme.
- Prepare and present an annual report to Council.



## **Part 2 - Responsibility for functions**

### **f. scheme of delegation to officers**

#### **CONTENTS**

##### Paragraph

- 1 General provisions
  - 2 Strategic Leadership Team
  - 3 Chief Executive / Head of Paid Service
  - 4 Director (Community Services)
  - 5 Director (Corporate Services)
  - 6 Director (Environment & Planning)
  - 7 Head of Finance
  - 8 Head of Planning
  - 9 Head of Revenues & Benefits Partnership
  - 10 Head of Street Scene Services
  - 11 Head of ICT
  - 12 Community Safety & Performance Manager
  - 13 Anti-Social Behaviour & Tenancy Manager
  - 14 Housing Repairs Investment Manager
  - 15 Housing Repairs Operations Manager
  - 16 Cultural Services Manager
  - 17 Housing Options Manager
  - 18 Private Sector Housing Manager
  - 19 Housing Assets & Support Team Manager
  - 20 Strategic & Community Planning Manager
  - 21 Environmental Services Manager (Commercial)
  - 22 Senior Environmental Health Officer (Pollution)
  - 23 Legal Services Manager
  - 24 Human Resources & Transformation Manager
  - 25 Communications & Promotions Officer
  - 26 Democratic Services Officer
  - 27 Estates & Assets Manager
- Corporate structure chart

In addition to decisions by council bodies or executive members, decisions may also be taken by officers who have the relevant authority either in accordance with legislation or under this constitution. This section sets out the areas of responsibility of key officers and their delegated decision making responsibilities under section 101 of the Local Government Act 1972 and all other powers enabling delegation to officers.

A copy of the council's structure chart is appended to this section.

1. General provisions
  - 1.1 An officer with delegated powers may in writing authorise another officer or officers to exercise those powers. The officer with the delegated powers shall keep a register of all authorisations granted and will send a copy of each authorisation to the Legal Services Manager and the Democratic Services Officer.
  - 1.2 The exercise of delegated powers is at the discretion of the relevant officer, who may refer any matter which he/she has authority to determine to a director, the Chief Executive, the relevant committee, the Executive or Council.
  - 1.3 Delegation to an officer below director level also infers the same delegation to the Chief Executive and relevant director.
  - 1.4 Council, its committees and the Executive reserve the right to additionally delegate a specific decision by resolution (also known as an express delegation).
  - 1.5 When any decision is made under an express delegation, an executive decision is taken under delegated powers or a decision which grants a permission or licence, affects the rights of an individual or awards a contract or incurs expenditure which materially affects the authority's financial position is made under delegated powers, details of this must be submitted to the Democratic Services Officer for publication on the council's website, in accordance with the Openness of Local Government Bodies Regulations 2014.
  - 1.6 Officers listed in this scheme of delegation have responsibility for managing the service and staff within their service area and may take any decision relating to their service in accordance with legislation and the provisions of this constitution, unless reserved to another body or officer within this constitution. The list of matters delegated to an officer is not exhaustive and their duties are not limited to those listed.
  - 1.7 All officers reporting to council bodies are authorised to identify and compile background papers.
  - 1.8 The Chief Executive, relevant director and the Legal Services Manager are responsible for responding to requisitions for information.
  - 1.9 If an officer has delegated authority, that officer is deemed to be the proper officer to sign documents in relation to that function.
  - 1.10 All functions under a local act (other than those specified or referred to in regulation 2 of schedule 1 of the Leicestershire Act 1985 or those specified elsewhere in this constitution) will be delegated to the relevant service manager as listed in the scheme of delegation.
  - 1.11 Any powers of entry relating to any legislation are delegated to any officers authorised to administer that legislation.

- 1.12 Relevant service managers may obtain particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.13 The Chief Executive, directors and service managers will make decisions on the appointment, discipline, grievance, dismissal and redundancy (including determination of suitable alternative employment) of officers in accordance with personnel policies.
- 1.14 All managers will be responsible for the health and safety of the council's employees and other persons who may be affected by the council's activities or on land within the management responsibility or ownership of the council.

## 2. Strategic Leadership Team

The Strategic Leadership Team consists of the Chief Executive, the Director (Community Services), the Director (Corporate Services) and the Director (Environment & Planning). The responsibilities of the Strategic Leadership Team as a body, or its members as individuals, include but are not limited to:

- 2.1 The Strategic Leadership Team will approve the management structure of each service area below director level.
- 2.2 The Strategic Leadership Team will determine grading and specific conditions such as car allowances for staff below director level.
- 2.3 The Strategic Leadership Team will approve the corporate training plan.
- 2.4 The Chief Executive or relevant director may institute legal proceedings, including proceedings for an injunction, to authorise the carrying out of works in default of a notice and to lodge an appeal against any court decision. Where legal action is proposed regarding the issuing of licences, consents, approvals, permissions, registrations and consequent contraventions (including the issue and prosecution of appropriate remedies and penalties including all civil and criminal court proceedings, formal cautions), the Chief Executive or relevant director, in consultation with the Legal Services Manager, must advise the relevant Executive member before making the decision to proceed.
- 2.5 The Chief Executive or relevant director may authorise applications for warrants.
- 2.6 The Chief Executive or relevant director will be authorised to administer formal cautions as a penalty following the admission of an offence.
- 2.7 The Chief Executive or relevant director is authorised to sign notices and other documents relating to Executive functions including those delegated to an individual member.
- 2.8 The Chief Executive or relevant director is authorised to implement any decision of the Scrutiny Commission or Finance & Performance Scrutiny and prepare any associated documentation.
- 2.9 The Chief Executive or relevant director will have authority to negotiate financial settlements in respect of Executive functions, in consultation with the relevant member of the Executive, and conclude those negotiations subject to the financial procedure rules.
- 2.10 The Chief Executive or relevant director (or other director in their absence) will have authority to deal with urgent business that must be decided within five working days in relation to Executive functions, having first consulted all available members of the Executive and the chairman of the Scrutiny Commission.

- 2.11 The Chief Executive and directors have authority to let contracts subject to authorisation of expenditure in accordance with the financial procedure rules.
- 2.12 The Chief Executive and directors will oversee the management of any direct service organisation which delivers a function which is the responsibility of the Executive.
- 2.13 The Chief Executive and directors will manage services within approved budgets according to financial procedure rules and personnel policies, including approving and monitoring service objectives and targets.
- 2.14 The Chief Executive and directors will monitor service objectives and targets, programmes and strategies.
- 2.15 The Chief Executive or directors will make decisions on whether to fill vacant officer positions.
- 2.16 The Chief Executive and directors will be responsible for absence issues under the council's attendance management guidelines.
- 2.17 The Chief Executive or relevant director will approve job descriptions and person specifications for employees below director level.
- 2.18 The Chief Executive or relevant director is authorised to sign notices and other documents in relation to personnel issues.
- 2.19 The Chief Executive, directors and Head of Finance will monitor the council's capital and revenue budgets and approve overspends, virements and supplementary budgets in accordance with financial procedure rules.
- 2.20 The Strategic Leadership Team will have delegated authority to approve acquisition and disposals in accordance with the financial procedure rules.
3. Chief Executive / Head of Paid Service
- 3.1 The Chief Executive holds the statutory designation of Head of Paid Service (see part 1, paragraph 10.1), Returning Officer (or Deputy Returning Officer where relevant), Electoral Registration Officer and District Emergency Planning Officer. The Chief Executive is responsible for the overall corporate management and operational responsibility including management responsibility for officers, relationships with members, external communications, emergency planning, crime & disorder and local elections.
- 3.2 The Chief Executive has delegated authority to:
- Staffing
- determine individual grading issues and job evaluation within the agreed job evaluation scheme
  - agree voluntary severance arrangements including authorising early retirement by reason or redundancy or efficiency in relation to the directors
  - use the power of section 13(4) and 13(5) of the Local Government Act 2000 to place staff at the disposal of other local authorities for the purpose of joint arrangements or joint working in an emergency, in consultation with the Section 151 officer
  - Sign deeds of apprenticeship

- Produce notices and other documents relating to functions with respect of industrial relations (in accordance with relevant employment protection legislation)

#### Planning

- Determine applications for a certificate of appropriate alternative development

#### Compulsory purchase

- Advise in respect of land or buildings proposed to be acquired either by agreement or compulsorily under the Town and Country Planning acts and related legislation in consultation with the Legal Services Manager
- Advise Council in respect of the making of compulsory purchase orders to facilitate the proper planning of an area or to secure the reclamation of derelict land
- Decide whether or not to accept a Purchase or Blight Notice

#### Customer care

- Promote customer care and equality in service delivery and access

#### Elections & members

- Agree polling station changes at short notice in consultation with group leaders and the relevant ward member(s)
- Receive and witness declarations of acceptance of office
- Receive resignations from office by elected members
- Authorise in-year changes to committee membership in consultation with the relevant group leader, reporting to the next available meeting of Council

#### Parish councils

- Promote liaison and joint working with town and parish councils, including development of charters and devolving of functions

#### Emergency planning

- Co-ordinate multi agency implementation of civil contingency media and public relations policy

#### Signing and sealing

- Sign documents in addition to the powers of other proper officers except where specific professional qualifications are necessary
- Sign notices and other documents related to functions which are deemed general powers of all committees
- Publish and serve notices in addition to specific powers

#### Local legislation

- issue information and bulletins in accordance with sections 83, 84 and 85 of the Leicestershire Act 1985

#### Property

- Acquire or dispose of land or property in conjunction with the Section 151 Officer, in accordance with the financial procedure rules.

#### 4. Director (Community Services)

4.1 The Director (Community Services) is responsible for community safety, anti-social behaviour, tenancy management, housing repairs, cultural services, housing stock, homelessness, private sector housing and strategic & community planning.

4.2 The Director (Community Services) has delegated authority to:

- Liaise with government office housing officials to review the annual housing investment programme submission and resources allocation
- Liaise with the Homes and Communities Agency, as appropriate
- Advise the council of the housing needs of the borough and recommend how to fulfil those needs in accordance with a defined housing strategy

- Work in partnership with other housing providers to meet the housing needs of the borough and recommend any financial arrangements to be made between the council and other housing providers to carry this out
- Take action under relevant housing legislation
- Agree sale of land / housing in accordance with the financial procedure rules
- Decisions relating to legal or other interest in HRA land or buildings in consultation with the Legal Services Manager
- Support tenants who are in need or disadvantaged, subject to statutory limitation
- Waive requirements for two estimates for works in relation to grants for financial assistance in appropriate cases (in consultation with the Executive member where work value exceeds that permitted by the financial procedure rules)
- Cancel any grant approval or require the repayment of grant payments with or without interests in the case of grant conditions being breached
- Authorise suitably qualified officers to take action in relation to public space protection orders.

## 5. Director (Corporate Services)

5.1 The Director (Corporate Services) holds the statutory designation of Monitoring Officer (see part 1, paragraph 10.2), Deputy Returning Officer, Deputy Electoral Registration Officer and Senior Information Risk Officer. The Director (Corporate Services) is responsible for revenues & benefits, legal services, human resources & transformation, communications & promotion, consultation, governance and members, ICT, finance and estates & asset management.

5.2 The Director (Corporate Services) / Monitoring Officer has delegated authority to:

### Constitution

- Make any changes to the constitution based on matters of fact (such as changes in legislation).

### Governance

- Grant dispensations to councillors and co-opted members from requirements relating to interests set out in the members' code of conduct
- Administer a complaints process about the conduct of members from initial complaint until resolution
- Witness and receive declarations of acceptance of office from elected members
- Receive resignations from office by elected members
- Receive and keep register of interests and declarations of gifts and hospitality from members and officers
- Prepare notices and other documents related to duties, functions and decisions of the Ethical Governance & Personnel Committee
- Restrict members' access to papers in accordance with legislation
- Make payments or provide other benefits in cases of maladministration up to the value of £3,000
- Advise Council on data protection and freedom of information
- Act as custodian of original RIPA authorisations and related documentation
- Produce notices and other documents relating to functions reserved to Council
- Sign documents relating to decisions of the Appeals Panel
- Keep a role of Freeman and Honorary Aldermen
- Deposit of documents to be made available to the public

### Legal

- Authorise the service of requisitions for information, planning contravention notices, breach of condition notices and stop notices under relevant legislation

- Sign a certificate of legal opinion to accompany an application for political restriction in respect of a post in accordance with the Local Government & Housing Act 1989 and the Local Government Act 1972
- Sign documents in addition to the powers of other proper officers except where specific professional qualifications are necessary
- Publish and serve notices in addition to specific powers

#### Estates & Asset management

- Improve the quality of the borough's stock of industrial and commercial property by enabling or direct provision
- Design, prepare and manage contracts (including health and safety issues) of building work (whether new build or restoration) of all corporate property and professional services provided under the Local Authorities (Goods and Services) Act 1970
- Sell, purchase or lease land or buildings in accordance with the asset management plan and subject to financial procedure rules

#### Performance & risk

- Oversee the formal administration of the council's quality system, risk management and self-assessment programmes

#### IT

- Oversee and direct the technological resources of the council
- Approve all security arrangements of the council in respect of IT and financial issues

### 6. Director (Environment & Planning)

6.1 The Director (Environment & Planning) is responsible for environmental health (including pollution and commercial services), health and safety, emergency planning, streetscene services and planning.

6.2 The Director (Environment & Planning) has delegated authority to:

#### Planning

- Authorise prosecutions relating to the service areas for which the Director (Environment & Planning) has responsibility
- Apply for an injunction in relation to a listed building in consultation with the Legal Services Manager
- Liaise with the Department for Culture, Media and Sport and English Heritage concerning scheduled ancient monuments and areas of archaeological importance
- Formulate and implement policies and programmes for the reclamation of derelict land including securing the necessary grant aid or other financial resources to carry out such programmes

#### Environmental Health

- Authorise works to ameliorate flooding under the Land Drainage Act 1991
- Promote environmental awareness, prepare environmental indicators for the borough and monitor the overall state of the borough's environment
- Promote the climate change agenda

#### Street naming and numbering

- Approve new street numbering schemes or street numbering affecting existing properties
- Approve naming of new highways

#### Emergency planning

- To liaise with all stakeholders on emergency planning and to maintain and improve the council's emergency plan.

### 7. Head of Finance

7.1 The Head of Finance holds the statutory designation of Section 151 Officer / Chief Financial Officer. The Head of Finance is responsible for the operational management and control of the finances of the council in accordance with council policies and for all matters related to all finance and accountancy functions.

7.2 The Head of Finance has delegated authority to:

- Publish notices of setting of council tax
- Approve the council tax base
- Monitor the performance of all funds invested in consultation with the relevant member of the Executive
- Supervise the council's insurance arrangements
- Supervise the council's banking arrangements
- Receive the annual statement of accounts and recommend to Council
- Authorise payment of all accounts in accordance with the financial procedure rules
- Open accounts to inspection by any member
- Advise on the financial implications of proposed new policies or development of existing policies, including sources of revenue
- Authorise investments and debt repayment in accordance with the treasury management policy
- Consider outstanding debts due to the council and undertake recovery or write off, in accordance with financial procedure rules
- Receive money due from officers
- Administer house purchase advances in accordance with the council's policy
- Manage the council's concessionary travel schemes
- Authorise all leasing arrangements for the acquisition of vehicles, plant and equipment within approved budgets
- Manage the internal audit function
- Consider and make recommendations on the external audit management letter
- Consider and make recommendations on the internal and external audit plans
- Make recommendations on the development of the internal audit service and specify minimum audit levels to ensure statutory and other requirements are met
- Publish notices of audit
- Validate and determine applications for compensation, determine applications for a review of a compensation decision and conduct proceedings for an appeal against a compensation decision in relation to Community Right to Bid in consultation with the Legal Services Manager
- Determine applications to recoup compensation above £20k in relation to Community Right to Bid
- Issue declarations and certificates with regard to securities
- Acquire and dispose of land in accordance with the financial procedure rules.

8. Head of Planning

8.1 The Head of Planning is the designated Chief Planning Officer. The Head of Planning is responsible for the management of all services and staff within development management, enforcement, planning policy, economic development and regeneration and building control.

8.2 The Head of Planning has delegated authority to:

Development management

- Carry out all processes and procedures relating to the council's development management function



- Determine all applications for planning permission, advertisement consent, listed building consent, conservation area consent, works on trees covered by a Tree Preservation Order and any other planning related application or notification except where reserved to another body under this constitution, in accordance with the Town and Country Planning Act 1990
- Determine applications for certificates of lawful existing or proposed use or development in consultation with the Legal Services Manager
- Determine whether an agreement pursuant to Section 106 of the Town and County Planning Act 1990 is required in respect of any planning applications and to instruct the Legal Services Manager to enter into such agreements
- Determine variations to S106 agreements and unilateral undertakings in consultation with the chairman of the Planning Committee, relevant ward councillor(s) and the Legal Services Manager
- Approve discharge of conditions or release of monies held by the council from planning related agreements
- Sign all documents related to the council's development management function following decisions made under delegated powers or by the relevant committee or by Council

#### Enforcement

- Determine the course of action on breaches of planning control including not taking any action or where it is not expedient to take action
- Take any enforcement action including the issue and service of any statutory notice relating to the control of development, including but not limited to enforcement notices, stop notices and temporary stop notices, breach of condition notices, listed building enforcement notices, planning contravention notices, hazardous substances contravention notices, advertisement discontinuance notices, untidy site notices, tree replacement notices and injunctions in accordance with enforcement policies
- Exercise any statutory power to withdraw any such notice, to waive or relax any of their contents or extend a period for compliance
- Instigate prosecutions for failing to comply with the above notices in consultation with the Legal Services Manager

#### Building control

- Authorise named officers to enter land and premises including the seeking of warrants for the various purposes specified in and in accordance with relevant legislation
- Determine all applications for building regulations approval purposes
- Take action to deal with dangerous and/or derelict buildings and structures
- Serve and receive notices under relevant legislation and to effect enforcement, including requests for information in consultation with the Legal Services Manager

#### Conservation

- Serve Article 4 notices in consultation with the Legal Services Manager
- Administer grant schemes for tree planting, landscaping and other environmental improvement works within the borough
- Determine applications for landscape conservation grants, grants for the renovation or repair of listed buildings or other buildings contained in a partnership agreement, or local environmental improvement grants in accordance with policy and budget provision
- Undertake such actions as necessary to support nature conservation matters including in liaison with Natural England and other relevant bodies in relation to the designation of sites of special scientific interest and the establishment of local nature reserves

#### Consultation and responses

- Respond to consultations from adjoining authorities / external bodies
- Make observations on applications made by the county court
- Make observations on those applications which are matters for Leicestershire County Council

- Respond to national planning policy consultations in consultation with the relevant executive member

#### Planning policy

- Undertake such actions as necessary to produce evidence bases for planning policy documents in consultation with the Planning Policy Member Working Group and the relevant executive member
- Undertake such actions as necessary to develop planning guidance in consultation with the Planning Policy Member Working Group and the relevant member of the Executive for approval
- Serve notices related to preparation of a development plan
- Agree the first three stages of a neighbourhood development plan in consultation with the Planning Policy Member Working Group and the relevant executive member

#### Economic development

- Undertake such actions as necessary to promote the economic wellbeing of the borough through partnership with the business and community sectors

#### Trees and hedges

- Make, confirm, amend, withdraw, revoke and take any necessary enforcement action in relation to legislation regarding tree preservation orders, high hedges and hedgerows except those reserved for the Planning Committee

#### Community Right to Bid

- Validate and determine initial applications in relation to Community Right to Bid.

### 9. Head of Revenues & Benefits Partnership

9.1 The Head of Revenues & Benefits Partnership is responsible for the administration of council tax, non-domestic rates, benefits and revenues including management of all services and staff within the partnership.

9.2 The Head of Revenues & Benefits Partnership has delegated authority to:

- Implement the prosecution and enforcement policy following consultation with the Legal Services Manager
- Advise the relevant member of the Executive in determination of applications from occupiers of non-domestic properties for reduction of rate liability on grounds of hardship, part occupation relief, charitable relief and village shops relief
- Be consulted by the Valuation Officer and be a party to any agreement for the amendment to the valuation list for non-domestic rates and council tax purposes.

### 10. Head of Street Scene Services

10.1 The Head of Street Scene Services is responsible for refuse, recycling, garden waste, street cleaning, grounds maintenance, green spaces, neighbourhood wardens, street furniture and cemeteries.

10.2 The Head of Street Scene Services has delegated authority to:

- Administer the council's responsibilities and take action in accordance with the Anti-Social Behaviour Crime and Policing Act 2014
- Monitor and take action to deal with dangerous trees under relevant legislation
- Liaise with the highways authority on traffic management and highways maintenance
- Manage and recommend policies relating to the management of car parks in the borough
- Serve notices or recommend legal action in consultation with the Legal Services Manager in relation to dog fouling, refuse, refuse containers, abandoned vehicles, litter and graffiti under relevant legislation

- Manage the council's vehicle fleet and related contracts including acquisition, disposal and maintenance
- Hold the operator's licence on behalf of the council
- Hold an environmental permit to operate a waste transfer station
- Progress and monitor improvement schemes in relation to parks and open spaces within approved budgets
- Negotiate terms and recommend for adoption public open space in accordance with S106 agreements.

11. Head of ICT

11.1 The Head of ICT is responsible for management of information technology and management of the ICT partnership (including managing the contract) including staff within the service.

11.2 The Head of ICT has delegated authority to:

- Manage the ICT contract in accordance with financial procedure rules.

12. Community Safety & Performance Manager

12.1 The Community Safety & Performance Manager has delegated authority to:

- Support, in partnership, a domestic violence refuge
- Exercise any function in relation to crime and disorder and anti-social behaviour in accordance with relevant legislation.

13. Anti-Social Behaviour & Tenancy Manager

13.1 The Anti-Social Behaviour & Tenancy Manager has delegated authority to:

- Exercise any function in relation to crime and disorder and anti-social behaviour in accordance with relevant legislation
- Administer the housing rents service and manage arrears
- Apply for a rent repayment order
- Manage tenancies in accordance with council policy and relevant legislation
- Administer the council's housing, social and welfare policies and initiatives.

14. Housing Repairs Investment Manager

14.1 The Housing Repairs Investment Manager has delegated authority to:

- Manage the delivery of reductions in carbon emissions in council-owned property
- Carry out planned maintenance and improvements for homes to the decent homes standard

15. Housing Repairs Operations Manager

15.1 The Housing Repairs Operations Manager has delegated authority to:

- Deal with repair requests on a priority basis in accordance with the council's policies.

16. Cultural Services Manager

16.1 The Cultural Services Manager has delegated authority to:

- Coordinate the involvement of young people in decision making
- Manage and sustain the Hinckley markets
- Manage and deliver the CCTV operations
- Support rural town centres in their development
- Work alongside the leisure centre operation to ensure high quality provision
- Support the provision of sports facilities with the aim to increase participation
- Support the creative arts sector

- Work with third parties to undertake a programme of general tourism destination marketing to support the local tourism sector and to work with them to promote product quality and co-ordinate marketing
- Provide access to information to incoming visitors and local citizens
- Provide street furniture and bus shelters
- Work with partner organisations to improve the health of all people in the borough
- Implement a GP referral scheme
- Improve access to services which can contribute to health.

## 17. Housing Options Manager

### 17.1 The Housing Options Manager has delegated authority to:

- Carry out all processes and procedures related to the council's housing function
- Effect the allocation of tenancies for all council dwellings in accordance with the council's allocations policy
- Let or allocate council-owned garages, sites and parking plots
- Lease on behalf of the council accommodation on a short-term basis for use of temporary housing of homeless families
- Approve the transfer and mutual exchanges of council house tenants
- Carry out duties in relation to the council's responsibilities for homelessness, including the provision of hostels, in accordance with relevant legislation
- Provide a housing advice service
- Administer the council's housing, social and welfare policies and initiatives
- Review any decision made under relevant housing legislation in relation to homelessness and housing allocations.

## 18. Private Sector Housing Manager

### 18.1 The Private Sector Housing Manager has delegated authority to:

- Serve notices and notifications in relation to drainage, sanitary convenience, earth closets, food storage accommodation and ruinous and dilapidated buildings under relevant legislation
- Serve abatement notices for statutory nuisance under relevant legislation
- Keep housing conditions under review and identify any action required under relevant housing legislation, including serving notices
- Carry out all functions, including notices, in relation to smoke & carbon monoxide alarms
- Carry out all functions in relation to prohibition orders, remedial action and improvement notices
- Carry out all duties in relation to empty dwellings and management orders
- Serve overcrowding notices
- Demand recovery of expenses incurred by local authority for service of housing notices and other action
- Require documents to be produced in accordance with legislation
- Carry out all duties in relation to demolition orders and closing orders, except those reserved for Council
- Carry out all duties in relation to Houses in Multiple Occupation, including mandatory licensing
- Determine applications for all types of housing financial assistance in accordance with the financial procedure rules in accordance with the housing renewal policy, including revisions to the amount of grant approved if the actual cost is less than the approved

estimate and all types of financial assistance which include the provision of dwellings by conversion or a reduction in the number of dwellings

- Oversee all functions in relation to energy efficiency in private dwellings
- Carry out all actions in relation to redress schemes for lettings agency work and property management work
- Take action in relation to mobile homes
- Serve notices to protect buildings not adequately secured
- Taking action under the Protection from Eviction Act 1977.

## 19. Housing Assets & Support Team Manager

19.1 The Housing Assets & Support Team Manager has delegated authority to:

- Operate a warden scheme and central control
- Encourage tenant participation in the housing service
- Arrange for and provide valuations to the Legal Services Manager in respect of Right to Buy applications
- Determine right to buy applications
- Manage tenancies in accordance with council policy and relevant legislation.

## 20. Strategic & Community Planning Manager

20.1 The Strategic & Community Planning Manager has delegated authority to:

- Receive recommendations from the Local Strategic Partnership and determine how they should be dealt with
- Make recommendations to the Local Strategic Partnership.

## 21. Environmental Services Manager (Commercial)

21.1 The Environmental Services Manager (Commercial) has delegated authority to:

### Licensing

- Determine applications for street collection and house-to-house collection permits
- Deal with all matters in connection with the licensing and enforcement of hackney carriages, private hire vehicles, drivers and operators, including granting, suspending or renewing licenses, varying fees and attaching conditions in relation to drivers and operators, except where reserved to the Licensing Committee in accordance with this constitution
- Supervise the administration, issuing and enforcement of licensing under the Licensing Act 2003 and determine applications except where reserved to the Licensing Committee in accordance with this constitution
- Determine whether representations made by an interested party (who is not also a responsible party) are vexatious or frivolous
- Deal with all matters in connection with the permitting and enforcement of gambling establishments and applications for gambling machine permits including granting, refusing, suspending and revoking licences, varying fees and attaching conditions, except where reserved to the Licensing Committee in accordance with this constitution
- Determine applications for gaming machine permits
- Advise Licensing Committee on licence conditions
- Sign documents relating to delegated licensing and registration functions
- Discharge all functions, powers and duties of the licensing authority as a responsible authority, including consideration of all types of licensing applications under the Act for

the grant, conversion, variation, renewal or review of licensing applications and making representations as a responsible authority, making representations as to the conditions which should be required to promote the licensing objectives under the Act, applying for reviews and appealing licensing decisions where considered appropriate and to take part in licensing appeals generally

- Deal with all matters in connection with scrap metal dealers in accordance with relevant legislation, including but not limited to licensing for fixed or mobile collectors and enforcement under relevant legislation

#### Environmental protection and safety

- Discharge the council's functions in relation to animal welfare, including control of dogs, anti-social behaviour, caravans and camping, licensing, public health, Sunday trading and waste
- Exercise discretionary and statutory duties in relation to the above functions to enter and monitor premises
- Make, sign and serve requisitions, notices, orders, warrants and authorisations and institute proceedings
- Issue licences and fines, award and pay grants and other assistance
- Exercise and authorise all forms of enforcement including the service of notices and the issue of cautions and all ancillary processes
- Enter land and premises and authorise named employees to enter land and premises including the seeking of warrants for the purposes specified in relevant legislation
- Grant consents for the operation of a loudspeaker
- Acknowledge receipt of temporary event notices
- Serve counter notices to temporary event notices
- Issue simple cautions

#### Food safety

- Approve vertical directive premises (meat, dairy and fishery products premises)
- Keep a register of food premises
- Register food business premises
- Undertake food safety functions under relevant legislation and regulations
- Enforce legislative powers and duties in relation to animals, feed and food under relevant legislation and regulations

#### Health and safety

- Undertake functions in relation to the Health and Safety at Work Act 1974 and related legislation not in the authority's capacity as an employer including power of entry and service of notices
- Transfer and assign premises under the Health & Safety (Enforcement Authority) Regulations 1987
- Enforce powers in relation to Plant Protection Product Regulations
- Enforce powers in relation to all smoke free legislation and regulations
- Carry out functions and powers in relation to the Sunbeds (Regulation) Act 2010
- Carry out functions under the Public Health (Control of Disease) Act 1984
- Enforce the requirements of the Health Protection (Local Authority Powers) Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010
- Appoint a CCDC to undertake, on behalf of the authority, functions in relation to communicable disease control

#### Drainage and water

- Serve notices and notifications and undertake enforcement, provide advice and authorise works in default for matters relating to public health, nuisance and the protection of water supplies.

22. Senior Environmental Health Officer (Pollution)

22.1 The Senior Environmental Health Officer (Pollution) has delegated authority to:

- Discharge any function relating to contaminated land in accordance with relevant legislation
- Discharge any function relating to control of pollution and management of air quality in accordance with relevant legislation (except those functions specified to be the responsibility of the Licensing (Regulatory) Committee)
- Exercise any function in relation to statutory nuisance, anti social behaviour, drainage, sanitary convenience, earth closets, food storage accommodation and ruinous and dilapidated buildings and the control of noise in accordance with relevant legislation (except those functions specified to be the responsibility of the Licensing (Regulatory) Committee)
- Undertake duties and powers in relation to legislation relating to stray dogs and the microchipping of dogs including enforcement powers
- Serve relevant notices and notifications and undertake enforcement, provide advice and authorise works in default for any areas of responsibility
- Take any action in relation to environmental permitting.

23. Legal Services Manager

23.1 The Legal Services Manager has delegated authority to:

- Institute, defend or participate in any legal proceedings in any case where such action is necessary.
- Act as custodian of the common seal of the council
- Seal documents
- Certify photographic copies of documents
- Sign documents in addition to the powers of other proper officers
- Direct persons residing unlawfully in vehicles to leave the land under the Criminal Justice and Public Order Act 1994
- Sign notices of seeking possession in consultation with the Anti-Social Behaviour and Tenancy Manager
- Publish notices of making byelaws and certification of byelaws or orders not specified elsewhere
- Maintain a register of assets of community value and a register of land not listed in relation to Community Right to Bid
- Validate and determine initial applications in relation to Community Right to Bid
- Validate and determine applications for review and conduct proceedings for an appeal against a listing in relation to Community Right to Bid
- Advise on human rights
- Authenticate boundaries
- Publicise and serve compulsory purchase orders and any other documents or notice relating thereto following approval by Council
- Publish and serve notices in addition to specific powers.

24. Human Resources and Transformation Manager

24.1 The HR & Transformation Manager has delegated authority to:

- Administer the council's early retirement scheme via Leicestershire County Council's pension service



- Oversee the delivery of customer services including the contact centre and reception
- Manage electoral registrations, participate in reviews of electoral divisions, wards, parliamentary constituencies and to advise council
- Receive notices of a casual vacancy from two local government electors.

25. Communications & Promotions Officer

25.1 The Communications & Promotions Officer has delegated authority to:

- Promote the public face of the council through the management of public and media relations
- Implement the council's policies in respect of corporate marketing and communication.

26. Democratic Services Officer

26.1 The Democratic Services Officer has delegated authority to:

- Provide services to councillors and committee administration, including scrutiny
- Sign summons to council meetings
- Receive notices regarding addresses to which summons to meetings are to be sent
- Circulate agendas and reports in accordance with legislation
- Supply agendas and reports to the press
- Receive, accept or reject questions and motions, including amendments
- Agree topics and forms of council forum debates in consultation with the Mayor and group leaders
- Publish decisions in accordance with statutory requirements
- Produce a certificate of resolutions of the council
- Produce summaries of minutes
- Prepare notices and other documents related to functions of the Ethical Governance & Personnel Committee
- Approve the member development programme
- Approve mileage and expense claims for members
- Oversee the administration of the council's complaints procedure.

27. Estates and Assets Manager

27.1 The Estates and Assets Manager is also the designated Corporate Property Officer and has delegated authority to:

- Provide office accommodation and other corporate property and fixtures and fitting within them as directed by the relevant director
- Manage land and buildings (including security arrangements) in the ownership of the council which are for the accommodation of employees
- Maintain an asset register and provide guidance to members and management
- Manage matters relating to energy conservation in all corporate property
- Provide architectural, estates and building maintenance services in respect of all council property, with the exception of housing
- Manage, repair and maintain all corporate property inclusive of public buildings as corporate landlord, to ensure compliance with legislation, fitness for use regulations, service delivery and maximum asset value
- Lease or license council land or buildings and ascertain any legal or other interest in land after consultation with internal and external users and consultation with the Legal Services Manager (with the exception of HRA matters)

- Authorise valuations, mortgage advances, acquisitions, disposals, leases and licenses
- Promote and enable improved access and mobility within the built environment with particular reference to people with disabilities in accordance with relevant legislation
- Prepare, let and manage contracts for the demolition of buildings, in accordance with council resolutions
- Disposal of land or property in accordance with the financial procedure rules.

## **Part 2 - Responsibility for functions**

### **g. Member champions**

Hinckley & Bosworth Borough Council appoints member champions in the areas listed below. Member champions do not have decision making powers, but work with the relevant service area to support, promote and champion their activities.

Member champions are appointed annually by the Member Development Group.

We currently have the following member champions, which may change from time to time:

Armed Forces  
Art & Tourism  
Children, Young People & Family  
Equalities  
Fairtrade  
Health  
Heritage & Design  
Member Development  
Older Persons  
Sport  
Town Centre.

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# Part 3

## PROCEDURE RULES

Last updated August 2018

# CONTENTS

- a. Introduction
- b. Council procedure rules
- c. Planning Committee procedure rules
- d. Access to information procedure rules
- e. Budget & policy framework procedure rules
- f. Executive procedure rules
- g. Overview & scrutiny procedure rules
- h. Financial procedure rules
- i. Contract procedure rules

## Part 3 – procedure rules

### a. Introduction

#### CONTENTS

##### Paragraph

- 1 Interpretation of rules of procedure
- 2 Suspension
- 3 Application of council procedure rules to committees and sub-committees

The procedure rules set out how we work, including how meetings run, how information is made available and rules relating to finance and contracts.

The following are general provisions in relation to procedure rules.

1. Interpretation of rules of procedure
  - 1.1 The ruling of the Mayor or chairman of a council body as to the construction or application of procedure rules relating to that body shall not be challenged at that meeting.

2. Suspension and amendment of council procedure rules

- 2.1 Suspension

All of the council procedure rules except those relating to means of voting, voting on appointments and approval of minutes may be suspended by motion on notice, or on motion without notice if at least one half of the whole number of members of Council are present. Suspension can only be for the duration of the meeting.

- 2.2 Amendment

Except where it is in accordance with a written recommendation of the Monitoring Officer or Ethical Governance & Personnel Committee, any motion to add to, vary or revoke the council procedure rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of Council, at which it must be accompanied by a written recommendation of the Monitoring Officer.

3. Application of council procedure rules to committees and sub-committees

All of the council procedure rules apply to ordinary/extraordinary meetings of Council. None of the rules apply to meetings of the Executive, except those specified in the executive procedure rules. Council procedure rules 5 to 15, 17 to 19 and 21 to 27 apply to meetings of committees and scrutiny bodies unless otherwise specified in the rules for that body.

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## **Part 3 – procedure rules**

### **b. Council procedure rules**

#### **CONTENTS**

##### Paragraph

- 1 Annual meeting of Council
- 2 Ordinary meetings of Council
- 3 Forum debates
- 4 Extraordinary meetings
- 5 Time and place of meetings
- 6 Notice of and summons to the meeting
- 7 Chairman of the meeting
- 8 Duration of the meeting
- 9 Quorum
- 10 Appointment of substitute members
- 11 Right to attend meetings
- 12 Questions by the public
- 13 Petitions by the public
- 14 Questions by members
- 15 Petitions from members
- 16 Position statements
- 17 Motions on notice
- 18 Motions without notice
- 19 Rules of debate
- 20 Council forum debates
- 21 Previous decisions and motions
- 22 Voting
- 23 Minutes
- 24 Record of attendance
- 25 Exclusion of public
- 26 Members' conduct
- 27 Disturbance by the public

1. Annual meeting of Council

1.1 Timing

The annual meeting will take place on 14 May or on the following Tuesday, except in the year of a borough council election when the annual meeting will take place within 21 days of the retirement of outgoing councillors. In exceptional circumstances (as determined by the Chief Executive or Director (Corporate Services), the annual meeting may be held on any day during March, April or May.

1.2 Business

The annual meeting will:

- Elect a person to preside if the Mayor or Deputy Mayor is not present
- Elect the Mayor of Council for the ensuing municipal year
- Elect the Deputy Mayor of Council
- Approve the minutes of the last meeting of Council
- Receive any declarations of interest from councillors
- Elect the Leader of Council (in an election year only)
- Confirm the establishment of council bodies and working groups, consider any amendments to size and terms of reference and allocation of seats to political groups where appropriate
- Appoint to council bodies, including overview & scrutiny bodies and working groups
- Consider any business set out in the notice convening the meeting.

2. Ordinary meetings of Council

Ordinary meetings will take place in accordance with a schedule agreed by Council. Additional meetings may take place as necessary.

2.1 Business

Ordinary meetings will:

- Elect a person to preside if the Mayor and Deputy are not present, and elect a temporary vice-chairman for the meeting if necessary
- Approve the minutes of the last meeting of Council
- Receive any declarations of interest from councillors
- Receive any announcements from the Mayor
- Receive the Leader of Council's position statement
- Receive the minutes of the Scrutiny Commission, for information only
- Consider reports from officers
- Consider questions, petitions, motions and other items of business
- Consider any other item of business specified in the summons to the meeting or any other item of business not specified which the person presiding decides by reason of special circumstances should be considered as a matter of urgency at this meeting.

3. Forum debates

Meetings for forum debates may also be called on a regular basis to debate topics agreed in advance by the council and consider any reports of members of the Executive or chairman of the Scrutiny Commission or Finance & Performance Scrutiny.

#### 4. Extraordinary meetings

##### 4.1 Calling an extraordinary meeting

The proper officer may call a meeting of Council in addition to ordinary meetings on the written request of:

- Council, by resolution
- The Mayor
- The Monitoring Officer
- The Chief Executive
- Any five members of Council if they have presented a signed requisition to the Mayor and the Mayor has failed to call a meeting within seven days of presentation of the requisition, or has refused to call a meeting.

##### 4.2 Business at an extraordinary meeting

The business that can be conducted at an extraordinary meeting is restricted to items which were specified in the requisition and notice and must be matters for which the council has a responsibility or which affect directly or indirectly residents or businesses in the borough of Hinckley & Bosworth.

#### 5. Time and place of meetings

Unless otherwise agreed, meetings will take place at 6.30pm in the De Montfort Suite, Hinckley Hub. The time and location will be included on the summons.

#### 6. Notice of and summons to the meeting

The Democratic Services Officer will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least five clear working days before a meeting (or as soon as practicable, if the meeting is called at shorter notice), the Democratic Services Officer will send a signed summons to every member of Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. The business will be set out in the order which the Democratic Services Officer considers most appropriate for the effective and proper consideration of business.

#### 7. Chairman of the meeting

The person presiding at the meeting may exercise any power or duty of the chairman. If it is necessary to choose a member of Council to preside in the absence of the Mayor or Deputy Mayor (or chairman or vice-chairman in respect of other bodies' meetings, or where there is no designated vice-chairman of the body), the proper officer shall call on a member of the Council to move that another member of the Council be named to take the chair. If discussion arises on that motion, the proper officer shall exercise the powers of the person presiding to regulate that discussion and to maintain order at the meeting. The motion and any amendments will be put to the meeting in accordance with procedures.

#### 8. Duration of the meeting

The meeting shall continue for three hours or until 9.30pm, whichever is sooner, unless the majority of members present vote for the meeting to continue. Remaining business will be considered at a time and date fixed by the chairman, or at the next ordinary meeting if the

chairman does not fix a date. If members vote to continue the meeting, a further vote must be taken at hourly intervals or at the expiry of the time proposed, whichever is the shorter.

## 9. Quorum

The quorum of a meeting will be one quarter of the whole number of voting members or three voting members (whichever is greater). During any meeting, if the chairman or proper officer declares there is not a quorum present, the meeting will adjourn immediately for fifteen minutes. If, after fifteen minutes, the meeting remains inquorate, it shall stand adjourned to a time and date fixed by the chairman, at which the remaining business will be considered, or at the next ordinary meeting if the chairman does not fix a date.

## 10. Appointment of substitute members

### 10.1 Powers and duties

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

### 10.2 Substitute members may attend meetings in that capacity only:

- To take the place of the ordinary member for whom they are the designated substitute for that meeting
- Where the ordinary member will be absent for the whole of the meeting
- After notifying the Democratic Services Officer via email by 4.30pm on the day of the meeting of the intended substitution (or at least two hours before the meeting, if the meeting is earlier than 6.00pm).

If the ordinary member is not absent for the whole of the meeting, the substitute member may not attend in that capacity. This does not take away that member's right to attend in any other capacity.

### 10.3 All members who are not members of the Executive will, subject to the remainder of this rule, be deemed to have been appointed at the annual meeting each year as substitute members for any other member of their political group on all bodies and working groups with the exception of the following:

- There will be no substitutes appointed to the Executive. Executive members may substitute on other bodies or working groups where Executive members are not excluded from membership
- Only members appointed to the pool of Appeals Panel members may act as substitutes at any Appeals Panel
- Only members of the Licensing Committee may act sit on or act as substitutes at any licensing hearing
- Annual Council will agree a list of substitutes for the Planning Committee.

## 11. Right to attend meetings

### 11.1 Any member may be present at a meeting of the Executive, overview & scrutiny bodies or any committee except for the Appeals Panel, but unless a member or substitute member of that body, will not be entitled to vote on any matter nor (except with permission of the person presiding) take part in discussion on any matter.

11.2 A member who moved a motion or submitted a petition which has been referred to any such body will be allowed to attend the meeting at which the motion or petition is to be considered and will have the opportunity to explain it.

11.3 These rights to attend and/or participate are subject to the overriding requirements of this constitution and in particular to the Code of Conduct.

12. Questions by the public

12.1 General

Members of the public may ask questions

- Of the Leader or relevant member of the Executive at meetings of the Executive
- Of the chairman of the Scrutiny Commission or Finance & Performance Scrutiny at meetings of these bodies
- Of the chairman of any committee or sub-committee at any meeting of that body.

12.2 Notice of questions by the public

A question may only be asked if notice has been given by delivering it in writing or by email to the Democratic Services Officer no later than midday five working days before the day of the meeting. Each question must give the name and address of the questioner and must clearly identify the member to whom it is to be put.

12.3 Number of questions by a member of the public or an organisation

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of any one organisation.

12.4 Scope of questions by the public

The Democratic Services Officer may reject a proposed question if it

- Is not about a matter for which the local authority has a responsibility or which affects the borough
- Is defamatory, frivolous or offensive
- Is substantially the same as a question or motion which has, in the past six months, been put at a meeting of the Executive, an overview & scrutiny body, any committee or sub-committee
- Discloses or requires the disclosure of confidential or exempt information
- Relates to a planning application or any matter of a personal nature
- Discloses no question.

12.5 Record of questions by the public

On receipt of the question, the Democratic Services Officer will send a copy to the member to whom it is to be put and will publish a copy as part of the supplementary agenda for the meeting. Any rejected questions will include reasons for rejection. The question and response will be included in the record of the meeting and will be available on the council's website as part of the minutes or in any other format on request.

## 12.6 Order of questions by the public

Questions will be asked in the order that notice of them was received, except where similar questions may be grouped together.

## 12.7 Asking the question at the meeting

The chairman of the meeting will invite the questioner to put the question to the member named in the notice and a response will be provided. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may agree to ask the question on the questioner's behalf and indicate that a written reply will be provided or decide that the question will not be dealt with.

## 12.8 Response to questions by the public

An answer may take the form of

- A direct verbal answer
- A reference to a publication where the requested information is already available
- A written answer circulated to the questioner as soon as is reasonably practicable.

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

## 12.9 Supplementary question by the public

A member of the public asking a question may ask one supplementary question without notice to the member to whom the question was asked. The supplementary question must arise directly out of the original question or the reply. The response may be provided in accordance with rule 12.8 above.

## 12.10 Time for questions by the public

The time period allowed for putting questions shall be fifteen minutes in total, but may be extended if a majority of members present agree.

## 13. Petitions by the public

Petitions received from members of the public will be dealt with in accordance with the petitions scheme.

## 14. Questions by members

### 14.1 Questions on notice at Council

A member may, at a meeting of Council, ask the Mayor, the relevant Executive member or the Leader or the chairman of an overview & scrutiny body or any committee or sub-committee a question on any matter in relation to which the council has powers or duties or which affects the borough.

#### 14.2 Questions on notice at committees or sub-committees

A member of a committee or sub-committee may ask the chairman of that body a question on any matter in relation to which the council has powers or duties or which affects the borough of Hinckley & Bosworth, and which falls into the terms of reference of that committee or sub-committee.

#### 14.3 Notice of questions

A member may only ask a question if either

- Notice has been given by delivery it in writing or by email to the Democratic Services Officer no later than midday five clear working days before the day of the meeting
- The question relates to urgent matters and the questioner has the consent of the chairman, the Director (Corporate Services) and of the person to whom the question is to be put and the content of the question is delivered in writing or by email to the Democratic Services Officer by 12pm on the day of the meeting (or at least four hours before the meeting, if the meeting starts before 2.30pm).

Each question must give the name of the questioner and must clearly identify the member to whom it is to be put.

#### 14.4 Number of questions

At one meeting, no member may ask more than three questions (excluding supplementary questions).

#### 14.5 Scope of questions

The Democratic Services Officer may reject a proposed question if it

- Is not about a matter for which the local authority has a responsibility or which affects the borough
- Is defamatory, frivolous or offensive
- Is substantially the same as a question or motion which has, in the past six months, been put at a meeting of Council or any other council body
- Relates to a planning application or any matter of a personal nature
- Discloses no question.

Any question which discloses or requires the disclosure of confidential or exempt information will be placed on the agenda as the first item of the private part of the agenda.

#### 14.6 Record of questions

The Democratic Services Officer will send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members present at the meeting and will be made available to the public attending the meeting. The question and response will be included in the record of the meeting.

#### 14.7 Order of questions

Questions will be asked in the order they were received, except where similar questions may be grouped together.

#### 14.8 Asking the question at the meeting

The chairman of the meeting will invite the questioner to put the question to the member named in the notice. If a member who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question on the member's behalf and indicate that a written response will be provided, or may decide that the question will not be dealt with.

#### 14.9 Response to the question

A response may take the form of

- A direct verbal answer
- A reference to a publication where the requested information is already available
- A written answer circulated to the questioner as soon as is reasonably practicable.

#### 14.10 Reference of a question to the Executive or other council body

Any member may move that a matter raised by a question be referred to the Executive, overview & scrutiny body or other body. Once seconded, such a motion will be voted on without discussion.

#### 14.11 Supplementary question

A member asking a question may ask one supplementary question for each question raised, without notice, of the member to whom the original question was asked. The supplementary question must arise directly out of the original question or the reply and must pose a question.

#### 15. Petitions from members

At any meeting, a member may present a petition, signed by persons other than members of the council, which is relevant to some matter for which the local authority has a responsibility or which affects the borough.

- 15.1 To be deemed appropriate for consideration, any petition presented should have a minimum of 20 signatures of people living and eligible to vote within the borough.
- 15.2 A member wishing to present a petition shall give notice of their intention to do so to the Democratic Services Officer at least 24 hours before the beginning of the meeting at which it is to be presented.
- 15.3 A petition which contains the necessary signatures should be presented to the next available meeting of Council, the Executive or other body.
- 15.4 On receipt of the petition, the body to which it is to be presented (after an explanation by the petitioners of no more than three minutes and without debate), the Democratic Services Officer will refer the petition to the relevant manager for consideration.
- 15.5 Members will be informed of action taken in response to petitions or, if the matter has been referred to another council body, by the minutes of the appropriate meeting.



16. Position statements

16.1 A position statement may be presented to each ordinary meeting of the Council by the Leader in such form as the person presenting the statement may determine and should not exceed ten minutes.

16.2 A position statement may be followed by a question or comment on that statement by the opposition group leader, followed by an individual member, to be called from political groups alternately. No motion or amendment shall be moved during that discussion.

16.3 The total discussion on any position statement shall not exceed twenty minutes, but the Mayor may permit an extension of such length considered appropriate.

17. Motions on notice

17.1 Notice

Except for motions which can be moved without notice in accordance with the relevant procedure rule, written notice of every motion or other item of business raised by a member must be delivered to the Democratic Services Officer no later than 12pm seven clear working days before the date of the meeting. The notice must be sent by the proposer and give the name of the seconder. No member may give notice of more than three motions or questions in total for consideration at any meeting of Council. All motions received will be published in the agenda in the order they were received and recorded in the minutes of the meeting.

17.2 Scope of motions on notice

Motions and items must be about matters for which the council has a responsibility or which affects directly or indirectly residents or businesses in the borough. The Democratic Services Officer may reject a proposed motion if it

- Is not about a matter for which the local authority has a responsibility or which affects the borough
- Is defamatory, frivolous or offensive
- Is substantially the same as a motion which has, in the past six months, been put at a meeting of Council or any other council body
- Relates to a planning application or any matter of a personal nature.

17.3 Amendments to printed motions

Amendments must be notified to the Democratic Services Officer by 4.30pm on the day of the meeting.

18. Motions without notice

18.1 The following motions may be moved without notice:

- To appoint a chairman of the meeting
- To challenge the accuracy of the minutes
- To change the order of the business on the agenda
- To refer something to an appropriate body or individual
- To appoint a committee or member arising from an item on the agenda

- To receive reports and/or adopt recommendations of bodies or officers and any resolutions following on from them
- To withdraw a motion
- To amend a motion
- To proceed to the next business with the consent of two-thirds of those present
- That the question be now put with the consent of two-thirds of those present
- To adjourn a debate
- To adjourn a meeting
- That a meeting which has lasted for 3 hours or until 9.30pm (whichever is sooner) be allowed to continue, or that a meeting that has already been allowed to continue in this way be further extended
- To suspend a particular council procedure rule
- To exclude the public and press in accordance with the access to information rules
- To not hear further a member named or to exclude them from the meeting under the relevant procedure rules
- To give the consent of Council where its consent is required by this constitution.

## 19. Rules of debate

### 19.1 No speeches until motion seconded

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

### 19.2 Right to require motion in writing

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

### 19.3 Secunder's speech

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

### 19.4 Content and length of speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of order. Except with the consent of the Council (signified without comment), the proposer of a motion may not speak for more than five minutes and no other speaker may speak for more than five minutes, although the nominated spokesperson for any opposition group may speak for a period not exceeding fifteen minutes on the adoption of the budget.

### 19.5 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate except (and for no more than three minutes)

- To speak once on an amendment moved by another member
- To move a further amendment if the motion has been amended since he/she last spoke
- 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)
- In exercise of a right of reply
- On a point of order
- By way of personal explanation.

## 19.6 Amendments to motions

An amendment to a motion must be relevant to the motion and will either be to refer the matter to an appropriate body or individual for consideration or reconsideration or to leave out words and/or insert or add other words, as long as the effect does not constitute a complete rewording of the original motion or negate the motion – unless permission is given by the mover of the original motion.

Significant amendments to a written / printed motion must be notified to the Democratic Services Officer by 4.30pm on the day of the meeting. This does not prevent amendments being proposed in the course of normal debate.

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.

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

If an amendment is carried, the motion as amended takes the place of the original motion and becomes the substantive motion to which any further amendments are moved.

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

## 19.7 Alteration of motion by the mover of the motion

A member may alter a motion of which he/she has given notice (but not yet moved) with the consent of the meeting, which will be signified without discussion.

A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder, which will be signified without discussion.

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

## 19.8 Withdrawal of motion by the mover of the motion

A member may withdraw a motion which he/she has moved, with the consent of both the meeting and the seconder, which 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.

## 19.9 Right of reply

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

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

The mover of the amendment has no right of reply to the debate on his or her amendment.

## 19.10 Motions which may be moved during debate

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

- To withdraw a motion
- To amend a motion
- To proceed to the next business with the consent of two-thirds of those present
- That the question be now put with the consent of two-thirds of those present
- To adjourn a debate
- To adjourn a meeting
- That a meeting which has lasted for three hours or which has continued until 9.30pm (whichever is sooner) be allowed to continue, or that a meeting which has already been allowed to continue in this way should be further extended
- To exclude the public and press in accordance with the access to information rules
- To not hear further a member named or to exclude them from the meeting under the relevant procedure rules.

#### 19.11 Closure motions

A member may move, without comment, the following motions at the end of a speech of another member:

- To proceed to the next business
- That the question be now put
- To adjourn a debate
- To adjourn a meeting

If a motion to proceed to next business is seconded and the chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

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

#### 19.12 Point of order

A member may raise a point of order at any time. The chairman will hear them immediately. A point of order may only relate to an alleged breach of these 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.

#### 19.13 Personal explanation

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

## 20. Council forum debates

### 20.1 Calling of council forum debate

From time to time a council forum debate may be arranged on an agreed topic. The topic will be agreed by Council or by the Democratic Services Officer in consultation with the Mayor and group leaders at least eight weeks in advance of the meeting.

### 20.2 Form of council forum debates

The council forum debates will be in the form agreed by the Democratic Services Officer after consultation with the Mayor and group leaders, with the aim of enabling the widest possible publicity and councillor participation. This may include holding workshops and other events prior to or during the council forum debate.

### 20.3 Chairing of council forum debates

The debates will be chaired by the Mayor or, in his/her absence, the Deputy Mayor.

### 20.4 Results of council forum debates

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area and taken into account in considering the budget and policy framework.

### 20.5 Application of council procedure rules to council forum debates

As council forum debates are not decision-making, not all procedure rules apply. The Democratic Services Officer will inform members of which rules apply when the form of the debate has been agreed.

## 21. Previous decisions and motions

### 21.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least a quarter of the full number of members of the body, or three members (whichever is greater). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### 21.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least a quarter of the full number of members of the body, or three members (whichever is greater). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## 22. Voting

### 22.1 Majority

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.

## 22.2 Chairman's casting vote

If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote. In the event that the chairman declines to exercise a second or casting vote, the motion is defeated, having failed to obtain the support of the majority of those present and voting.

## 22.3 Means of voting

Unless a ballot or recorded vote is demanded, the chairman will take the vote by show of hands or by electronic means, if available, or if there is no dissent, by the affirmation of the meeting.

## 22.4 Recorded vote

If, before a vote is taken on any question, the relevant number of members call for the voting on that question to be recorded, 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 relevant number of members is five in respect of Council and three in the case of any other meeting.

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, decisions made at a "budget decision meeting" must be recorded. A "budget decision meeting" is defined as an item where a calculation is made or precept issued.

Where a decision is likely to be taken contrary to the officer's recommendation in Planning Committee, the Head of Planning and Development or his/her nominee may request a recorded vote.

## 22.5 Right to require individual vote to be recorded

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

## 22.6 Voting on appointments

If there are more than two people nominated for any position to be filled, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall vote for only one person. If 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.

## 23. Minutes

### 23.1 Signing the minutes

The chairman will sign the minutes of the proceedings at the next ordinary meeting upon them being moved, seconded and approved. The only part of the minutes that can be discussed is their accuracy. There is to be no 'matters arising'. Minutes are not signed at an extraordinary meeting but held over until the next ordinary business meeting.

## 23.2 Form of minutes

Minutes will contain all motions and amendments in the form and order in which the chairman put them.

## 24. Record of attendance

All members present during the whole or part of a meeting will be recorded as present in the minutes. Where members arrive after the start of the meeting or leave before the end, the times of this will be recorded in the minutes. Temporary absence from the meeting will be recorded if the member was absent when a vote was taken.

## 25. Exclusion of public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in this constitution or where there is disturbance by the public as specified later in this section.

## 26. Members' conduct

### 26.1 Permission to speak

When a member speaks they must address the meeting through the chairman. If more than one member offers to speak, the chairman will ask one to speak and the others must remain silent. Other members must remain silent whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### 26.2 Mayor standing (Council only)

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

### 26.3 Member not to be heard further

If, at any meeting, 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.

### 26.4 Member to leave the meeting

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

### 26.5 Other legal powers

The powers conferred by this rule are in addition to any other powers legally available.

27. Disturbance by the public

27.1 Removal of member of the public

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

27.2 Clearance of part of meeting room

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

27.3 General disturbance

If there is a general disturbance making orderly business impossible, the chairman may adjourn the meeting for as long as he/she thinks necessary and may reconvene the meeting at a different location if he/she thinks necessary.

27.4 Other legal powers

The powers conferred by this rule are in addition to any other powers legally available.



## Part 3 – procedure rules

### c. Planning Committee procedure rules

#### CONTENTS

##### Paragraph

- 1 Seating arrangements
- 2 Procedure at the meeting
- 3 Speaking by the public on planning applications
- 4 Training

Unless otherwise specified, the council procedure rules apply to meetings of the Planning Committee, in addition to the specific procedures contained in this section.

1. Seating arrangements at Planning Committee
  - 1.1 Members of the committee will sit in their allocated seats, with members in attendance who are not on the Planning Committee sitting at the outer circle of desks.
2. Procedure at the meeting
  - 2.1 The order of the agenda will be arranged or amended to ensure applications with speakers are heard first.
  - 2.2 The chairman will announce each application in turn.
  - 2.3 The planning officer will make any introductory comments.
  - 2.4 Registered speakers will have the opportunity to address the meeting – the objector will go first, followed by the applicant (or agent). Speakers will be allowed a maximum of three minutes to address the meeting.
  - 2.5 Members will have the opportunity to question the speakers on matters of clarification to establish matters of fact only. The speakers may not be cross examined and care should be taken not to put speakers under pressure.
  - 2.6 The relevant ward member and the Executive member for development management matters will be allowed to speak for no more than two minutes each on an application. Ward members have a right to reply at the end of the debate for a maximum of two minutes. The chairman may exceptionally allow the Executive member to speak for up to five minutes where he considers the application to be of major significance.
  - 2.7 The Member of Parliament and County Councillor may speak on matters affecting their constituency or division for a maximum of two minutes.
  - 2.8 The planning officer will have the opportunity to respond to the comments made by the speakers.
  - 2.9 The committee will then consider the application and ask any questions of officers.

- 2.10 The planning officer and/or solicitor will be allowed to make any concluding points.
- 2.11 The committee will vote on any proposition or amendment which has been moved and seconded.
- 2.12 There shall not, on the first consideration of an application, be a refusal of permission against the officer's recommendation. Any such motion shall be deemed to be a motion of "minded to refuse" and consideration of that application will be deferred to the next meeting of the committee.

In considering that application at the subsequent meeting of the Planning Committee, only officers and members (including the relevant ward councillor) will be permitted to speak on the application. The Planning Committee may, at this subsequent meeting, determine to grant permission either unconditionally or subject to conditions, or to refuse the application, in accordance with section 70 of the Town and Country Planning Act 1990.

- 2.13 When a decision is likely to be taken contrary to an officer's recommendation (either for approval or refusal) the Head of Planning & Development, Planning Manager (Development Management) or Principal Planning Officer may request a recorded vote. If that vote results in a contrary decision, the committee's reasons shall be minuted. The Head of Planning & Development, Planning Manager (Development Management), Principal Planning Officer and/or the Legal Services Manager (or his/her nominee) shall also be given the opportunity to explain the possible implications of a contrary decision.

### 3. Speaking by the public on planning applications

- 3.1 Public speaking is allowed at the discretion of the chairman. The chairman's decision is final.

- 3.2 Both an objector or an applicant (or their nominated agent) may speak at Planning Committee except on those applications where
  - another body directs refusal
  - where the borough council is a consultee only.

- 3.3 Speaking at meetings of the Planning Committee is limited to:

An objector to a planning application where:

- The objector has made a written comment on the application
- The grounds of objection raise material planning consideration
- The objector has given the required notice of a wish to speak.

An applicant, or agent appointed to act on their behalf.

Where more than one objector wishes to address the meeting, the speakers should choose one spokesperson. If no agreement is reached, the first person who made the request shall speak.

- 3.4 Speaking will be allowed only if the planning application is one which is reported to a meeting of the Planning Committee for them to determine, on the basis that it is not delegated for decision at officer level.
- 3.5 Anyone wishing to speak will need to confirm his or her intention with Democratic Services by email, telephone or in writing no later than 4.00pm on the Friday before the meeting.

- 3.6 Speakers are allowed a maximum of three minutes to address the meeting.
- 3.7 No written submissions, photos, presentations or other material will be accepted from speakers at the meeting.
- 3.8 If a decision on an application is deferred (except where the deferral results from a resolution of 'minded to refuse'), any objectors or applicants registered to speak on that item will have the opportunity to speak again when the item is brought back to a future committee. If they do not wish to speak, opportunity for others to register in line with the normal procedure will be afforded.
- 3.9 Applications will not be deferred because of the absence of an applicant or objector, or other person, who has indicated a wish to speak.
- 4. Training
  - 4.1 The Head of Planning & Development and Democratic Services Officer will be responsible for formulating a member development programme for Planning Committee members and will inform members which elements of the development programme are mandatory for all Planning Committee members and those substituting for regular members. Planning Committee members who fail to attend the mandatory elements of the members development programme may, at the discretion of the Chairman and the Chief Executive, be prohibited from attending Planning Committee as a voting member.

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## **Part 3 – procedure rules**

### **d. Access to information procedure rules**

#### **CONTENTS**

##### Paragraph

- 1 Scope
- 2 Additional rights to information
- 3 Rights to attend meetings
- 4 Notice of meeting
- 5 Access to agenda and reports before the meeting
- 6 Supply of copies
- 7 Access to records of decisions after the meeting
- 8 Background papers
- 9 Summary of public's rights
- 10 Exclusion of access by the public to meetings
- 11 Exclusion of access by the public to reports
- 12 Application of rules to the Executive
- 13 Procedure before taking key decisions
- 14 Notification of key decisions to be taken
- 15 General exception
- 16 Special urgency
- 17 Report to Council
- 18 Record of decisions
- 19 Inspection of documents after a key decision is taken by the Executive
- 20 Decisions by individual members of the Executive
- 21 Scrutiny Commission and Finance & Performance Scrutiny access to documents
- 22 Additional rights of access for members

1. Scope
  - 1.1 These rules apply to all formal business meetings of Council, committees and the Executive. They do not apply to council forum debates.
2. Additional rights to information
  - 2.1 These rules do not affect any more specific rights to information contained elsewhere in this constitution or the law.
3. Rights to attend meetings
  - 3.1 Members of the public may attend all statutory meetings subject only to the exceptions in these rules.
4. Notice of meeting
  - 4.1 The council will give five clear working days' notice of any meeting by informing relevant persons and publishing the date on the council's website.
5. Access to agenda and reports before the meeting
  - 5.1 The council will make copies of the public agenda and reports available for inspection at the Hub and on the council's website five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda and any associated reports will be available as soon as they are complete.
  - 5.2 Any member of the council may have access to an agenda, report or background document which is available to the public.
  - 5.3 A member of the council may, for purposes only of his/her duty as such member, but not otherwise, on application to the Director (Corporate Services), inspect any other document which has been, or is to be, considered by a formal body. A member shall not knowingly inspect and shall not ask for a copy of any document relating to a matter in which he has professional interests or has a pecuniary interest. This rule shall not preclude the Legal Services Manager from declining to allow inspection of any document which is or, in the event of legal proceedings, would be protected by privilege arising from the relationship of solicitor and client.
6. Supply of copies
  - 6.1 The council will supply copies of:
    - Any agenda and reports which are open to public inspection
    - Any further statements or particulars necessary to indicate the nature of the items in the agenda
    - Any other documents supplied to councillors in connection with an item to any member of the public on payment of a charge for postage and any other costs, if the Director (Corporate Services) thinks fit.

7. Access to records of decisions after the meeting

7.1 The council will make available on its website or on request for six years after a meeting:

- The minutes of all formal meetings
- The agenda for the meeting
- Reports relating to items taken in public session
- Copies of background papers associated with the report
- Information relating to decisions taken under delegated powers, where appropriate.

8. Background papers

8.1 The report author will set out in their report background papers relating to the subject matter of the report which, in their opinion:

- Disclose any facts or matters on which the report or an important part of the report is based
- Have been relied upon to a material extent in preparing the report, not including published works or those which disclose exempt or confidential information.

8.2 The council will make available on the website or on request a copy of the documents on the list of background papers for four years after the date of the meeting.

9. Summary of public's rights

9.1 A copy of these rules, setting out a summary of the public's rights relating to meetings and information, will be available on the council's website or on request.

10. Exclusion of access by the public to meetings

10.1 Confidential information

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

Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

10.2 Exempt information

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed in accordance with the provisions of schedule 12A of the Local Government Act 1972.

Exemption information means information falling within the following categories:

Category	Condition
1. Information relating to any individual	
2. Information which is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Information is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>• The Companies Act 2006</li> <li>• The Friendly Societies Act 1974</li> <li>• The Friendly Societies Act 1992</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978</li> <li>• The Building Societies Act 1986</li> <li>• The Charities Act 1993.</li> </ul> <p>‘Financial or business affairs’ includes contemplated, as well as past or current, activities.</p> <p>‘Registered’ in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	<p>‘Employee’ means a person employed under a contract of service.</p> <p>‘Labour relations matter’ means:</p> <p>(a) Any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act)</p> <p>(b) Any dispute about a matter falling within paragraph (a) above.</p> <p>For the purposes of this definition, the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>‘Office holder’, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
5. Information in respect of which a claim to legal professional privilege could be	



	maintained in legal proceedings	
6.	Information which reveals that the authority proposes (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person (b) To make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

Any reference above to 'the authority' is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.

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

Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town & Country Planning General Regulations 1992.

#### 11. Exclusion of access by the public to reports

- 11.1 If the Director (Corporate Services) thinks fit, the council may exclude access by the public to reports which, in his or her opinion, relate to items during which the meeting is likely not to be open to the public. Such reports will be marked 'not for publication' together with the category of information likely to be disclosed and will be printed on cream paper. A notice will be published on the council's website 28 days prior to a decision being taken by the Executive in private. If 28 days' notice cannot be given, the chairman of the Scrutiny Commission will be informed of this and the reasons.

#### 12. Application of rules to the Executive

- 12.1 The following rules 13 to 24 apply to the Executive. If the Executive meets to take a key decision then it must also comply with rules 1 to 11 unless rule 15 (general exception) or rule 16 (special urgency) apply. This requirement does not include briefings as these are informal, private meetings for officers to provide updates to members on a variety of matters.

#### 13. Procedure before taking key decisions

- 13.1 Subject to rule 15 (general exception) and rule 16 (special urgency), a key decision may not be taken unless:
- At least five clear working days have elapsed since the publication of the summons and associated reports (the report relating to the key decision having been listed on that agenda)
  - Where the decision is to be taken at a meeting of the Executive, notification has been published at least 28 clear days prior to the meeting stating the nature of the decision to

be taken, the decision maker and documents which will be provided to the decision maker

- Where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with rule 4 (notices of meeting).

#### 14. Notification of key decisions to be taken

##### 14.1 Period of the notice

Notice of forthcoming key decisions to be taken by the Executive will be published on the council's website and will give at least 28 days' notice of these decisions. Where this notice period is not possible, the reasons for this will be included in the notice.

##### 14.2 Contents of the notice

The notice will contain matters which there is reason to believe will be subject of a key decision to be taken by the Executive. The notice will also include any proposed changes in the budget & policy framework. It will describe the following particulars:

- The matter in respect of which a decision is to be made and whether the decision is likely to be taken in private in accordance with the relevant rules
- Details of the decision taker
- The date on which, or the period within which, the decision will be taken
- A list of the documents submitted to the decision taker for consideration in relation to the matter
- The procedure for requesting details of those documents.

#### 15. General exception

##### 15.1 If a matter which is likely to be a key decision has not been included in the abovementioned notice, then subject to rule 16 (special urgency), the decision may still be taken if:

- It is a decision which must be taken by such a date that it is impracticable to defer the decision until it has been included in the notice for the required 28 days
- The proper officer has informed the chairman of the Scrutiny Commission
- The proper officer has made copies of that notice available to the public via the council's website or on request
- At least five clear working days have elapsed since the proper officer complied with the first two requirements above.

Where such a decision is taken collectively, it must be taken in public.

#### 16. Special urgency

If, by virtue of the date by which a decision must be taken, rule 15 (general exception) cannot be followed, then the decision can only be taken if the proper officer obtains the agreement of the chairman of the Scrutiny Commission (or in his/her absence, one of the vice-chairmen) that the taking of the decision cannot be reasonably deferred. Notification of this and reasons will be published on the council's website.

17. Report to Council

17.1 If the Scrutiny Commission thinks that a key decision has been taken which was not:

- included in the published notice
- treated as a key decision
- the subject of the general exception procedure or
- the subject of an agreement with the chairman or vice-chairman of the Scrutiny Commission, under rule 16

the Commission may require the Executive to submit a report to Council within such reasonable time as the Commission specifies.

17.2 The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the resolution of the Scrutiny Commission, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision and the reasons, the decision maker, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

17.3 The Leader will submit a report every six months to the Council on the Executive decisions taken in the circumstances set out in rule 16 (special urgency) in the preceding three months. The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

18. Record of decisions

18.1 After any meeting of the Executive or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as is practicable. The record will include the particulars of the decision, a statement of the reasons for each decision, any alternative options considered and rejected at that meeting, a record of any conflict of interest declared by a member of the decision-making body or a note of dispensation granted.

19. Inspection of documents after a key decision is taken by the Executive

19.1 A copy of any report or part report relevant to a key decision and considered by the Executive will be available on the council's website for six years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser need not be disclosed. If a document is not disclosed because it contains exempt information, the Head of Paid Service will prepare a statement. The statement will describe the category of exempt information and reasons for exemption. The statement will be open to inspection for six years from the date of the meeting.

20. Decisions by individual members of the Executive

20.1 As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive or a delegated decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## 21. Scrutiny Commission and Finance & Performance Scrutiny access to documents

### 21.1 Rights to copies

Subject to rule 22.2 below, a member of the Scrutiny Commission or Finance & Performance Scrutiny will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to

- any business transacted at a public or private meeting of the Executive
- any decision taken by an individual member of the Executive
- any decision taken by an officer under delegated powers.

This information will be provided within ten clear working days of the request.

### 21.2 Limit on rights

The Scrutiny Commission and Finance & Performance Scrutiny will not be entitled to:

- any document that is not in final draft form
- any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise
- the advice of a political adviser.

Where the Executive determines that a member of the Scrutiny Commission or Finance & Performance Scrutiny is not entitled to a document for the reasons set out above, it must provide that body with a written statement setting out its reasons.

## 22. Additional rights of access for members

### 22.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a private meeting unless:

- it contains confidential or exempt information falling within those categories
- it contains the advice of a political adviser.

### 22.2 Material relating to key decisions

All members of the council will be entitled to inspect any document in the possession of or under the control of the Executive which relates to any key decision unless paragraph 22.1 applies.

### 22.3 Nature of rights

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

## Part 3 – procedure rules

### e. Budget & policy framework procedure rules

#### CONTENTS

##### Paragraph

- 1 The framework for Executive decisions
- 2 Process for developing the framework
- 3 Decisions outside of the budget or policy framework
- 4 Urgent decisions outside of the budget or policy framework
- 5 Virements and supplementary estimates
- 6 In-year changes to the policy framework
- 7 Call-in of decisions outside the budget or policy framework

#### 1. The framework for Executive decisions

Council will be responsible for the adoption of its budget and policy framework as set out in the relevant part of this constitution. Once a budget or policy framework is in place, it will be the responsibility of the Executive to implement it.

#### 2. Process for developing the framework

- 2.1 The Executive will publicise, by appropriate means, a timetable for making proposals to Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. In the case of the budget, all members of Council will be notified. The consultation period shall, in each instance, be not less than four weeks. The Executive may determine who to consult and the nature of the consultation, unless Council has specified such detail as part of the policy framework.
- 2.2 The Executive's initial proposal shall be referred to Scrutiny Commission or to Finance & Performance Scrutiny. At the end of the consultation period, the Executive will draw up firm proposals having regard to the consultation responses. If the Scrutiny Commission or Finance & Performance Scrutiny wishes to respond to the Executive in that consultation process then it may do so. As the Scrutiny Commission and Finance & Performance Scrutiny have responsibility for fixing their own work programme and those of any scrutiny panels, it is open to the Commission (directly or through a panel) to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from the Scrutiny Commission or Finance & Performance Committee Scrutiny or a panel into account in drawing up firm proposals for submission to Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- 2.3 Once the Executive has approved the firm proposals, the Director (Corporate Services) will refer them at the earliest opportunity to the Council for decision.

- 2.4 In reaching a decision, the Council may adopt the Executive's proposals, amend them, refer them back to the Executive for further consideration, or in principle, substitute its own proposals in their place.
- 2.5 If it accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- 2.6 The decision will be publicised in accordance with the access to information procedure rules and a copy shall be given to the Leader.
- 2.7 An in-principle decision will automatically become effective on the seventh day after the date of Council's decision, unless the Leader or Executive Member informs the Director (Corporate Services) in writing before the seventh day after the meeting that he/she objects to the decision becoming effective and provides reasons why.
- 2.8 If the Leader or Executive Member does inform the Director (Corporate Services) of an objection, the Democratic Services Officer will call a Council meeting within a further 21 days, at which Council will be required to re-consider its decision in the light of the Leader's or Executive Member's written submission. The Council may either approve the Executive's recommendation or approve a different decision which does not accord with the recommendation of the Executive, in either case by a simple majority of votes cast.
- 2.9 The decision shall then be made public in accordance with the access to information procedure rules, and shall be implemented immediately.
- 2.10 In approving the budget and policy framework, Council will also specify the extent of virement or supplementary estimate within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with the relevant paragraphs of these rules (virements and supplementary estimates and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.
3. Decisions outside of the budget or policy framework
  - 3.1 Subject to the provisions of paragraph 5 (virements), the Executive, individual members of the Executive and any officers or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework.
  - 3.2 Whenever the Executive, individual members of the Executive and any officers discharging Executive functions want to make a decision, they shall first take advice from the Monitoring Officer and/or the Head of Finance as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred to Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.
4. Urgent decisions outside of the budget or policy framework
  - 4.1 The Executive, individual members of the Executive and any officers discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Council if the decision is a matter of urgency. However, the decision may only be taken if:

- it is not practical to convene a quorate meeting of Council; and
- the chairman or, in his/her absence, the vice-chairman of the Scrutiny Commission agrees that the decision is urgent.

The reasons why it is not practical to convene a quorate meeting of Council and the Scrutiny Commission chairman's/vice-chairman's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman or, in his/her absence, the vice-chairman of the Scrutiny Commission, the consent of the Mayor (or in his absence, the Deputy Mayor) will suffice.

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

5. Virements and supplementary estimates

5.1 The rules of virement and supplementary estimates shall be as set out in the financial procedure rules.

6. In-year changes to the policy framework

6.1 The responsibility for agreeing the budget and policy framework (including determination of fees and charges for Council functions, introduction of chargeable services and setting of council tax level) lies with Council, and decisions by the Executive, individual members of the Executive and any officers discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- necessary to ensure compliance with the law, ministerial direction or government guidance
- in respect of a policy which would normally be agreed annually by Council following consultation, but where the existing policy document is silent on the matter under consideration
- in respect of a policy amendment where the financial consequences are less than the virement or supplementary estimate limit
- which result in the closure or discontinuance of a service or part of a service to meet budgetary constraint.

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

7.1 Where the Scrutiny Commission or Finance & Performance Scrutiny is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the council's budget, they shall take advice from the Monitoring Officer and/or the Head of Finance.

7.2 In respect of functions which are the responsibility of the Executive, the report of the Monitoring Officer and/or Head of Finance shall be to the Executive with a copy to every member of Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report of the Monitoring Officer/Head of Finance. The Executive must then prepare a report to Council in the event that they conclude that the decision was a departure, and to the Scrutiny Commission or Finance & Performance Scrutiny if the Monitoring Officer/Head of Finance concludes that the decision was not a departure.

7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer/Head of Finance is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Commission or Finance & Performance Scrutiny may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until Council has met and considered the matter. Council shall meet within 21 days of the request by the Scrutiny Commission or Finance & Performance Scrutiny. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer/Head of Finance. The Council may:

- endorse a decision or proposal of the Executive as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of Council be minuted and circulated to all councillors in the normal way
- amend the Council's financial procedure rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of Council be minuted and circulated to all councillors in the normal way
- conclude that a decision or proposal of the Executive is outside the existing budget or policy framework, but determine that the circumstances are exceptional, and grant an exception. The decision of Council is then minuted
- require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer/Head of Finance where Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it.



## Part 3 – procedure rules

### f. Executive procedure rules

#### CONTENTS

##### Paragraph

- 1 How the Executive operates
- 2 Notice of meetings of the Executive
- 3 Quorum
- 4 Decision making
- 5 Rules of debate
- 6 Voting
- 7 Conduct of Executive meetings

#### 1. How the Executive operates

##### 1.1 Making Executive decisions

The arrangements provide for Executive functions to be discharged by the Executive as a whole, an individual member of the Executive or an officer.

The extent of delegation is set out in part 2 of the constitution ‘responsibility for functions’.

##### 1.2 Delegation by the Leader

Council approves the responsibility for functions, however, delegation joint arrangements or another authority is a matter for the Leader of Council where the function is not allocated by Council.

##### 1.3 Sub-delegation of Executive functions

Where the Executive as a whole, or a member of the Executive, is responsible for an Executive function, they may delegate further to a joint arrangement or an officer.

Unless Council directs otherwise, if the Leader delegates functions to the Executive, the Executive may delegate further to a committee of the Executive or an officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

##### 1.4 The scheme of delegation and Executive functions

The council’s scheme of delegation (which forms part of this constitution) will be subject to adoption by Council and may only be amended by Council.

No key decisions can be taken by individual Executive members.

Decisions delegated to an individual Executive member can only be taken by the relevant Executive member or, in their absence, the Leader of Council (or Deputy Leader in the Leader's absence).

#### 1.5 Conflicts of interest

Where the Leader of Council or a member of the Executive has a conflict of interest, this should be dealt with as set out in the council's code of conduct.

#### 1.6 Time and location of meetings

The Executive will meet approximately every eight weeks at an agreed and published time and place. The Executive may hold additional meetings when required.

#### 1.7 Accessibility of meetings

All formal meetings of the Executive where decisions are taken will be held in public in accordance with the Access to Information procedure rules.

Private briefings will be held as necessary to develop policy, discuss innovation and undertake strategic planning either with or without officers. Other members may be invited to those briefings by the Leader of the Council.

### 2. Notice of meetings of the Executive

2.1 Members of the Executive will be entitled to receive five clear working days' notice of a meeting, unless the meeting is convened at shorter notice as a matter of urgency.

2.2 All members of the council will have access to copies of the notice and the agenda in their preferred format.

2.3 The Head of Paid Service, Head of Finance and Monitoring Officer, Directors and their nominees are entitled to attend any meeting of the Executive.

### 3. Quorum

3.1 The quorum for the Executive is three and business shall not be transacted unless at least this number of members is present. If, on any occasion, a quorum is not present after 15 minutes from the scheduled start time of the meeting, the meeting shall not be held, or it may continue with the record of the meeting being referred to as "notes of the meeting" and subject to ratification at the next quorate meeting of the Executive.

3.2 Urgent business contained on the agenda for a meeting of the Executive which is cancelled for lack of quorum shall be dealt with on behalf of the Council by the Leader (or Deputy Leader in the Leader's absence) and Executive members with the relevant area of responsibility (or the Leader/Deputy Leader in the member's absence).

### 4. Decision making

4.1 Executive decisions will be taken at a meeting convened in accordance with the Access to Information procedure rules.

4.2 The Executive may appoint a sub-committee to undertake particular tasks. The number of members of the sub-committee must be specified and a quorum would be a minimum of

three members. The terms of reference and any delegations to the sub-committee must be specified. Any sub-committee would be subject to the Executive procedure rules.

5. Rules of debate

5.1 Council procedure rules relating to the rules of debate (except those parts which relate to speaking more than once) apply to meetings of the Executive.

6. Voting

6.1 Voting at meetings of the Executive shall be by show of hands.

6.2 In the case of an equality of votes, the chairman shall have a second or casting vote. There shall be no restriction on how the chairman uses the casting vote.

6.3 After a vote is taken and discussion closed by the chairman, there shall be no re-opening of debate on the item which has been the subject of the vote.

7. Conduct of Executive meetings

7.1 Chairing the meeting

If the Leader of the Council is present, he/she will preside. In the absence of the Leader, the Deputy Leader will preside. If neither is present, an Executive member will be appointed as chairman and will assume the powers of the Leader as chairman for the duration of the meeting only.

7.2 Attendance at meetings of the Executive

Any member may attend any formal meeting of the Executive, irrespective of whether the public are admitted to the whole or part of such a meeting.

Group leaders may attend formal Executive meetings and may take part in debates as of right, but are not part of the formal decision making process. They will always have access to agendas and reports in advance.

Members of an overview & scrutiny body will always be deemed to be there for the purpose of their duty and the chairman or vice-chairman of an overview & scrutiny body shall have a right to speak.

A member attending an Executive meeting shall be supplied, on request, with a copy of the complete agenda for that meeting.

A member (other than a group leader) who exercises his/her right to attend a meeting of the Executive shall have no right to speak or vote.

A member of the council who wishes to attend a meeting of the Executive to speak on an item appearing on the agenda shall obtain the permission of the chairman to speak.

Any member of the Executive, statutory officer, Director or their nominee may attend a meeting of the Executive.

### 7.3 Business

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

- Confirmation of the minutes of the previous meeting
- Declarations of interest
- Matters referred to the Executive by an overview & scrutiny body or by Council in accordance with the overview & scrutiny procedure rules or the budget and policy framework procedure rules
- Consideration of reports for the Scrutiny Commission
- Consideration of reports from officers as set out in the agenda for the meeting.

### 7.4 Consultation

All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of 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.

### 7.5 Requesting agenda items

The Leader may put on the agenda of a meeting of the Executive any matter which he/she wishes, whether or not authority has been delegated to the Executive, a sub-committee of it or any member of officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

Any member of the Executive may require the proper officer to make sure that an agenda item is placed on the agenda of the next available meeting of the Executive for consideration.

There will be a standing item on the agenda of each meeting of the Executive for matters referred by overview & scrutiny. If there is excessive other business to be considered, the Leader may, at his/her discretion, defer such items to a subsequent meeting.

Any member of the council may ask the Leader to put an item on the agenda of a meeting of the Executive for consideration. If the Leader agrees, the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered. There may only be up to three such items per Executive meeting.

The Chief Executive and Directors will normally include reports for consideration on the agenda. The Monitoring Officer and/or the Head of Finance may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Directors or Head of Finance are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a meeting of the Executive. If there is no meeting of the Executive soon enough to deal with the issue in question, the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## Part 3 – procedure rules

### g. overview & scrutiny procedure rules

#### CONTENTS

##### Paragraph

- 1 Number and arrangements for overview & scrutiny bodies
- 2 Membership of overview & scrutiny bodies
- 3 Co-optees
- 4 Meetings of overview & scrutiny bodies
- 5 Quorum
- 6 Chairing the meetings
- 7 Work programme
- 8 Agenda items
- 9 Policy review and development
- 10 Reports from overview & scrutiny
- 11 Rights of overview & scrutiny members to documents
- 12 Members and officers giving account
- 13 Attendance by others
- 14 Call-in
- 15 The call-in process
- 16 Call-in and urgency
- 17 The party whip
- 18 Procedure at overview & scrutiny meetings

1. Number and arrangements for overview & scrutiny bodies
  - 1.1 The overview & scrutiny function will consist of a Scrutiny Commission and Finance & Performance Scrutiny. These two bodies may appoint panels for specific functions on a task and finish basis, on completion of which they shall cease to exist.
  - 1.2 The terms of reference, including membership, are set out in the relevant part of this constitution.
  - 1.3 Reference to overview & scrutiny bodies includes the Scrutiny Commission and Finance & Performance Scrutiny.
2. Membership of overview & scrutiny bodies
  - 2.1 All councillors, except members of the Executive, the Mayor and the Deputy Mayor, may be members of overview & scrutiny bodies. No member may scrutinise a decision in which they have been directly involved.

3. Co-optees
  - 3.1 The Scrutiny Commission may appoint non-councillors as non-voting co-optees if appropriate. It may also appoint non-voting co-optees to Finance & Performance Scrutiny, on the recommendation of that body.
4. Meetings of overview & scrutiny bodies
  - 4.1 The overview & scrutiny bodies will each meeting approximately every eight weeks. Additional or extraordinary meetings may be called if necessary. Extraordinary meetings may be called by the chairman of either body, by any five members of the body, or by the proper officer if he/she considers it necessary or appropriate.
5. Quorum

The quorum for overview & scrutiny bodies are as set out in the council procedure rules.
6. Chairing the meetings
  - 6.1 Chairmanship of the Scrutiny Commission shall be agreed by Council. Two vice-chairmen shall also be appointed and one of these will act as chairman of Finance & Performance Scrutiny. The chairman of the Scrutiny Commission and Finance & Performance Scrutiny will not be from the majority group.
7. Work programme
  - 7.1 The overview & scrutiny function will be responsible for setting a work programme.
  - 7.2 The work programme will have regard to:
    - Executive key decisions to be taken
    - The corporate plan
    - Corporate budgets and the medium term financial strategy
    - Current local issues and initiatives
    - Performance management
    - Local Strategic Partnership themes.
8. Agenda items
  - 8.1 Any member of an overview & scrutiny body, including panels, shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the body to be included on the agenda for the next available meeting. On receipt of such a request, the proper officer will ensure that it is include don the next available agenda.
  - 8.2 The Leader of any group with two or more members may require the proper officer to include an item on the agenda of the relevant overview & scrutiny body for consideration. The proper officer shall inform the chairman of the relevant body of the request at the earliest opportunity and make arrangements for the matter to be included on the agenda at the next available meeting of that body.
  - 8.3 Any member of Council who is not a member of the overview & scrutiny body may request permission from the chairman to include an item on the agenda.

- 8.4 Overview & scrutiny bodies will respond, as soon as their work programme permits, to requests from Council and, if it considers it appropriate, the Executive, to review particular areas of council activity. Where they do so, the body shall report their findings and any recommendations back to the Executive and/or Council. Council and/or Executive shall consider the report of the overview & scrutiny body at their next available meeting.
9. Policy review and development
- 9.1 The role of the overview & scrutiny function in relation to the development of the council's budget and policy framework is set out in detail in the budget and policy framework procedure rules.
- 9.2 In relation to the development of the council's approach to other matters not forming part of its policy and budget framework, overview & scrutiny bodies may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- 9.3 Overview & scrutiny bodies may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and other methods that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, within the resources made available by Council.
10. Reports from overview & scrutiny
- 10.1 Once it has formed recommendations on proposals for policy development, the overview & scrutiny body will prepare a formal report and submit it to the proper officer for consideration by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to Council if the recommendation would require a departure from or change to the agreed budget and policy framework.
- 10.2 If the body cannot agree on one single final report to the Executive or Council, then up to one minority report may be prepared and submitted for consideration.
- 10.3 The Executive or Council shall consider the report of the body at the next available meeting.
- 10.4 Once the overview & scrutiny body has completed its deliberations on any matter, it will forward a copy of its final report to the proper officer who will allocate it to either the Executive or Council, or both, as appropriate. If the report is to go to both, the proper officer will serve a copy on the Leader of Council with notice that the matter is to be referred to Council. The Executive will have eight weeks in which to respond to the report, and Council shall not consider it within that period. When Council does meet to consider any referral from an overview & scrutiny body on a matter which would impact on the budget & policy framework, it shall also consider the response of the Executive to the body's proposals.
- 10.5 The agenda for meetings of the Executive shall include an item 'matters arising from overview & scrutiny'. Reports of overview & scrutiny bodies referred to the Executive shall be included at this point on the agenda unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda within eight weeks of the body completing its report.
- 10.6 Overview & scrutiny bodies will have access to the Executive's timetable for decisions. Even where an item is not the subject of details proposals from an overview & scrutiny body following consideration of possible policy / service developments, the body will at least be

able to respond in the course of the Executive's consultation process in relation to any key decision.

11. Rights of overview & scrutiny members to documents
  - 11.1 In addition to their rights as councillors, members of overview & scrutiny bodies have the additional rights to documents and to notice of meetings as set out in the access to information procedure rules.
  - 11.2 Nothing in this procedure rule prevents more detailed liaison between the Executive and overview & scrutiny bodies as appropriate depending on the particular matter under consideration.
12. Members and officers giving account
  - 12.1 Any overview & scrutiny body or panel may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Chief Executive or a Director or contractor to attend to explain in relation to matters within their remit any particular decision or series of decisions, the extent to which the actions taken implement council policy and/or their performance. It is the duty of those persons to attend if required.
  - 12.2 Where any member, officer or contractor is required to attend a meeting of an overview & scrutiny body under this provision, the chairman of that body will inform the proper officer. The proper officer shall inform the person in writing giving at least seven working days' notice of the meeting. The notice will state the nature of the item for which he/she is required to attend to give account and whether any papers are required to be produced for the body. Where the account to be given to the body will require the production of a report, the member or officer concerned will be given sufficient notice to allow for preparation of that document.
  - 12.3 Where, in exceptional circumstances, the person is unable to attend on the required date, the overview & scrutiny body shall arrange an alternative date for attendance within a maximum of eight weeks from the date of the original request.
13. Attendance by others
  - 13.1 An overview & scrutiny body may invite people other than those people referred to in the paragraph above to discuss issues of local concern and/or answer questions. This may, for example, include residents, stakeholders and members and officers from other public sector organisations.
14. Call-in
  - 14.1 Call in should only be used in exceptional circumstances, where members of an overview & scrutiny body have evidence which suggests that the Executive did not take a decision in accordance with the principles of decision making (as set out in the summary and explanation section of this constitution). Reasons may include:
    - Professional advice was not taken from officers or not duly considered
    - The decision conflicts with respect for human rights or is not in accordance with the council's equality policies
    - The decision was taken in the absence of adequate evidence



- There was inadequate consultation with stakeholders
- The decision does not reflect the core values of the council
- The decision does not comply with a strategy, policy or the budget.

14.2 In order to ensure that call-in is not abused nor causes unreasonable delay, certain limitations are to be placed on its use. There are:

- An overview & scrutiny body may only call in ten decisions per year
- Only decisions involving expenditure or reductions in service over a value of £50,000 may be called in
- Three members of an overview & scrutiny body covering more than one political party are needed for a decision to be called in.

15. The call-in process

15.1 When a decision is made by the Executive, an individual member of the Executive or an officer with delegated authority from the Executive, the decision shall be published electronically within two working days of being made. All members will have access to records of the decisions made.

15.2 Published decisions will include the date of publication and will specify the date that the decision will come into force and may then be implemented, on the expiry of seven working days after the publication of the decision, unless an overview & scrutiny body objects to it and calls it in. The notice will specify whether or not a decision is subject to call-in and if not, the reason.

15.3 During that period, the proper officer shall call-in a decision for scrutiny by an overview & scrutiny body if so requested by any three members of that body, covering more than one political party, and shall then notify the decision-taker of the call-in. The proper officer shall call a meeting of the body on such a date as he/she may determine, where possible after consultation with the chairman of the overview & scrutiny body. The issue shall be considered at the next scheduled meeting of the overview & scrutiny body, unless the chairman or relevant Executive member believes a special meeting is required sooner.

15.4 If, having considered the decision, the overview & scrutiny body is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, or it may refer the matter to Council. The option to refer to Council shall not be chosen routinely and may be used in exceptional circumstances only. The overview & scrutiny body must state the reason for its decision. If referred to the decision maker they shall then reconsider at their next meeting (unless urgent, when an earlier meeting will be convened) or within ten days if the decision was taken by an individual, amending the decision or not, before adopting a final decision.

15.5 If, following an objection to the decision, the overview & scrutiny body does not meet within eight weeks, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of that overview & scrutiny body's meeting. In cases of urgency, an earlier meeting must be convened or the Leader of Council can agree consideration at a later meeting.

15.6 If the matter was referred to Council and Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case,

Council will refer any decision to which it objects back to the decision making person or body, together with Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole, a meeting will be convened to reconsider within 15 working days of Council's request. Where the decision was made by an individual, the individual will reconsider it within 15 working days of Council's request.

- 15.7 If Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
16. Call-in and urgency
- 16.1 The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The chairman of the Scrutiny Commission (and in his/her absence, the vice-chairman) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be included in the six-monthly reports to Council as stated under the Executive Procedure Rules.
- 16.2 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Scrutiny Commission, and a report submitted to Council with proposals for review if necessary.
17. The party whip
- 17.1 The party whip is defined as
- "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."*
- 17.2 Council has resolved that the party whip will not be used for Scrutiny Commission, Finance & Performance Scrutiny, Licensing, Planning and Regulatory Committees.
18. Procedure at overview & scrutiny meetings
- 18.1 Overview & scrutiny bodies shall consider the following business:
- minutes of the last meeting
  - declarations of interest
  - consideration of any matter referred to the body for a decision in relation to call-in of a decision
  - responses of the Executive to reports of the overview & scrutiny body
  - the business otherwise set out on the agenda for the meeting.

18.2 Where the overview & scrutiny body conducts investigations (eg with a view to policy development), the body may also ask people to attend to give evidence at meetings of that body which are to be conducted in accordance with the following principles:

- that the investigation be conducted fairly and all members of the body be given the opportunity to ask questions of attendees, and to contribute and speak
- that those assisting the body by giving evidence be treated with respect and courtesy
- that the investigation be conducted so as to maximise the efficiency of the investigation or analysis
- where a witness is called, that person shall be given advance notice of the questions or detailed lines of questioning to be put. Where a new line of questioning is pursued, the witness may provide written answers at a later date.

18.3 Following any investigation or review, the Overview & Scrutiny body shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

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## Part 3 – procedure rules

### h. financial procedure rules

#### CONTENTS

##### Paragraph

- 1 Introduction
- 2 Summary of main limits in the procedure rules
- 3 Statutory officers
- 4 Budgets and medium-term planning
- 5 Maintenance of reserves
- 6 Income
- 7 Capital programme (creation)
- 8 Capital programme (control)
- 9 Accounting procedures
- 10 Asset register
- 11 Property
- 12 Contracts
- 13 External and internal audit
- 14 Inventories, equipment and stock of office supplies
- 15 Treasury management, banking arrangements and petty cash
- 16 Orders for work, goods and services
- 17 Partnerships
- 18 Payment of accounts
- 19 Risk and insurances
- 20 Salaries, wages and pensions
- 21 Staffing changes
- 22 Travelling, subsistence and financial loss allowances
- 23 Engagement of agency staff or consultants
- 24 Security

#### 1. Introduction

- 1.1 Financial regulations provide the framework for managing the financial affairs of the council. They apply to every councillor and officer of the council and anyone acting on its behalf.
- 1.2 The regulations identify the financial responsibilities of Council, the Executive, Overview and Scrutiny members, the Chief Executive (Head of Paid Service), the Monitoring Officer, the Section 151 Officer (S151 Officer) and other senior officers. Executive members and senior

officers 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 officers, references to the senior officer in the regulations should be read as referring to them.

- 1.3 All councillors and staff have a general responsibility for taking reasonable action to provide for the security of assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.
- 1.4 The S151 Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to Council for approval. The S151 Officer is also responsible for reporting, where appropriate, breaches of financial regulations to the council and/or to the Executive members.
- 1.5 Senior officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the council's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their departments.
- 1.6 The S151 Officer is responsible for issuing advice and guidance to underpin the financial regulations that councillors, officers and others acting on behalf of the council are required to follow.
- 1.7 Key decisions

A key decision is a decision taken by the Executive or Council and includes:

- A decision made in connection with setting the council tax
- Involves expenditure (or a reduction in income) over £50,000 on any particular scheme/project (totalled across financial years)
- Involves the adoption of a policy or strategy which the Executive has power to adopt
- Involves the adoption or amendment of the scale of fees and charges
- Is one which affects the whole of the Borough and is one which the residents of Hinckley and Bosworth would normally expect to be notified or consulted
- Officers are required to immediately inform the Monitoring Officer of any key decision to be taken for publication on the council's website.

- 1.8 This must be based on a report from the appropriate director or S151 Officer, or their authorised representative. The financial implications section of the Executive/Council report will need to be agreed with the S151 Officer or their authorised representative.
- 1.9 Key controls - The key controls and control objectives for financial management standards are:
  - Their promotion through the authority
  - A monitoring system to review compliance with financial standards and regular comparisons of performance indicators and benchmark standards that are reported to member committees, the Executive and Council as appropriate.
- 1.10 The control and coordination of the finances of the borough council is the responsibility of Council. Financial procedure rules provide the framework within which the council's financial affairs are to be managed. Changes to these rules will require a resolution to Council. Council may waive compliance with any of these rules in a particular case, or any particular

class of case. These rules form part of the council's constitution. Definitions within the constitution apply to these rules.

- 1.11 The S151 Officer is the designated officer responsible, under the terms of S151 of the Local Government Act 1972, for the proper administration of the financial affairs of Hinckley and Bosworth Borough Council. The S151 Officer will nominate who will deputise as S151 Officer in their absence.
- 1.12 Any reference to the S151 Officer will include those officers in that service area undertaking delegated duties.
- 1.13 Within financial procedures, the term "directors" shall be deemed to include the Chief Executive and the Strategic Leadership Team (SLT), along with the S151 Officer in relation to the role of S151 Officer.
- 1.14 Any references made to "finance officers" include the Head of Finance, Accountancy Manager, senior accountants and accountants.
- 1.15 The Corporate Property Officer is the Estates and Assets Manager.
- 1.16 The Procurement Officer is the Director (Corporate Services).
- 1.17 The Chief Executive, Director (Community Services), Director (Environmental and Planning) and Director (Corporate Services) are members of SLT.
- 1.18 The Chief Executive and directors are responsible for ensuring that all financial rules, financial procedures and any other financial instructions which the S151 Officer may issue from time to time are complied with by all their staff in order to ensure that the council obtains value for money and that the goods, materials, work and services required are necessary and appropriate.
- 1.19 Where a member of SLT discovers that there has been a breach of rules in his/her service area, then he/she will consult the S151 Officer and instigate appropriate action. This may include, following consultation with the Monitoring Officer, consideration of invoking the council's disciplinary procedure.
- 1.20 The financial procedure rules are rules that members and officers must apply to ensure good financial management. They give the detail to the general strategy contained in the constitution. They must be used in the context set out in rules of procedure and codes and protocols, both of which are contained in the constitution, and must be adhered to at all times.
- 1.21 Financial procedure rules must be reviewed annually and Council must approve any amendments.
- 1.22 Any questions about the use or scope of the financial procedure rules should be addressed to the S151 Officer or to finance officers.
- 1.23 Sanctions and remedies for non-compliance

These financial procedure rules have been drafted with a view to avoiding any uncertainty or ambiguity as to the principles, standards and procedures to be observed. If any uncertainty or dispute arises pursuant to these financial procedure rules, or instructions issues under them, the matter must be referred to the S151 Officer for interpretation and/or arbitration.

Failure to comply with the financial procedure rules or instructions issues under them may constitute gross misconduct. Breaches of financial procedure rules may lead to an investigation and the recommendation of further action(s) to be taken.

## 1.24 Emergencies

Nothing in the financial procedure rules shall prevent the Chief Executive or directors, in consultation with the S151 Officer and the Leader of the council (or their deputy if unavailable), from incurring expenditure essential to meet any immediate needs created by an emergency, or which falls within S138 of the Local Government Act 1972. Such action and their justification shall be reported as soon as possible to the Executive and Council.

## 2. Summary of main limits in the procedure rules

### 2.1 Capital programme

Acceptance of tenders - where tenders and quotations cause the scheme budget to be exceeded by:

- Up to 5%: the director may approve such variation
- Between 5% and 20%: the director must report to SLT (subject to a minimum reporting level of £10,000), who may approve such variations
- Over 20%: the director must report to the Executive, who may approve such variations
- Subject to any variations, only being approved in consultation with the Procurement Officer and the Legal Services Manager
- Amendments can be made to the project specification to ensure that the budget is not exceeded
- Executive can be requested to approve a supplementary budget up to a maximum of £500,000 per year in aggregate, with a limit per individual supplementary of £50,000, where no savings are possible
- Council can be requested to approve a supplementary budget beyond £50,000.

### 2.2 Tenders and quotes

- Variations causing the scheme budget to increase by at least 5% (min £15,000) must be reported to Executive immediately; and
- Show possible compensating savings in the project; or
- Compensating adjustments in other projects; or
- Ask Council for supplementary budget.

### 2.3 Capital overspends

Overspends up to £25,000 (aggregate £250,000 per annum): Chief Executive or S151 Officer can approve virement and the Chief Executive, in consultation with the S151 Officer, may approve a supplementary budget.

Overspends £25,000 to £50,000 (aggregate £500,000 per annum): Request to Executive for virement or supplementary budget.

Overspends above £50,000: Request to Council for virement or supplementary budget.



## 2.4 Income

Write off sundry debts up to £5,000: Directors may give approval to write off general debts that are proven to be unrecoverable (including where the debtor is bankrupt or being wound up) or raised in error.

Write of sundry debts up to £10,000: SLT may give approval to write off general debts that are proven unrecoverable (including where the debtor is bankrupt or being wound up) or raised in error.

Write off sundry debts up to £25,000: The Chief Executive and S151 Officer have delegated authority to write off such debts. They must submit reports to Executive at six monthly intervals, summarising those debts written off.

Write off sundry debts up to £50,000: Executive must approve the write off.

Write off sundry debts over £50,000: Council must approve the write off.

## 2.5 Council tax, NNDR and housing benefits overpayment debts:

Write-off limits for council tax, NNDR and housing benefits overpayment debts are contained within the debt recovery policy for Leicestershire Revenue and Benefits Partnership as follows:

- For debts up to but not exceeding £100 (including aggregated debts for one debtor), the delegated authority rests with the Business Rates or Council Tax Team Leader
- For debts up to but not exceeding £100 (including aggregated debts for one debtor), the delegated authority rests with the authority's Partnership Manager
- For debts greater than £1,000 but not exceeding £10,000 (including aggregated debts for one debtor) (and for all credit balances), the delegated authority rests with the Revenues Operational Manager
- For debts greater than £10,000, write-off procedures are as stated for sundry debts.

## 2.6 Miscellaneous sales

- Directors can authorise, if the estimated income is up to £10,000
- SLT must authorise if the estimated income is £10,000 to £25,000 and above and a minimum of three offers sought
- SLT can give approval if the income is between £25,000 to £50,000, with a report issued to the Executive
- SLT can give approval if the income over £50,000, with a report issued to Council.

## 2.7 Payments

Payments up to £10,000:

- Directors may delegate authority for the approval of payments up to £10,000 for officers
- SLT must compile a schedule of authorised approvers and their approval limits
- The schedules must be submitted to the S151 Officer
- The S151 Officer must be notified immediately of any changes
- The schedules must be reviewed annually and submitted to the S151 Officer.

Payment up to £25,000:

- Must be approved by a service manager reporting to a Director.

The S151 Officer or the Chief Executive can authorise any payment having been provided with supporting evidence.

Petty cash: limit is £250.

All payments are subject to correct ordering procedures being followed.

## 2.8 Revenue budgets – variations

Variations up to £1,000:

- Directors can approve virements and supplementary budgets on codes relating to their own directorate to a maximum annual aggregate of £20,000 (virements between the general fund and the HRA are not allowed).

Variations up to £10,000:

- S151 Officer can approve virements to a maximum of £200,000 per year in aggregate
- Directors, in consultation with the S151 Officer, can approve virements across their individual directorate budget heads within the same fund to a maximum of £100,000 per year in aggregate
- S151 Officer can approve supplementary budget requests to a maximum of £200,000 per year in aggregate.

Variations up to £25,000:

- Chief Executive, in consultation with S151 Officer, can approve virements to a maximum of £500,000 per year in aggregate
- Chief Executive, in consultation with S151 Officer, can approve supplementary budgets to a maximum of £500,000 per year in aggregate.

Variations up to £50,000:

- Executive can approve virements or supplementary budgets to a maximum of £500,000 per year in aggregate.

Variations over £50,000:

- Request to Council for virement or supplementary budget.

## 2.9 Orders for works, goods and services - authorisation

Orders up to £10,000:

- Directors may delegate authority for the approval of orders up to £10,000
- SLT must compile a schedule of authorised approvers and their approval limits
- The schedules must be submitted to the S151 Officer
- The S151 Officer must be notified immediately of any changes
- The schedules must be reviewed annually and submitted the S151 Officer.

Orders up to £25,000:

- Must be approved by a service manager reporting to a Director.

Orders up to £250,000:

- For orders up to £250,000, a Director must authorise the order having been provided with evidence that the rules stipulated under the council's contract procedures have been applied.

The S151 Officer or the Chief Executive can authorise any orders having been provided with evidence that the rules stipulated under the council's contract procedures have been applied.

## 2.10 Orders for works, goods and services - ordering procedure:

- The current contract procedure rules and financial procedure rules regarding revenue and capital budgets must be strictly observed
- No splitting or orders to avoid the relevant procedure
- Orders of more than one year and/or more than one service must be for the total value over the full period.

Before proceeding to raise an order/enter into a new contract for the supply of goods, works or services, the procuring officer should first ensure that there are:

- No current in-house arrangements in existence
- No current corporate contracts in place.

The following limits apply:

- Orders up to £5,000: informal prices
- £5,001 to £20,000: two written quotations
- £20,001 to £50,000: three written quotations on the basis of a detailed specification and the Councils' procurement officer must be consulted
- £50,001+: the formal tendering procedure, set out in contract procedure rules must be used and the councils' procurement officer must be consulted. Where the council is a lead authority in procuring goods or services for a number of authorities, it is the gross value of the order that will determine the level of authorisation.

## 3. Statutory officers

3.1 The responsibilities of statutory officers are set out below.

3.2 Head of Paid Services (Chief Executive) is responsible for:

- The corporate and overall strategic management of the council
- Reporting to and providing information to the Executive, Council, Overview and Scrutiny and other council bodies
- Establishing a framework for management direction, style and standards and monitoring Organisational performance
- (Together with the Monitoring Officer) for the system of record keeping in relation to all Council decisions (see below).

3.3 The Monitoring Officer:

- Is responsible for promoting and maintaining high standards of financial and ethical conduct and therefore provides support to the Ethical Governance and Personnel Committee
- Is responsible for reporting any actual or potential breaches of law or maladministration to Council and/or to member committees for ensuring procedures for recording and reporting key decisions are operating effectively
- Must ensure that Executive decisions and the reasons for them are made public. They must also ensure that council members are aware of decisions made by the Executive and officers who have delegated executive responsibility
- Is responsible for advising all councillors and officers about who has authority to take a particular decision
- Is responsible for advising Executive or Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the policy framework

- (Together with the S151 Officer) is responsible for advising the Executive or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget
- Is responsible for maintaining an up-to-date constitution.

#### 3.4 S151 Officer:

The S151 Officer, as Head of Finance, has statutory duties in relation to the financial administration and stewardship of the council. Statutory responsibility cannot be overridden and duties arise from:

- S151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 1996.

#### 3.5 The S151 Officer is responsible for:

- Proper administration of the councils' financial affairs
- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and on the key financial controls necessary
- Securing sound financial management
- Providing financial information
- Preparing the revenue budget and capital programme
- Treasury management.

#### 3.6 Deputy S151 Officer:

The 1988 Local Government Act makes a requirement to have a designated qualified deputy S151 Officer to act on their behalf in his/her absence, or if requested by the Chief Finance Officer to do so. The nomination of the designated S151 Officer will be the responsibility of the S151 Officer.

### 4. Budgets and medium-term planning

- 4.1 The Medium Term Financial Strategy (MTFS) includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- 4.2 Budget management ensures that once the budget has been approved by Council, allocated resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 4.3 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of Council. Budgets (spending plans) are needed so that the council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a council to budget for a deficit.
- 4.4 Medium-term planning (or a three year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added

to the medium-term plan. This ensures that the council is always preparing for events in advance.

4.5 The S151 Officers will:

- Prepare and submit reports on budget prospectus to the Executive, including resource constraints set by Government. Reports should take account of medium-term prospects, where appropriate
- Determine the detailed form of revenue budget and the methods for their preparation consistent with the budget approved by the council, and after consultation with the Executive, directors and service managers
- Prepare and submit reports to the Executive on the aggregate spending plans of services and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied
- To advise on the medium-term implications of spending decisions
- To promote the best use of resources and value for money by working with directors and services managers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development of savings options, and in developing financial aspects of service planning.

4.6 Directors and service managers have a responsibility to:

- Prepare income and expenditure estimates, in consultation with the S151 Officer, to support the annual budget preparation and preparation for the MTFS for final submission to council
- Prepare estimates for budget purposes which are consistent with any relevant cash limits and constraints within the budgets strategy approved as part of the council's annual budget cycle and guidelines issued by the Executive
- Integrate financial and budget plans into service planning so budget plans can be supported by financial and non-financial performance measures.

4.7 Revenue budget - creation

At the start of each year's budget process, the S151 Officer will prepare a budget strategy. The budget strategy will be consistent with the MTFS and will provide the framework for next year's budget.

Executive will approve the budget strategy prior to the preparation of detailed budgets.

The S151 Officer will decide the form of the detailed revenue budget in line with the policies approved by Executive.

The S151 officer will liaise with SLT and all budget holders in order to compile a proposed budget for the next financial year.

Any increases to base budgets (growth items) must be submitted by budget holders and approved by the responsible SLT member and S151 Officer.

Service managers will rigorously review the fees and charges for their services, in accordance with guidelines approved by Executive. They will then submit proposed revised charges to SLT and Council.

The report to Council revising the charges will include both the current charges and the proposed revised charges.

Council will agree the scale of fees and charges and any amendments.

The S151 Officer (in consultation with SLT) will compile the budgets after taking account of:

- staffing and other resources requirements;
- approved service plans;
- the capital programme;
- any central government limitations; and
- the revision of rents, fees and charges.

Proposed budgets must be reported to Council (with Executive recommendations) during the February/March period.

Council must have decided on an approved budget before 11 March each year, in order to set the council tax.

#### 4.8 Revenue budget – control

##### Virements

Virements must not create additional overall budget liability. Directors and service managers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including the full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors and service managers must plan to fund such commitments from within their own budgets.

For control purposes, an income or expenditure budget represents a budget line (known as the budget head) in the capital and revenue estimates book.

##### Variations

Variations up to £10,000:

- S151 Officer can approve virements to a maximum of £200,000 per year in aggregate
- Directors, in consultation with the S151 Officer can approve virements across their individual directorate budget heads to a maximum of £100,000 per year in aggregate
- S151 Officer can approve supplementary budget requests to a maximum of £200,000 per year in aggregate.

Variations up to £25,000:

- Chief Executive, in consultation with the S151 Officer, can approve virements to a maximum of £500,000 per year in aggregate
- Chief Executive, in consultation with the S151 Officer, can approve supplementary budgets to a maximum of £500,000 per year in aggregate.

Variations up to £50,000:

- Executive can approve virement or supplementary budget to a maximum of £500,000 per year in aggregate.

Variations over £50,000:

- Request to Council for virement or supplementary budget.

Before approval, the Chief Executive will require assurance from the relevant SLT member that all necessary steps to achieve compensating or additional income savings have been taken.

If the annual limit in each of the above cases is reached, then the variation for which approval is sought will be accelerated to the next level.

#### 4.9 Revenue budget - budget monitoring

The S151 Officer and appropriate officers will supply the directors with monthly comparative statements of income and expenditure to budget. Service managers and delegated officers are responsible for ensuring that controllable budget links for which they are responsible are not overspent.

The S151 Officer will ensure that each service manager and appropriate officer will receive adequate training to enable them to control those parts of the budget for which they are responsible.

#### 4.10 Revenue budget - budget reporting

Operationally, responsibility for budgets and adherence to financial procedures rests with the directors and the service managers and not the S151 Officer.

The S151 Officer will submit at least quarterly summaries to SLT and Executive, comparing actual expenditure and income to budget and providing a forecast position to the year end.

### 5. Maintenance of reserves

5.1 The Council must decide the level of general reserves that it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the council to provide unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

5.2 The key controls for the maintenance of reserves are:

- To maintain reserves in accordance with the code of practice on local authority accounting in the UK (CIPFA/LASAAC) and agreed accounting policies
- For each reserve established, the purpose, usage and basis of transactions should be clearly identified
- Authorisation and expenditure from reserves in consultation with the chief finance officer and as agreed in the budget approved by Council.

5.3 The role of the S151 Officer is to:

- Advise Executive and Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter where appropriate
- Report to Executive and Council on an annual basis with an assessment as to the adequacy of the financial reserves and balances.

5.4 The role of the directors and service managers is to ensure that reserves are used only for the purposes for which they were intended.



## 6. Income

The S151 Officer is responsible for the collection and safe custody of all money due to Hinckley and Bosworth Borough Council.

Service managers are responsible for raising debtor invoices in their own service areas and report on collection rates to the respective director at least quarterly.

### 6.1 Identification of sources of income

Service managers must raise debtors' invoices promptly and within one calendar month of the service provision. Service managers must notify the relevant director and S151 Officer when any contract, lease or arrangement is made, whose terms provide that the council receives money.

The S151 Officer has the right to inspect any documents relating to such matters.

The S151 Officer must maintain a periodical income record identifying regular receipts.

### 6.2 Grants

Service managers should ensure that all grants and external funding income is promptly claimed and proper records and working papers are retained to justify claims.

Service managers should ensure that all claims are validated by a finance officer before submission to the accountable body/funding agency.

Service managers must inform the director and S151 Officer of any new bids for grant applications, providing copies of grant applications and letters of acceptance to the S151 Officer.

The S151 Officer will retain a central grants register which will be monitored and updated.

### 6.3 Fees and charges

Service managers, in consultation with the relevant director, will ensure that all rents, fees and charges are reviewed at least annually at the time of the preparation of the budget. Rents should be reviewed in accordance with the terms of the agreement.

Where it is proposed to introduce, revise or discontinue a scale of fees and charges, the S151 Officer should be consulted before the proposal is progressed.

The S151 Officer will provide an annual report and fees and charges book to Council for approval.

### 6.4 Procedures for receipts

Any money received by an officer must immediately:

- Be sent to the S151 Officer or
- Be paid into the council's bank account or
- Be sent directly to any other body or person entitled to receive it.

No deduction must be made from receipts unless specifically authorised by the S151 Officer.

All officers receiving cash must give an official receipt.

All receipts and deposits must be recorded clearly, accurately and in date order in records acceptable to the S151 Officer.

Each officer receiving money on behalf of the council must record on a paying-in slip, or directly into the computer system:

- A reference such as the debtor's name
- The receipt number, so that the debt of reason for payment can be easily identified.

On the back of each cheque, the following details must be entered:

- Account number
- Cashier's reference
- Date accepted
- Receipt number.

No third party cheques are to be accepted.

Personal cheques must not be cashed out of council money.

The receiving officer must sign transfers of council money from one employee to another.

#### 6.5 Debt recovery

The S151 Officer must ensure that robust debt recovery procedures are in operation and comply with the council's debt management policy.

#### 6.6 Debt write-off - sundry debts

Debt write-off limits below refers to the level of debt being written off in aggregate for service provision in relation to an individual debtor of organisation, not individual invoice value.

Up to £10,000:

- Directors may give approval to write-off general debts that are proven to be unrecoverable (including where the debtor is bankrupt or being wound up) or raised in error.

Up to £15,000:

- SLT may give approval to write-off general debts that are proven unrecoverable (including where the debtor is bankrupt or being wound up) or raised in error.

Up to £25,000:

- The Chief Executive and S151 Officer have delegated authority to write-off such debts
- They must submit reports to Executive, at six monthly intervals, summarising those debts written off.

Up to £50,000:

- Executive must approve the write-off.

Over £50,000:

- Council must approve the write-off.

## 6.7 Debt write-off - debtors invoice cancellations

Any invoices that require cancellation must be authorised by the S151 Officer or the Accountancy Manager before cancellation.

## 6.8 Debt write-off - council tax, NNDR and housing benefits overpayment debts

Write-off limits for council tax, NNDR and housing benefits overpayment debts are contained within the debt recovery policy for Leicestershire Revenue and Benefit Partnership as follows:

- For debts up to but not exceeding £100 (including aggregated debts for one debtor), the delegated authority rests with the enforcement team leader
- For debts greater than £100 but not exceeding £1,000 (including aggregated debts for one debtor), the delegated authority rests with the authority's partnership manager
- For debts greater than £1,000 but not exceeding £10,000 (including aggregated debts for one debtor) (and for all credit balances), the delegated authority rests with the head of partnership
- For debts greater than £10,000, write-off procedures are as stated for sundry debts.

## 7. Capital programme (creation)

### 7.1 They key controls for capital programmes are:

- Specific approval by Council for the programme of capital expenditure
- Expenditure on capital projects is subject to the approval of the S151 Officer
- A scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Executive
- Proposals for improvements and alterations to buildings must be approved by the appropriate member of SLT
- The development and implementation of asset management plans
- Accountability for each proposal is accepted by a named manager
- Monitoring of progress in conjunction with expenditure and comparison with approved budget.

### 7.2 The capital programme is a plan that sets out the resource allocations to be made to capital projects that have the approval of Council. This means that capital expenditure should form part of an investment strategy, to deliver the council's strategic priorities, and maximise the benefit of limited resources. For the purpose of these procedure rules, "capital expenditure" means the acquisition, construction or enhancement of tangible/intangible fixed assets (land, buildings, vehicles, plant, equipment, hardware and software). Capital assets shape the way services are delivered in the long-term and create financial commitments for the future in the form of financing and revenue running costs.

### 7.3 An enhancement is defined as:

- Works that lengthen substantially the useful market value life of an asset
- Works that increase substantially the market value of an asset
- Works that increase the extent to which the property can be used for purposes of functions of the council.

### 7.4 Items or groups of items under the value of £10,000 would not normally be classified as capital expenditure unless they meet the definition of an enhancement above.

- 7.5 The S151 Officer will implement a suitable mechanism to ensure compliance with CIPFA's prudential code, reviewing proposals and monitoring capital schemes, reporting in such areas as affordability, prudence and sustainability (e.g. implications for external borrowing), value for money, stewardship of assets, service objectives and practicality/achievability.
- 7.6 The S151 Officer has responsibility:
- For preparation of a capital programme in the annual budget cycle, showing the projects for the next four years
  - For issuing guidance on capital projects and controls and defining what will be regarded as capital having proper regard to Government regulations and accounting conventions, ensuring that all projects relying on the use of prudential borrowing for funding purposes are properly appraised using robust business cases
  - To undertake external borrowing in line with the council's approved MTFS, including the type of loan and its repayment method
  - For maintaining a record of the current capital budget and expenditure on the council's financial system.
- 7.7 SLT will monitor progress and review the capital programme with the asset management plan in order to ensure that the council's corporate objectives are being met and that there is consistency between the capital programme and the asset management plan.
- 7.8 Directors have a responsibility for:
- Complying with the guidance issued by the S151 Officer regarding capital projects and controls
  - Ensuring that all capital projects put forward for consideration have been properly appraised and that each project and estimate includes a proper project plan, progress targets and sets out the sources of funding for the project, including all associated revenue expenditure
  - Preparing regular reports reviewing the capital programme provisions for their services
  - Ensuring adequate records and audit trails are maintained in respect of all capital contracts
  - Monitoring capital expenditure and receipts against approved capital budgets on a project by project basis and reporting to the relevant Executive member on a regular basis in accordance with the standard revenue budget monitoring arrangements set out above
  - Reporting to the Executive if proposed sources of funding are not secured
  - If planned funding from linked assets sales or external grants and contributions cannot be realised, corporate funding support must be sought
  - Ensuring that adequate records are maintained for all capital contracts
  - Proceeding with projects only when there is adequate provision in the capital programme and with the agreement of the S151 Officer, where required.
- 7.9 The S151 Officer will prepare capital budgets with directors and service managers and report them to Executive for approval. The Executive will make recommendations on the capital budgets and on any associated financing requirements to Council.
- 7.10 Council will receive the recommendations of the Executive, review the overall expenditure, capital resources and revenue implications and set a capital budget.
- 7.11 The capital programme will include total capital costs and the proposed capital expenditure on each scheme for each year of the programme. In addition, the financing of all capital schemes should be disclosed.

- 7.12 The procedure for inclusion in the capital programme is as follows:
- A project proposal will be prepared and presented to the S151 Officer and to SLT
  - Once approved by SLT, a project officer will be assigned who will be responsible to the lead officer in charge of the project budget
  - Council will consider the project and give approval as appropriate.
- 7.13 It is the project officer's responsibility to ensure a full financial appraisal is prepared by the technical officer in conjunction with the S151 Officer and will include:
- Detailed estimates of the capital costs of the proposed scheme and associated funding
  - Detailed estimates of the annual running costs and income
  - Estimated annual capital charges resulting from the additional asset
  - Any consequences of not proceeding with the project
  - Any compensating savings in other services after completion of the project.
- 7.14 In exceptional circumstances, a project may need to be inserted in the programme when it cannot fulfil the normal programming timetable. The report proposing the project must include:
- A full financial appraisal
  - An explanation of how the project can be fitted into the programme
  - The explanation will identify the necessary savings or the project(s), which will be deferred to accommodate the new project
  - The S151 Officer will advise SLT and the Executive of funding the capital programme. This will include consideration of affordability and sustainability in accordance with the prudential code and disposal of Council assets in accordance with the Council's disposals policy as outlined in section 8.

## 8. Capital programme (control)

### 8.1 Budget monitoring

Directors, service managers and delegated officers are responsible for ensuring that capital schemes for which they are responsible are not overspent and are delivered on schedule.

Directors will monitor progress of all capital projects at least quarterly.

### 8.2 Acceptance of tenders

Where tenders and quotations cause the scheme budget to be exceeded:

- By up to 5%: the director may approve such variation
- By between 5% and 20%: the director must report to SLT (subject to a minimum reporting level of £10,000), who may approve such variations
- By over 20%: the director must report to the Executive, who may approve such variations.

Subject to any variations only being approved in consultation with the procurement officer and the Legal Services Manager:

- Amendments can be made to the project specification to ensure that the budget is not exceeded

- Executive can be requested to approve a supplementary budget up to a maximum of £500,000 per year in aggregate, with a limit per individual supplementary of £50,000, where no savings are possible
- Council can be requested to approve a supplementary budget beyond £50,000.

### 8.3 Tenders and quotes:

- Variations causing the scheme budget to increase by at least 5% (min £15,000) must be reported to Executive immediately
- Show possible compensating savings in the project
- Compensating adjustments in other projects
- Ask Council for supplementary budget.

### 8.4 Budget reporting:

- Finance Officers will report to SLT at least quarterly on progress of the capital programme
- Executive shall hold SLT members to account for their performance on implementing the capital programme and for their use of capital resources
- The S151 Officer will report quarterly to Finance & Performance Scrutiny on the overall financial position in relation to over/under-spends and anticipated slippage
- The S151 Officer shall report outturn expenditure to Executive, Finance & Performance Scrutiny and to Council.

### 8.5 Supplementary and virement approval

Overspend up to £25,000 on a capital project:

- The Chief Executive or S151 Officer will be authorised to vire across budget heads up to a maximum of £250,000 per year in aggregate, with a limit per individual virement of £25,000. All such proposals must be reported to the accountancy section
- The directors, in consultation with the S151 Officer, will be authorised to vire across their individual directorate budget heads, up to a maximum of £100,000 per year in aggregate, with a limit per individual virement of £10,000. All such proposals must be reporting to the accountancy section
- The Chief Executive, in consultation with the S151 Officer, is authorised to approve supplementary estimates up to a maximum of £250,000 per year in aggregate, with a limit per individual supplementary estimate of £25,000.

Overspend between £25,001 and £50,000 on a capital project:

- Executive will be authorised to vire across budget heads up to a maximum of £500,000 per year in aggregate, with a limit per individual virement of £50,000
- Executive will be authorised to approve an individual supplementary estimate of £50,000 up to a maximum of £500,000 per annum in aggregate
- Overspend greater than £50,000 on a capital project
- Council will be authorised to approve a virement across budget heads above £50,000 per individual virement
- Council will be authorised to approve an individual supplementary estimate above £50,000.

### 8.6 Capital programme control

- Directors and service managers must ensure all Borough Council employees and external organisations are aware of and comply with the constitution of the council contract procedure rules and financial procedure rules

- The S151 Officer may carry out an audit of any capital project, either while it is in progress or after completion
- The S151 Officer will make an annual report, to Executive, listing those projects, which became financially complete in the previous financial year and comparing the final cost with the scheme budget.

## 9. Accounting procedures

All accounts and accounting records will be compiled under the direction of the S151 Officer.

### 9.1 The S151 Officer will:

- Maintain satisfactory accounting arrangements for all financial transactions of the Council in consultation where necessary with the Chief Executive, directors and heads of service
- Make proper arrangements for the external audit of the council's accounts in accordance with the Accounts and Audit Regulations 2003
- Ensure that all claims for funds, including grants, are made by the due date
- Ensure the proper retention of financial documents in accordance with the requirements set out in the council's records management policy and records retention policy.

### 9.2 Members of SLT

Whilst the S151 Officer has overall responsibility for the finances of the council, directors are responsible for the day to day management of their directorate's finances.

SLT members' responsibilities in relation to financial management include:

- Maintaining satisfactory financial management standards within their directorates with sufficient resources including legal advice, where necessary, to carry out the duties specified by legislation or otherwise directed by these financial procedure rules
- Promoting and ensuring compliance with the financial procedure rules and practices set by the S151 Officer in their directorates; consulting with the S151 Officer on any matter which is liable to materially affect the resources of the council. This must be done before any commitment is incurred, or a report is made to Executive, Council or to a body for decision
- Ensuring that the Executive members are advised of the financial implications of all proposals and that these have been agreed by the S151 Officer, or their nominated representative
- Signing contracts on behalf of the council in accordance with the contract procedure rules; reporting suspected fraud and irregularities to the internal auditor for investigation and referral to the Police as considered necessary
- Ensuring that the officer delegations relating to financial management and administration as set out in the council's scheme of delegation within their directorates, are exercised with due regard to the detailed requirements of these financial procedure rules
- Implementing the management recommendations of internal audit and external auditors agreed with the director and service managers.

### 9.3 Other responsibilities of the Chief Executive, directors and service managers are:

- To consult and obtain the approval of the S151 Officer before making any changes to accounting records and procedures
- To comply with the principles that apply in allocating accounting duties

- To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements
- To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the S151 Officer
- To consult and obtain the approval of the S151 Officer before making any changes to accounting records and procedures and to comply with the accounting policies when allocating accounting duties
- To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements
- To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the S151 Officer.

#### 9.4 Allocating accounting duties

The following principles will apply in allocating accounting duties:

- The calculation, checking and provision of information on sums due to or from Hinckley and Bosworth Borough Council must be separated from actual collection or payment of those sums
- The staff checking cash transactions must not have been involved in those transactions
- All of the monitoring controls (e.g. reconciliations) must be independently reviewed.

The S151 Officer is responsible for providing all financial management information to Council, Executive, Audit Committee, Overview and Scrutiny bodies, SLT and other bodies as required.

The S151 Officer shall prepare a report to Council, under the requirements of S114 of the Local Government Finance Act 1988, if it appears that the authority or an officer:

- Has made, or is about to make a decision which involves would involve the authority incurring expenditure which is unlawful
- Has taken, or is about to take a course of action which if pursued to its conclusion, would be unlawful and likely to cause a loss of deficiency on the part of the authority
- Is about to enter an item of account, the entry which is unlawful
- Has incurred expenditure, or propose to incur expenditure, in a financial year in excess of the total resources (including sums borrowed) available to it to meet that expenditure.

#### 9.5 Statement of accounts

The council has a statutory responsibility to prepare its own accounts to provide a true and fair view of its operations during the year. The Audit Committee has delegated authority for approval of the annual statement of accounts.

The S151 Officer is responsible for submitting the council's statement of accounts and annual governance statement to the external auditor by the due date under the accounts and audit regulations in force each year. In doing so, the S151 Officer will:

- Select suitable accounting policies and to apply them consistently
- Make judgements and estimates that are reasonable and prudent
- Have regard to the code of practice on local authority accounting in the UK (CIPFA/LASAAC)
- Sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for each year ended 31 March



- Draw up the timetable for final accounts preparation, ensuring completion of the annual statement by the statutory date and to advise staff and external auditors accordingly.

9.6 Responsibilities of Chief Executive, directors and heads of service are:

- To comply with accounting guidance provided by the S151 Officer and to supply the Director (corporate services) with information when required
- To adhere to the accounting policies and guidelines approved by the Head of Finance.

10. Asset register

10.1 An up to date asset register is a prerequisite for proper fixed accounting and sound asset management.

10.2 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- Resources are used only for the purposes of the council and are properly accounted for
- Resources are available for use when required
- Resources no longer required are disposed of in accordance with the law and the regulations of the council, so as to maximise benefits
- An asset register is maintained for the council, assets are recorded when they are acquired by the council and this record is updated as changes occur with respect to the locations and condition of the asset
- Staff are aware of their responsibilities with regard to safeguarding the council's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- Staff are aware of their responsibilities with regard to safeguarding the security of the council's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer security and internet policies. The Corporate Property Officer, in consultation with the Corporate Asset Management Group will undertake all required developments in asset management.

10.3 The Corporate Property Officer will be responsible for maintaining an asset register of all significant assets owned by the council.

10.4 The S151 Officer will:

- Ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000 and
- Ensure that assets are valued in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom" (CIPFA/LASAAC).

10.5 The Corporate Property Officer will provide guidance to the S151 Officer and SLT on the requirement to update the asset register.

10.6 Responsibilities of directors and heads of service are to ensure:

- That lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the director in consultation with the S151 Officer, has been established as appropriate
- The proper security of all buildings and other assets under their control
- Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the director and S151 Officer

- To pass title deeds to the monitoring officer who is responsible for custody of all title deeds
- That no council asset is subject to personal use by an employee without proper authority
- The safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the council
- That assets are identified, their location recorded and that they are appropriately marked and insured
- That the disposal or part exchange of assets above a set threshold are subject to competitive tender or public auction, unless, following consultation with the S151 Officer, the Executive agrees otherwise
- That property is only used in the course of council business, unless the director concerned has given permission otherwise.

#### 10.7 Intellectual property

Intellectual property is a generic term that includes inventions and writings if these are created by any employee during the course of their employment, 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.

The S151 Officer will consider and approve proposals for the commercial exploitation of inventions in accordance with intellectual property good practices.

Directors and heads of service will need to ensure:

- That controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's right with regard to intellectual property
- That the advice and approval of the S151 Officer is obtained before commercially exploiting any inventions.

#### 10.8 Land and property acquisition and disposals – acquisitions

Unless there are exceptional circumstances, the council will only acquire land or property for the following reasons:

- To contribute towards the provision of council's services
- To support economic development, regeneration or corporate priority
- Improving service delivery and in turn, providing revenue income generation
- Strategic acquisition for redevelopment purposes.

Such acquisitions will:

- Be appropriate to the nature and scale of the council's assets and operations
- Be compliant with current applicable legislation, regulatory and statutory requirements and other requirements to which the council subscribes
- Demonstrate (or demonstrate its future ability to meet) the council's sustainability criteria and objectives.

A financial appraisal will be carried out to establish the financial/budgetary implications of acquiring the property at the quoted asking price. The advice of the S151 Officer will be sought regarding current rates of interest on capital invested, to enable the opportunity costs

of the acquisition to be fully assessed. The financial appraisal will take into account the following matters:

- The capital cost of acquisition
- The opportunity cost of acquisition
- Any revenue, or potential revenue, generated from the property, both short and long term
- Availability of external funding sources
- Possibility of joint ventures
- The cost, in asset management terms, of owning the property, including:
  - immediate maintenance/refurbishment requirements and demolition costs, if appropriate
  - ongoing maintenance/life cycle costings
  - national non-domestic rates
  - services within the property
  - insurance
  - the overall effect of the expenditure on the council's budgetary position e.g. depreciation and minimum revenue provision.

Where the acquisition is to be by way of a long lease, the S151 Officer will be consulted to assess the implications regarding VAT, capital controls and accounting conventions.

Once the financial appraisal has been undertaken, a report will be prepared, seeking appropriate approval for the proposed course of action.

Detailed guidance on land and property acquisition can be found in the council's adopted acquisition policy.

#### 10.9 Land and property acquisition and disposals – disposals

Section 123 of the Local Government Act 1972 provides guidance on a definition to the effect that disposal of property can be considered to be a disposal if it consists of:

- Freehold transfer
- A grant of a term exceeding seven years
- The assignment of a term which, at the date of the assignment, has more than seven years to run.

#### 10.10 Land and property acquisition and disposals

Land and property acquisition and disposals will be carried out in accordance with approved asset acquisition and disposals strategies.

#### 10.11 Sale or purchase of land or buildings

Sale or purchase of land or buildings is controlled annually via Council's approval of the capital programme. For changes during the financial year to the capital programme the following delegated powers apply:

Disposals:

Delegation of powers for disposals below or equal to £50,000:

- Up to £5,000: Section 151 Officer (annual aggregate limit of £50,000)
- Up to £25,000: Section 151 Officer in conjunction with Chief Executive and Executive member (Annual aggregate limit of £200,000)
- Up to £50,000: The Executive.

All disposals over £50,000 will be subject to approval by Council.

Acquisitions:

Delegation of powers for acquisitions:

- Up to £25,000: Section 151 Officer (annual aggregate limit of £100,000)
- Up to £100,000: Section 151 Officer in conjunction with the Chief Executive (annual aggregate limit of £500,000)
- Up to £250,000: Section 151 Officer in conjunction with the Corporate Property Officer, the relevant Executive member and the Executive member for Finance (annual aggregate limit of £1,000,000)
- Up to £500,000: The Executive (annual aggregate limit of £1,000,000).
- An overall annual aggregate limit of £1,000,000 for acquisitions under delegated powers.

All acquisitions over £500,000 will require approval by Council following agreement of the Asset Strategy & Regeneration Group.

Where projects in the capital programme or variations are made, resources will need to have been identified as available or becoming available. No financial commitments will be entered into on these projects unless resources are confirmed as being available to the satisfaction of the Director (Corporate Services), Section 151 Officer and the Executive member for Finance.

## 11. Property

11.1 The Legal Services Manager and Estates & Assets Manager will maintain a terrier of all land and property owned by Hinckley and Bosworth Borough Council.

11.2 The terrier will show the following:

- The purpose for which land is held
- Its location, extent and plan references;
- The holding service
- The nature of the interest
- Rents payable
- Details of tenancies granted
- Purchase agreement terms.

11.3 The Legal Services manager (as proper officer) will have custody of all title deeds and documents and make proper arrangements for their security.

## 12. Contracts

12.1 All contracts for works, goods and services must comply with the council's contract procedure rules which are contained in the constitution.

12.2 Before any contract is completed with a contractor:

- The S151 Officer may make any enquiries necessary to establish the financial competence of the contractor to carry out the works and
- The S151 Officer may make any enquiries necessary to establish evidence to ensure that appropriate insurances and bonds are in place.

### 12.3 Works contract

For contracts for the supply of works on a retention basis, the directors must ensure service managers keep records showing:

- The state of account of each contract
- The payments to each contractor
- Retentions
- Associated professional fees.

Payments on account to contractors must be made only on a certificate authorised by a director or service manager, or other authorised supervising officer.

The certificate will show:

- The total amount of the contract;
- The value of work carried out to date;
- Authorised variations;
- Retention money;
- The amount paid to date; and
- The amount now due for payment.

### 12.4 Variations

All variations, additions and omissions must be authorised in writing by the supervising officer under the terms of the contract.

### 12.5 The notification must specify:

- The individual rates of charge
- The total cost of measured work
- The estimated cost
- The basis of charge.

12.6 A copy of each notification is to be sent to the S151 Officer and the Director (Corporate Services) for inclusion in the contracts database.

12.7 The director or service manager, on behalf of the supervising officer, must report immediately to Executive any variation or additions which will cause the accepted tender or quote to increase by more than 5% (with a minimum reporting levels of £15,000). All variations must be notified to the S151 Officer at the earliest possible opportunity and be reported in accordance with normal budget monitoring process.

12.8 Directors or service managers have discretion to withhold payments claimed to be due, until the contractor has complied with the terms of the contract.

12.9 Any claim by the contractor on a matter not clearly within the terms of a contract must be referred to the Legal Services Manager and the S151 Officer for assessment of the legal liability and financial implications before any settlement is reached.

12.10 The director, on behalf of contract officer, must report any delay in a contract which will significantly affect the final completion date to Executive. The report must include details of any remedial action.

- 12.11 The service manager, in consultation with the director, is responsible for examining the agreed final account and any supporting documents before the final certificate for payment is issued.
- 12.12 The contract officer must inform the S151 officer when the maintenance period in the contract has been completed satisfactorily, so that retention monies may be released.
- 12.13 Where the council has appointed a consultant to supervise a contract, the terms of appointment must require the consultant to satisfy the same financial procedure rules that apply to an officer of the council.
- 12.14 The terms of appointment must also ensure that the council retains all accounts, vouchers and documents until the external auditor has audited the council's accounts.

### 13. External and internal audit

Internal audit and the external auditors must be allowed to act independently and objectively in their planning and operation without undue influence by either directors or members.

The council may also be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs and various other inspectors of service at any time. The responsibilities noted below will be applicable to other inspection bodies as appropriate within the area of the inspection being completed.

#### 13.1 External audit

The council has agreed to 'opt in' to a sector led body appointed by the Secretary of State under the Local Audit and Accountability Act 2014. Public Sector Audit Appointments Ltd (PSAA) as the sector led body and has the ability to negotiate contracts with the firms nationally. The procurement of external audit for the purpose of auditing the financial statements on behalf of the council has been delegated to PSAA to act as the appointing body. The council will work proactively to ensure this arrangement works successfully.

PSAA acts only for the purpose of appointing auditors, who must be satisfied that the statement of accounts give a 'true and fair view' of the financial position of the council and its income and expenditure for the year in question and complies with the legal requirements.

The S151 Officer will:

- Ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work
- Ensure there is effective liaison between external and internal audit
- Work with the external auditor and advise Council, Audit Committee, the Executive and directors on their responsibilities in relation to external audit.

Directors and service managers will:

- Ensure that the external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work
- Ensure that all records and systems are up to date and available for inspection.

## 13.2 Internal audit

The S151 Officer is authorised, under the terms of relevant section of the current accounts and audit regulations, to arrange the internal audit of the internal control of the council.

Internal audit will:

- Ensure, by continuous review and appraisal, that systems of internal control are sound throughout the organisations
- Ensure compliance with established policies
- Promote the efficient use of resources to improve operations
- Assist in the protection of council assets
- Strive to detect and prevent fraud and error.

The S151 Officer or his/her authorised representative has the authority to:

- Enter, at all reasonable times, any council owned or managed premises and land
- Have access to records, documents and correspondence relating to transactions of and agency operations on behalf of the council
- Require and receive explanations concerning any matter under consideration
- Require any employee to produce any cash, stock or other council property under his control.

Key controls are:

- Directors and service managers must notify the S151 Officer immediately of any possible financial irregularity
- The S151 Officer will decide what report or action is required
- The S151 Officer will advise the Executive where there are staffing implications. Any matter revealed during a routine audit must be reported to and considered by the service manager for a management response
- Audit recommendations will be reported to the Audit Committee. This committee will approve an annual audit report
- Directors and service managers will be responsible for considering and taking appropriate action on matters drawn to their attention by audit reports
- Directors and service managers are responsible for reflecting upon internal audit reports at the end of each year in completion of an “assurance statement” to inform the annual governance statement
- The Chief Internal Auditor has rights of access to information and data held by officer or members of the council at all reasonable times and is responsible for the overall management and deployment of internal audit resources at the council. The Chief Internal Auditor also has the right to report on any relevant matter of concern to senior management and members of the council outside normal line management arrangements should the Chief Internal Auditor deem this necessary in protecting the interests of the council and/or local tax payers.

## 14. Inventories, equipment and stocks of office supplies

- 14.1 All service managers must prepare an inventory, in a form agreed with the S151 Officer, keep it up to day by annual review at 31 March each year and send a certified copy (certified by the director and service manager) to the S151 Officer. All council property must be clearly marked as belonging to the council.

- 14.2 Each service manager shall be responsible for carrying out an annual check of all items on the inventory.
- 14.3 The inventory will record a proper description of:
- All moveable furniture
  - Office machinery
  - Any similar property belonging to the council.
- 14.4 The Head of ICT will prepare an inventory of ICT equipment and software, keep it up to date and carry out a formal review at 31 March each year.
- 14.5 The Corporate Property Officer will prepare an inventory of works of art, civic regalia and other civic valuables keep it up to date and carry out a formal review at 31 March each year.
- 14.6 Service managers are responsible for the physical control of office supplies:
- Stock levels must be reasonable
  - Levels must be reviewed annually.
- 14.7 Council property can only be used on council business, unless the relevant director has given specific approval to the contrary.
- 14.8 Miscellaneous sales

Miscellaneous sales are sales of items that do not meet the definition of land and property in section 8.

Disposal of all ICT equipment must be in accordance with the ICT equipment disposal policy.

Directors have authority to arrange the sale of non-ICT surplus materials (to external customers), without offers, when expected income is not greater than £5,000.

Directors have authority to arrange the sale of non-ICT surplus materials (to external customers), when expected income is not greater than £10,000 provided they have first sought informal evidence of the appropriate value of the item to be sold.

When expected income is between £10,000 and £25,000, an SLT member must approve the sale and offers for the items must be invited.

When expected income is between £25,001 and £50,000, approval can be given by SLT, with a report being provided to the Executive.

When the expected income is greater than £50,001, approval can be given by SLT, with a report being provided to Council.

Payment is to be made in cash, or to have cleared into the council bank account, before the goods are released, unless the S151 Officer has agreed otherwise.

15. Treasury management, banking arrangements and petty cash

- 15.1 The council has adopted the 2011 CIPFA's Treasury Management in Public Services Code of Practice (the Code) as described in section 4 of that code.



- 15.2 The council will create and maintain:
- A treasury management policy statement, stating the policies and objectives of its treasury management activities
  - Suitable treasury management practices setting out the manner in which the council will seek to achieve those policies and objectives, prescribing how it will manage and control those activities.
- 15.3 Council will approve the treasury management policy on an annual basis.
- 15.4 Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to Executive and for the execution and administration of treasury management decisions to the S151 Officer, who will act in accordance with the council's policy statement and treasury management policies and CIPFA's standard of professional practice on treasury management.
- 15.5 Executive will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year and an annual report after its close in the form prescribed in the treasury management practices.
- 15.6 Finance & Performance Scrutiny will receive reports on treasury management activities on a quarterly basis.
- 15.7 All money in the hands of the council will be under the control of the S151 Officer.
- 15.8 All funds are to be aggregated for the purposes of treasury management.
- 15.9 All investments must be in the name of the council, or in the names of nominees approved by the council.
- 15.10 The S151 Officer must keep all securities for property in the council or approved nominees safe.
- 15.11 The S151 Officer is the council's registrar for all stocks, bonds and mortgages.
- 15.12 The S151 Officer keeps the record of all council borrowing.
- 15.13 All trust funds must be in the name of the council, wherever possible.
- 15.14 Officers, acting as trustees because of the official position, must deposit all securities relating to the trust with the S151 Officer, unless forbidden by the trust deed.
- 15.15 Banking arrangements

The S151 Officer is responsible for appropriate banking arrangements with a suitable financial institution(s) and ensuring that there are appropriate arrangements with regard to receipt and payments from the council's bank accounts.

The S151 Officer is responsible for ensuring suitable arrangements for the safe custody, control, preparation and processing of BACS or other similar transmissions.

No officer shall be permitted to open bank accounts without prior approval of the S151 Officer.

Bank accounts will be in the name of "Hinckley and Bosworth Borough Council".

All cheques and banking stationery must be ordered by the S151 Officer, who must arrange for their safe custody and control.

#### 15.16 Use of electronic payments

The S151 Officer is responsible for ensuring that any individual electronic payments are validated and authorised.

Electronic payments for non-treasury management functions should only be used where there has been an officer error, or where a customer has inadvertently paid an incorrect amount into the council bank account and is suffering immediate financial hardship as a result. Where an electronic payment is a reimbursement of a customer error, the payment shall be repaid back into the originating bank account and only after the original funds are in the council's bank account. Before authorisation, the S151 Officer or his representative will ensure that appropriate budget holder approval has been given and bank details have been appropriately verified.

In exceptional circumstances, if an electronic payment is required for any other reason, authorisation will be required from the S151 Officer or the Chief Executive.

The S151 Officer has discretion to arrange overdraft facilities.

#### 15.17 The following officers are authorised to sign cheques and sanction other banking instruments of payment on behalf of the council:

- The Chief Executive
- The Director (Corporate Services)
- The S151 Officer
- Other staff as agreed by the Chief Executive and the S151 Officer.

#### 15.18 Cheques on the council's bank account will:

- Bear the facsimile signature of the Chief Executive or the S151 Officer or
  - Be signed by the Chief Executive or the S151 Officer or
  - Be signed by any other officer so authorised by the Chief Executive and S151 Officer
- Two signatures are required for cheques over £50,000.

#### 15.19 The S151 Officer must arrange monthly reconciliations of the council's bank accounts with the cash book. These reconciliations should be reviewed by an independent finance officer on a timely basis.

#### 15.20 Petty cash

The S151 Officer may provide petty cash floats to heads of service or other authorised staff to a maximum amount agreed with directors, for the purpose of meeting minor expenses where there is no alternative method of payment.

Heads of service are responsible for ensuring all petty cash monies are securely stored and are only used for the purposes intended. VAT receipts must be provided with requests for reimbursements. All receipts and vouchers must be retained and regular reconciliations carried out and recorded by staff responsible for managing petty cash floats, in line with the council's petty cash procedures.

Petty cash should only be used for small transactions where it is quicker and more efficient to buy goods locally, rather than by official order.

The S151 Officer and heads of service must ensure that there are monthly reconciliations of the petty cash records to the actual cash held.

Key controls are:

- The imprest form of accounts must be used for these advances
- Income must not be paid into an imprest account.

#### 15.21 Payments from an imprest account:

- Are restricted to minor items of expenditure not exceeding £250
- Are other items specifically approved by the S151 Officer or his designated officer
- Claims must be supported by a voucher and VAT receipt
- Certification must be by the director, service manager or delegated officer.

An officer responsible for an imprest account must:

- Give the S151 Officer, on request, a certificate as to the state of the account
- Clear all outstanding claims before the close of business in the last working day in March
- Make a full reconciliation as at the end of March to assist in the closure of the accounts
- Provide the S151 Officer with a final reconciliation of the account before leaving the council's employment
- Ensure that the float is returned to accountancy before leaving the post for which the account was given.

#### 16. Orders for work, goods and services

##### 16.1 Authorisation

Orders for work, goods or services must be made by the person receipting the work, goods or services. Orders must subsequently be authorised in accordance with authorised approvers and their approval limits.

Orders will be authorised electronically using the procurement module of the civica authority financials package, or the orchard system for housing repairs.

Orders up to £10,000:

- Directors may delegate authority for the approval of orders
- SLT must compile a schedule of authorised approvers and their approval limits
- The schedules must be submitted to the S151 Officer
- The S151 Officer must be notified immediately of any changes
- The schedules must be reviewed annually and submitted to the S151 Officer.

Orders up to £25,000:

- Must be approved by a service manager reporting to a director.

Orders up to £250,000:

- For orders up to £250,000, a director must authorise the order having been provided with evidence that the rules stipulated under the council's contract procedures have been applied.

The S151 Officer or the Chief Executive can authorise any order having been provided with evidence that the rules stipulated under the council's contract procedures have been applied.

Where the council is the lead authority in procuring goods or services for number of authorities it is the gross value of the order that will determine the level of the authorisation required and not the net cost to the council. Similarly, where external funding is to be received, it will be the gross expenditure (and gross funding) that will determine the level of authorisation required.

## 16.2 Orders

Orders for work, goods and services must not be placed unless the expenditure to be incurred is in accordance with the financial procedure rules.

All orders for work, goods and services must be made either by the council's official order, or by formal contract.

Where urgent orders are given orally, they must be confirmed by an official order not later than the next working day, following the day in which the oral order is given. Confirmation orders should be clearly marked as confirmation only.

Orders must state clearly:

- The nature and quantity of work, goods or services
- Any agreed prices or contract
- An expenditure code
- An estimated value for commitment purposes.

The authoriser must ensure that orders for goods and services are proper expenditure and are covered by an approved budget.

All ICT requirements are to be submitted to ICT in the first instance.

## 16.3 Procedure

The current contract procedure rules and financial procedure rules regarding revenue and capital budgets must be strictly observed.

Orders must not be split to reduce the value below quotation/tendering limits.

Orders for more than one year and/or more than one service area must be for the total value over the full period, e.g. an order for goods valued at £2,000 per year for three service areas for five years is a £30,000 order.

Where the council is the lead authority in procuring goods or services for a number of authorities, it is the gross value of the order that will determine the level of authorisation required and not the net cost to the council. Similarly, where external funding is to be received, it will be the gross expenditure (and gross funding) that will determine the level of authorisation required.

## 16.4 Initial considerations

Before proceeding to raise an order/enter into a new contract for the supply of goods, works or services, the procuring officer should first ensure that there are:

- No current in-house arrangements in existence and
- No current corporate contracts in place.

If there are such existing arrangements in place, they should be used wherever possible, provided such arrangements provide value for money. Where the procuring officer seeks to utilise alternatives, the council's Procurement Officer should be consulted. Where the purchases cannot be made utilising these arrangements, the following limits shall apply:

- Up to £5,000: obtain informally to demonstrate value for money
- £5,001 to £20,000: obtain two written quotations
- £20,001 to £50,000: obtain three written quotations based on a detailed specification and the council's Procurement Officer must be consulted
- £50,001 and above: the normal tendering procedure set out in contract procedure rules applies and the council's Procurement Officer must be consulted.

The most economically advantageous tender should be selected where procurement rules provide. If there are exceptional reasons why this should not happen, Executive must be advised of those reasons, under the scheme of delegation.

## 16.5 Exceptions

General exceptions - these rules apply to all goods, services and works purchased by the council, with the following exceptions:

- Procurement of goods, services or works where the procurement procedure to be followed by the council is the subject of express legislation
- Low value purchases made by a purchasing card that are subject to guidelines issued on the use of purchasing cards
- Works or services procured in an emergency because of a need to respond to events that were beyond the control of the council (for example natural disasters such as flooding or fires), as long as any expenditure in excess of £30,000 is first approved by the Chief Executive or S151 Officer. Any contract entered into by the council under this exception must not be for a term of more than six months
- Contracts for the acquisition and disposal of land or property, as these are covered by separate policies and procedures
- Works orders with utility infrastructure providers, for example gas mains
- Call off or orders placed against framework agreements which the council is permitted to use where the procedures defined in the contract for call off are followed such as ESPO, YPO, GPS.

Excluding the general exceptions set out above, an SLT member, after consulting the S151 Officer, may waive the regulations on annual contracts order limits in the following circumstances:

- The appropriate SLT member is of the opinion that the goods or services are supplied only at a fixed price and no reasonably satisfactory alternative is available
- There would be no genuine competition on account of the uniquely specialised nature of the goods/services (sole supplier)

- The appropriate SLT member is of the opinion that the goods/services consist of repairs/supply of parts to an existing proprietary machinery/plant
- The contract consists of goods/services the same as currently in use by the council, which are required in the interest of standardisation for maintenance or for other special reasons
- The work to be executed or the goods or materials to be supplied constitute an extension of an existing contract and the proposed extension is at a value not greater than the original contract sum plus RPI and it is considered by the relevant SLT member that, taking into account of the cost of re-tendering, the council is unlikely to benefit from a reduced contract sum. The relevant SLT member must obtain Executive approval by submitting a report to Executive setting out his/her proposal
- The SLT member certifies on a form, approved by the Chief Executive and the S151 Officer, that work, goods, materials or services are required so urgently that there is not time to invite quotations/tenders, or where compliance would mean that less favourable terms or conditions would have to be accepted
- Goods purchased at public auction
- Where purchases are made as a consequence of an existing in-hour contract
- Where purchases are made as a consequence of a contract made by another local authority (for example ESPO), the benefits of which the council obtains as a result of participation in a consortium
- Where the council enters into a contract jointly with one or more other local authorities or partners, one of whom is the “lead authority” for that contract, subject to the Chief Executive being satisfied that the council’s interests will not be adversely affected
- Where the officer has made all reasonable endeavours to obtain the minimum number of quotations/tenders and market interest has resulted in less than the minimum being obtained.

In all cases, the decision should be certified on a form signed by an SLT member and the S151 Officer and retained by the council’s Procurement Officer.

## 17. Partnerships

17.1 A partner is defined as an organisation (private or public) undertaking part funding, or participating as a beneficiary in a project.

17.2 SLT members will advise on the key elements of partnership, including:

- Effective controls that ensure that resources are not wasted
- A scheme appraisal for financial viability in both the current and future years
- Financial risk appraisal and management
- Resourcing, including taxation issues
- Audit, security and control requirements
- Carry-forward arrangements
- Satisfactory accounting arrangements.

17.3 The S151 Officer, in consultation with the SLT member will ensure that:

- All funding notified by external bodies is received and properly recorded in the authority’s accounts
- The match funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements
- Audit requirements are met.

#### 17.4 Directors are responsible for:

- Ensuring that a register of all contracts is entered into with external bodies in accordance with procedures specified by corporate services
- Ensuring that before entering into agreements with external bodies, a risk management appraisal has been prepared for SLT
- Ensuring that such agreements and arrangements do not impact adversely upon the services provided by the authority
- Ensuring that all agreements and arrangements are properly documented
- Providing appropriate information to the S151 Officer for the statement of accounts
- Ensuring that all claims for funds are made by the due date
- Ensuring that the project progresses in accordance with the agreed plan and that all expenditure is properly incurred and recorded.

#### 18. Payment of accounts

The S151 officer is responsible for the payment of accounts.

The payment of accounts (except petty cash) is made by BACS or by cheque. The preferred payment option is BACS. Cheque payments will only be made where bank details cannot be obtained.

Directors are responsible for examining, verifying and approving all invoices and other payments coming from their service areas/teams.

#### 18.1 Authorisation

Invoices will be authorised electronically on the civica authority financials system using the creditors' module by officers with an appropriate level of authority.

Payments up to £10,000:

- Directors may delegate authority for the approval of payments up to £5,000 or £10,000
- SLT must compile a schedule of authorised approvers and their approval limits
- The schedules must be submitted to the S151 Officer
- The S151 Officer must be notified immediately of any changes
- The schedules must be reviewed annually and submitted to the S151 Officer.

Payments up to £25,000:

- Must be approved by a head of service reporting to a director.

Payments up to £250,000:

- Payments up to £250,000 must be approved by a director having been provided with evidence that the rules stipulated under the council's contract procedures have been applied
- The S151 Officer or the Chief Executive can authorise any payment having been provided with evidence that the rules stipulated under the council's contract procedures have been applied.

#### 18.2 Payments

The S151 officer decides when and how accounts are to be submitted for payment.

Before authorising an account, the approving officer must be satisfied that:

- The work, goods or services have been received, examined and approved
- Prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct
- The expenditure is proper and covered by a current budget
- Appropriate entries have been made in inventories or stock records
- The account has not previously been paid
- The expenditure code is correct.

### 18.3 Payment of accounts:

- Invoices will be received centrally by the S151 Officer and must be approved for payment by authorising managers in a timely manner
- The S151 Officer is entitled to request any information or explanation, which he/she deems necessary
- Officers must not add items to a supplier's invoice
- Any amendments to an invoice must be in ink, initialled and accompanied by a detailed explanation
- Where no external invoice exists (for example, grant payments), a cheque or bank credit can only be drawn with the agreement of the S151 Officer and using an appropriately approved voucher
- Directors must ensure that all valid accounts are paid within 30 days or other agreed terms if shorter
- Managers must ensure that the S151 Officer is informed promptly of any invoice that is in dispute via appropriate use of civica authority financials
- The S151 Officer must cancel each paid account and retain all paid invoices and certificates
- Directors must submit to the S151 Officer, by the date specified by the S151 Officer, details of any outstanding previous year commitments where goods have been received but no payment has been made.

## 19. Risk and insurances

19.1 The Chief Executive and S151 Officer should have due regard to operational and financial risks and liabilities when considering alternative policies. They also need to consider potential physical risks to persons and assets.

19.2 The S151 Officer is responsible for arranging all insurance cover and negotiating all claims in consultation with other officers where necessary.

19.3 Service managers must notify the S151 Officer and the Director (corporate services) immediately in writing, of:

- All new risks
- New properties, plant, equipment or vehicles
- Any other alterations, which may affect existing insurances
- Any loss, liability or damage
- Any event, which could possibly result in a claim.

19.4 Each service manager must keep records and ensure that engineering plant is inspected within the limits defined by the appropriate legislation.

19.5 The S151 Officer must be notified immediately of any failure by the insurance company to adhere to the proper inspection period.



- 19.6 The S151 Officer must consult directors and service managers when renewing the fidelity guarantee insurance, to ensure that all appropriate employees are included.
- 19.7 The S151 Officer must consult directors and the Director (Corporate Services) in a regular review of all insurances.
- 19.8 Directors must consult the S151 Officer on the terms of any indemnity requested of the council.
20. Salaries, wages and pensions
- 20.1 The Human Resources and Transformation Manager is responsible for the payment to all current and former employees of:
- Salaries
  - Wages
  - Pensions
  - Compensation
  - Other emoluments.
- 20.2 Directors and service managers must notify the Human Resources and Transformation Manager immediately of any matters affecting the payment of employees, including:
- Commencement of employment, resignation, dismissal, suspension, secondment or transfer
  - Absence from duty for sickness or other reason (excluding approved leave)
  - Re-grading.
- 20.3 Service managers are responsible for the accuracy of:
- Records of attendance
  - Holiday entitlement
  - Absence.
- 20.4 Records must be certified by:
- The service manager
  - An officer authorised by the service manager.
- 20.5 A schedule of authorised officers with specimen signatures must be prepared by service managers, in consultation with directors, and updated annually.
- 20.6 Copies of schedules must be sent to the Human Resources and Transformation Manager.
- 20.7 Employees must be appointed in accordance with the regulations of the council and the approved establishment grades and pay rates.
- 20.8 Service managers must provide the Human Resources and Transformation Manager with all the information necessary to maintain proper records of service, pension, income tax and national insurance.
- 20.9 Overtime, travel and expense claims must be certified by the line manager, service manager or director.

- 20.10 Any officer's claim submitted more than two months after the overtime/expenses were incurred will only be paid with the express approval of the Director (Corporate Services).
- 20.11 Time sheets must be certified by the line manager, service manager or director.
- 20.12 Salary or wages will only be paid in advance if any employee is leaving the council before the day on which his/her salary would normally be paid.
- 20.13 The Human Resources and Transformation Manager is authorised to apply any salary or wage award, expense or other approved allowance.
21. Staffing changes
- 21.1 Directors must inform the Human Resources and Transformation Manager of all approved staffing re-grading and changes to staffing establishment.
- 21.2 Service managers will be responsible for ensuring that ongoing budgets are available for all staffing establishment changes where there is a financial implication.
- 21.3 All additional posts will be reviewed at Directors' Briefing.
- 21.4 Service managers will be responsible for reporting on staffing variances and provide reasons for such variances to their director.
22. Travelling, subsistence and financial loss allowances
- 22.1 The Human Resources and Transformation Manager is responsible for all reimbursement of expenses to officers and members that are not administered through petty cash.
- 22.2 All claims by staff must be submitted on the form provided by the Human Resources and Transformation Manager for car allowances, subsistence allowances, travelling or incidental expenses.
- 22.3 All such monthly claims must be properly certified and submitted to the Human Resources and Transformation Manager no later than the 13<sup>th</sup> of the following month.
- 22.4 Claims must be certified by the line manager, service manager or director.
- 22.5 A schedule of officers authorised to certify claims (with specimen signatures) must be sent by the director or service manager to the Human Resources and Transformation Manager (with a copy to the S151 Officer who must be notified immediately of any changes).
- 22.6 A complete review of the schedule must be carried out annually.
- 22.7 A certification means that the certifying officer is satisfied that:
- The journeys authorised are reasonable
  - The expenses were properly and necessarily incurred
  - The allowances are payable by the council.
- 22.8 Any officer's claim submitted more than two months after the expenses were incurred will only be paid with the express approval of the Director (Corporate Services).

- 22.9 Members (including co-opted members) of the council or its committees wishing to claim travelling or other allowances must make their claim on the appropriate form to the Democratic Services Officer.
- 22.10 All claims are to be submitted promptly and within two months of the event being claimed.
23. Engagement of agency staff or consultants
- 23.1 Where the Borough Council has appointed a consultant or agency staff, the terms of appointment must:
- Satisfy the same financial procedure rules that apply to an officer of the council
  - Comply with HMRC regulations.
24. Security
- 24.1 Each service manager is responsible for controlling in their service area, the security of the following:
- Buildings
  - Stocks
  - Furniture
  - Equipment
  - Cash.
- 24.2 Directors or service managers must consult the S151 Officer and the Corporate Property Officer if they suspect that security may be defective, or that special arrangements may be needed.
- 24.3 After consulting directors and/or service managers, the S151 Officer will set maximum limits for cash holdings and these must not be exceeded without express permission.
- 24.4 Keys to safes, secure cabinets and similar must be kept securely by the person responsible at all times.
- 24.5 Loss of keys must be reported immediately to the S151 Officer and the Corporate Property Officer, who may notify the police.
- 24.6 It is the responsibility of the Head of ICT to maintain proper security and privacy in connection with the computer installation and its use.
- 24.7 Officers working away from the council establishments must have a form of identification which specifies:
- The officer's powers of entry, search or seizure
  - The duties that can be carried out by the officer.

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## **Part 3 – procedure rules**

### **i. contract procedure rules**

#### **CONTENTS**

##### Paragraph

- 1 General
- 2 Delegated authority to enter into contracts
- 3 Contracts up to £50,000
- 4 Requirements for tender
- 5 Open competitive tenders
- 6 Ad hoc approved list
- 7 Established procurement specialist
- 8 Selection of tenderers or invitees
- 9 Form of invitation to tender and submission of tenders
- 10 Extension of time
- 11 Opening of tenders
- 12 Late tenders
- 13 Alterations to tenders
- 14 Acceptance of tenders
- 15 Contracts to be in writing
- 16 Assignment
- 17 Liquidated damages
- 18 Performance bonds
- 19 Retention
- 20 Agency work
- 21 Cancellation
- 22 Nominated sub-contractors
- 23 Engagement of consultants
- 24 Compliance with rules
- 25 Breaches of rules
- 26 Review of financial limits

1. General
  - 1.1 The following contract procedure rules set out the procedures by which the council will enter into contracts for the provision of goods, services, materials and work. Every contract made by or on behalf of the council shall comply with these procedure rules and no exception from any of the provisions shall be made otherwise than by direction of Council or under rule 4.2
  - 1.2 The rules do not apply to contracts for the sale or purchase of land or buildings. Every contract relating to the sale or purchase of any land or buildings shall be in writing and be signed on behalf of the authority by the proper officer. Purchase of land should not be above the current market value as determined by the council's valuer and sales of land should not be below the current market value as determined by the council's valuer. Where this is not the case, a report should be made to Executive or Council as appropriate.
  - 1.3 Subject to rule 1.2, every contract made by or on behalf of the council shall comply with:
    - These contract procedure rules
    - The council's financial procedure rules
    - The council's constitution
    - All relevant statutory provisions, including any EC directive
    - Any direction by a council body having appropriate delegated authority.
  - 1.4 These contract procedure rules shall not apply or may be varied where or to the extent that Council so resolves, or statute or subordinate legislation prescribes otherwise.
  - 1.5 Within these rules, the term "director" shall be deemed to include the Chief Executive and directors.
2. Delegated authority to enter into contracts
  - 2.1 Every director in relation to the work of his/her department shall have power to accept tenders (where required) and to enter into contracts on behalf of the council.
3. Contracts up to £50,000
  - 3.1 Tenders need not be invited for contracts estimated to have a value of £50,000 or less but quotations shall be obtained in accordance with the council's financial procedure rules.
4. Requirements for tender
  - 4.1 Subject to the exceptions in rules 4.2 and 4.3 below, tenders shall be invited where the contract sum is estimated to be £50,001 and above.
  - 4.2 Notwithstanding compliance with EU public procurement rules, tenders need not be invited where
    - Procurement of goods, services or works where the procurement procedure to be followed by the council is the subject of express legislation
    - Low value purchases made by a purchasing card that are subject to guidelines issues on the use of purchasing cards
    - Works or services procured in an emergency because of a need to respond to events that were beyond the control of the council (eg natural disasters such as flooding or fires) as long as any expenditure in excess of £30,000 is first approved by the Chief Executive.

Any contract entered into by the council under this exception must not be for a term of more than six months

- Contracts for the acquisition and disposal of land or property, as these are covered by separate policies and procedures
- Contracts of employment
- Works orders with utility infrastructure providers eg gas mains
- Call off or orders placed against framework agreements which the council is permitted to use where the procedures defined in the contract or call off are followed such as ESPO, YPO, GPS.

#### 4.3 Notwithstanding compliance with EU public procurement rules, tenders also need not be invited where

- The appropriate director is of the opinion that the goods or services are supplied only at a fixed price and no reasonably satisfactory alternative is available. Such instances must be brought to the attention of the Head of Finance
- There would be no genuine competition on account of the uniquely specialised nature of the goods/services (sole supplier). Such instances must be brought to the attention of the Head of Finance
- The appropriate director is of the opinion that the goods/services consist of repairs/supply of parts to an existing proprietary machinery/plant
- The contract consists of goods/services the same as currently in use by the council, which are required, in the interest of standardisation, for maintenance or other special reasons. In such a case, a report should be prepared and presented to SLT stating such reasons
- The work to be executed or the goods or materials to be supplied constitute an extension of an existing contract and the proposed extension is at a value not greater than the original contract sum plus RPI and it is considered by the relevant director that, taking into account the cost of re-tendering, the council is unlikely to benefit from a reduced contract sum. The relevant director must obtain Executive approval by submitting a report to the Executive setting out his/her proposal
- The director certifies on a form, approved by the Chief Executive and the Head of Finance that work, goods, materials or services are required so urgently that there is not time to invite tenders, or where compliance would mean that less favourable terms or conditions would have to be accepted, and subsequently submits the certificate to the next meeting of the Executive for approval
- Goods purchased at public auction
- Where purchases are made as a consequence of an existing in-house contract
- Where purchases are made as a consequence of a contract made by another local authority (for example ESPO), the benefits of which the council obtains as a result of participation in a consortium
- Where the council enters into a contract jointly with one or more local authorities or partners, one of whom is the lead authority for that contract subject to the Chief Executive being satisfied that the council's interests will not be adversely affected.

#### 4.4 Where tenders are required, the council's procurement officer must be notified and one of the following methods shall be used:

- Open competitive tender
- Ad hoc approved list
- Standing approved list
- Pre-vetted company list
- Established procurement specialist.

5. Open competitive tenders

5.1 Tenders shall be invited after giving at least 14 days' public notice in at least one of the following media, stating the nature and purpose of the contract, inviting tenders and stating the last date when tenders will be accepted:

- The council's website
- Source East Midlands website – the advert will be placed on the HBBC affiliates page of Source Leicestershire and will be carried on Seven Counties website
- The local newspapers circulating in the borough, especially where there may be local interest in the business opportunity offered
- Appropriate trade journal
- Appropriate national press.

However, when a tender falls under the scope of EC public procurements rules, their timescales and advertising requirements shall apply (seek advice from the council's procurement officer).

6. Ad hoc approved list

6.1 Tenders shall be invited after giving notice in the manner set out in rule 5 seeking applications to be placed on a list from which selected contractors will be invited to submit tenders. However, when a tender falls under the scope of EC public procurement rules, their timescales and advertising requirements shall apply (see advice from the council's procurement officer).

7. Established procurement specialist

7.1 Where large, high value tender exercises take place, in areas in which the council has limited expertise, it may be necessary to engage the use of established procurement specialists. These specialists will undertake the tender process on behalf of the council. At all times, such specialists shall comply with the council's financial and contract procedure rules.

8. Selection of tenderers or invitees

8.1 The selection of persons from whom tenders shall be invited shall be delegated to the appropriate director or his/her nominated representative.

8.2 In inviting applications for inclusion in a list of tenderers or in selecting persons from whom tenders are to be invited, steps shall be taken to ensure fair competition.

9. Form of invitation to tender and submission of tenders

9.1 All tenders shall be required to be submitted on a form of tender approved by the Head of Finance or their nominee. The form shall include a statement that the council will not be bound to accept any tender and reserves the right to accept a tender other than the one which is the most favourable or not to accept any tender at all.

9.2 Tenders are to be submitted electronically through secure software designed and approved for the purpose. In the absence of such software, tenders are to be returned in hard copy (including hard electronic media such as CDs) only. In that event, the invitations to tender shall state that no tender will be considered unless contained in an unmarked plain sealed envelope and endorsed "Tender" followed by the subject to which it relates.



- 9.3 Every tender shall be addressed to the Head of Finance and the tender shall remain in his/her custody, or that of his/her nominated representative, until the time appointed for its opening.
- 9.4 A tender instruction form is to be completed prior to invitation to tender being issued, detailing tenderers and the return date and time. Once completed, this form is to be sent to the procurement officer.
- 9.5 Tenders may not be submitted by normal email and can only be received electronically through secure software designed and approved for the purpose. In the absence of such software, tenders are to be returned in hard copy (including hard electronic media such as CDs) only.
- 9.6 Tender packets or envelopes received must be date stamped and time of receipt recorded and locked away until the specified time for their opening.
10. Extension of time
- 10.1 Where the appropriate director considers it to be in the best interests of the council, the time within which tenders must be received may be extended after giving notice of such extension of time in the following manner:
- Open competitive tenders – in accordance with paragraph 5
  - Ad hoc approved list / pre-vetted company list / established procurement specialist – by giving written notice to each of the selected contractors
  - Standing approved list – by giving written notice to each of the relevant persons on the list.
11. Opening of tenders
- 11.1 All tenders for a contract shall be opened at the same time and within a maximum period of two hours after the closing time for the acceptance of tenders. The tenders will be opened in the presence of the Head of Finance and another director, service manager, or other officer designated for the purpose.
- 11.2 The Head of Finance or their duly authorised representative shall prepare and maintain a register of tenders received and shall record in that register the following particulars:
- The last date and time for the receipt of tenders
  - The date and time the tender was actually received
  - The name of the tenderer and the amount of the tender
  - The date and time they were opened
  - The signature of the officer to whom the tenders were issued after opening.
- 11.3 All persons required to be present at the opening of tenders shall immediately sign against the relevant particulars in the register and shall also sign the tender as evidence of such tenders having been opened by them or in their presence.
- 11.4 Following the opening of tenders invited in accordance with paragraph 6, the director shall write to all persons who were invited to tender but who failed to tender to ascertain the reasons for that failure.

12. Late tenders
  - 12.1 Any tender received late will be returned promptly to the tenderer by the relevant service manager.
  - 12.2 A late tender which has been received, subject to paragraph 12.1, may be opened in the presence of the Head of Finance and another director, service manager or other officer designated for the purpose, to ascertain the name and address of the tenderer but no details of the tender shall be disclosed.
13. Alterations to tenders
  - 13.1 Where the tender reveals errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer shall be told of the errors and discrepancies and given an opportunity of confirming, correcting or withdrawing the offer.
14. Acceptance of tenders
  - 14.1 In accepting a tender, consideration will be given to price and quality. A suitable pre-determined price-quality model (evaluation model) will be devised by the appropriate director in conjunction with the council's procurement officer and will be approved by the Head of Finance. Selection of the best tender will be based on this evaluation.
15. Contracts to be in writing
  - 15.1 Every contract shall be in writing in a form approved by the Legal Services Manager or their nominated representative.
  - 15.2 Every contract shall specify, amongst other things:
    - The goods, materials, works, matters or things to be furnished, supplied or done (including any appropriate technical specifications)
    - The price to be paid with a statement of discount or other deductions
    - Where applicable, the times that the contract is to be performed
    - How the contractor will be accountable for performance and any information or reports that they will be required to submit. A statement will be included that the contractor will also be accountable under the council's overview & scrutiny procedure rules.
  - 15.3 The appropriate director shall sign every contract not required to be made under seal on behalf of the council.
  - 15.4 The proper officer shall seal every contract required or intended to be made under seal on behalf of the council.
16. Assignment
  - 16.1 In every written contract for the execution of work or the supply of goods or materials, the following clause shall be inserted:

"The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of the contract without the written permission of the council. Sub-letting of any part(s) of the work, except to the extent permitted in writing by the officer concerned, shall be prohibited".

17. Liquidated damages
  - 17.1 Every contract that exceeds £50,000 shall, where considered appropriate by the appropriate director, provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed. The amount to be specified in each such contract shall be determined in consultation with the director concerned and the Head of Finance.
18. Performance bonds
  - 18.1 Where a contract is estimated to exceed £150,000 in value and is for the execution of works or the supply of goods or materials by a particular date or series of dates, the director concerned, in consultation with the Head of Finance shall consider whether the council should require security for its due performance and shall either certify that no such security is necessary or shall specify in the conditions of tender the nature and amount of any security to be given. In the latter event, the council shall require and will take a bond or any other sufficient security for the due performance of the contract.
  - 18.2 Once the requirement of a bond has been specified within the conditions (or clarifications) of tender, any variation to this shall be agreed only by the Head of Finance in consultation with the Executive.
19. Retention
  - 19.1 Works contracts which are estimated to exceed £50,000 in value will be subject to a defects period. The council will retain a percentage of the monies due to the contractor for a period that the relevant director deems appropriate, having regard to the current practice in the relevant industry and to the circumstances of the contract.
20. Agency work
  - 20.1 Where goods or materials are to be used by the council or services provided to the council in connection with works carried out by the council under an agency agreement, rule 4.3 shall be deemed to have been complied with if the Principal has approved the standing approved list or ad hoc list.
21. Cancellation
  - 21.1 Every contract will include a clause allowing the council to cancel the contract and to recover costs if the contractor has offered, or given, any gift or consideration whatsoever as an inducement or reward to obtain the contract, or any other contract with the council. This will include acts by any contractor which represent an offence under section 117 of the Local Government Act 1972.
22. Nominated sub-contractors
  - 22.1 Subject to paragraph 16.2, where a sub-contractor or supplier is to be nominated to a main contractor, the following provisions shall have effect.
  - 22.2 Where the estimated amount of a sub-contract exceeds £50,000, unless the appropriate director certifies that it is not reasonably practicable to obtain competitive tenders, tenders for the nomination shall be invited and dealt with in accordance with these contract procedure rules as if they were for a contract with the council.

- 22.3 A nominated sub-contractor must be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the work or goods included in the sub-contract.
- 23. Engagement of consultants
  - 23.1 In the event of the council engaging the services of consultants, these contract procedure rules will apply.
- 24. Compliance with rules
  - 24.1 Each director and budget holder will ensure that contract rules are complied with, that the council obtains value for money and that the goods, services, materials or works required are necessary and appropriate.
- 25. Breaches of rules
  - 25.1 Where a director discovers that there has been a breach of rules in their service area, they will consult the Head of Finance and instigate appropriate action. This may include, following consultation with the Head of Finance, consideration of invoking the council's disciplinary procedure.
- 26. Review of financial limits
  - 26.1 Council shall review financial limits annually.

# Part 4

## CODES AND PROTOCOLS

Last updated July 2017

# CONTENTS

- a. Introduction
- b. Code of conduct of Hinckley & Bosworth Borough Council
- c. Protocol on member/officer relations
- d. Protocol on attendance by the Chief Executive and directors at party group meetings
- e. Code of recommended practice on local authority publicity
- f. Protocol relating to gifts and hospitality
- g. Code of conduct and guidance for members of the Planning Committee
- h. Politically restricted posts

## Part 4 – codes & protocols

### a. Introduction

#### CONTENTS

##### Paragraph

- 1 The office of Mayor
- 2 Formal meetings

These following codes and protocols set out expected standards of conduct.

1. The office of Mayor
  - 1.1 The Mayor is traditionally non-party political during his/her year of office and represents the council at the highest level ceremonially. The Mayor has the primary duty to act as chairman of Council and is expected to conduct this role fairly and without favour.
  - 1.2 All members must have respect for the office of Mayor. They should recognise his/her ceremonial leadership. They should stand when the Mayor enters a meeting of Council and respect his/her decisions during conduct of the business.
  - 1.3 Members must stand when they speak in a meeting of Council but should defer to the Mayor if he/she stands to speak.
2. Formal meetings
  - 2.1 Councillors should do their very best to attend all meetings within the council and of any outside bodies or charities on which they represent the authority. Where a member is unable to attend, they should give apologies and a brief reason for absence, such as work commitments or other council business.
  - 2.2 Members should respect the degree of formality of a meeting by choosing an appropriate dress code, particularly at Council.
  - 2.3 At formal meetings, respect for other members should be demonstrated by addressing them or referring to them as “Councillor...”. This need not be maintained in less formal meetings such as working groups.
  - 2.4 Within debate, differences of opinion, both personal and political, must be recognised and respected. It is acceptable for a member to express disagreement with another member’s view or action, or to question them.
  - 2.5 A member should not level personal criticism or attempt to belittle or undermine another member either openly or overtly. This applies within meetings and outside of the council.
  - 2.6 The chairman of a meeting has a role to play in maintaining the high standards laid down in the constitution and associated codes and protocols.

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## Part 4 – codes & protocols

### b. code of conduct of Hinckley & Bosworth Borough Council

#### CONTENTS

##### Paragraph

- 1 Obligations
- 2 Definition
- 3 Personal interests
- 4 Personal interests which might lead to bias
- 5 Registration of interests
- 6 Sensitive interests
- 7 Dispensations

You are a member or co-opted member of Hinckley and Bosworth Borough Council and as such, when performing your role as a member or co-opted member you are bound by this code of conduct.

#### 1. Obligations

You will:

- 1.1 Have regard to the Nolan principles\* of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 Strive to establish respectful and courteous relationships with everyone you come into contact with as a member.
- 1.3 Follow adopted corporate operational policies of the council.
- 1.4 Not disclose confidential information for any other purpose than that provided by the law, unless in the public interest.
- 1.5 Use council resources for the undertaking of council duties and not for any other purposes.

#### 2. Disclosable pecuniary interests

##### 2.1 Definition

2.1.1 You have a disclosable pecuniary interest in any business of the authority if it is of a description specified in regulations made by the Secretary of State and the interest is:

- Yours
- Your spouse's or civil partner's
- That of somebody with whom you are living as husband and wife or as if you are civil partners

And you are aware (in the latter two) that the other person has the interest.

## 2.2 Declaring at and participation in meetings

2.2.1 If you are present at any meeting of the authority and you have a disclosable pecuniary interest in any matter to be considered or being considered and the interest is not a 'sensitive interest', at the meeting:

- You must disclose the interest to the meeting whether or not it has been registered
- Unless a dispensation has been given, you may not participate in any discussion on the matter at the meeting
- Unless a dispensation has been given, you may not participate in any vote taken on the matter at the meeting.

2.2.2 Where you have a disclosable pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

2.2.3 Following any disclosure of a disclosable pecuniary interest at a meeting which is not on the authority's register or the subject of a pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.

2.2.4 Where a member of the Executive may discharge functions alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by him/her, the member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## 3. Personal interests

### 3.1 Definition

3.1.1 You have a personal interest in any business of the authority where either:

- It relates to or is likely to affect:
  - Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority
  - Any body exercising functions of a public nature; directed to charitable purposes; or one of whose principle purposes includes the influence of public opinion or policy (including any political party or trade union)
  - The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 12 months.
- A decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

3.2 For the purposes of paragraph 3.1.1, a 'relevant person' is:

- A member of your family or any person with whom you have a close association
- Any person or body who employs or has appointed such persons, any firm in which they are a partner or any company of which they are directors

- Any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body
- Any body of a type described in bullet point 1, points 1 & 2 of paragraph 3.1.

### 3.3 Declaring and participation in meetings

- 3.3.1 Subject to paragraph 2.10 below, where you have a personal interest in any business of the authority and where you are aware or ought reasonably to be aware of the existence of the personal interest and you attend a meeting of the authority where such business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of the meeting and prior to any discussion of the relevant item, or as soon as the interest becomes apparent to you.
- 3.3.2 Where you have a personal interest you may remain in the meeting, speak and vote on the matter unless to do so would compromise your impartiality obligations or any other obligations set out in this code.
- 3.3.3 Where you have a personal interest but, by virtue of paragraph 6.1, sensitive information relating to it is not registered in the authority's register of members' interests, you must indicate to the meeting that you have a personal interest but need not disclose the sensitive information to the meeting.

## 4. Personal interests which might lead to bias

### 4.1 Definition

- 4.1.1 In addition to the requirements in relation to disclosable pecuniary interests referred to in paragraph 2 of this code, you have a personal interest which might lead to bias in any business of the authority where:
- You have a personal interest as defined in paragraph 3.1
  - That personal interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 4.1.2 The provisions of paragraph 4.1.1 shall be applied in such a manner as to recognise that this code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to a personal interest which might lead to bias in exceptional circumstances.

### 4.2 Declaring and participation in meetings

- 4.2.1 If you are present at any meeting of the authority and you have a personal interest which might lead to bias in any matter to be considered or being considered, and the interest is not a sensitive interest, subject to paragraphs 4.2.2 and 4.2.3 below, at the meeting:
- You must disclose the interest to the meeting (whether or not it is registered)
  - Unless a dispensation has been given, you may not participate in any discussion of the matter at the meeting

- Unless a dispensation has been given, you may not participate in any vote taken on the matter at the meeting.
- 4.2.2 Where you have a personal interest which might lead to bias in any business of your authority, you may attend a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 4.2.3 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a personal interest which might lead to bias if the matter relates to:
- Housing, where you are a tenant of the authority provided that those functions do not relate particularly to your tenancy or lease
  - School meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends
  - An allowance, payment or indemnity given to members
  - Any ceremonial honour given to members
  - Setting council tax or precept under the Local Government Finance Act 1992.
5. Registration of interests
- 5.1 Subject to paragraph 6.1 (sensitive interests), you must within 28 days of the adoption of this code or your election or appointment to office as a member (where that is later) notify the Monitoring Officer in writing of any disclosable pecuniary interest, as defined in paragraph 2.1.
- 5.2 Subject to paragraph 6.1 (sensitive interests), you must, within 28 days of becoming aware of any new disclosable pecuniary interest or any change to any such interest, notify the Monitoring Officer in writing of the details of that new interest or change.
6. Sensitive interests
- 6.1 Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being the subject of violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest but may state that you have an interest, the details of which are withheld.
7. Dispensations
- 7.1 To enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a personal interest that might lead to bias, the council may grant you a dispensation in accordance with rules and procedures established by the authority.

\* The Nolan Principles

Principle 1 – selflessness: Holders of public office should act solely in terms of the public interest.

Principle 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 declare and resolve any interests and relationships.

Principle 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.

Principle 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.

Principle 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.

Principle 6 – honesty Holders of public office should be truthful.

Principle 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.

Definitions

“Meeting” means any meeting of Council, the Executive or any of the council’s bodies or joint committees.

“Member” means any person being an elected or co-opted member of the authority.

In relation to a parish council, references to the authority’s Monitoring Officer is the Monitoring Officer of the borough council.

“Corporate operational policies” are policies such as personnel policies, financial procedure rules, equalities or IT policies.

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## Part 4 – codes & protocols

### c. protocol on member/officer relations

#### CONTENTS

##### Paragraph

- 1 Officer neutrality
- 2 Provision of information to councillors
- 3 Entitlement to briefings
- 4 Council, Executive and meetings of council bodies
- 5 Regulatory committees
- 6 Councillor involvement in operational matters
- 7 Media relations, published material and correspondence
- 8 Election periods
- 9 Resolving problems

Councillors are democratically accountable and have political affiliations. Officers must serve the whole council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective, councillors and officers must have mutual trust and respect for each other's requirements and duties. There must also be a transparent consistency in everyday working relationships.

Ten general principles of conduct for councillors and co-opted members of local authorities have been prescribed by legislation. The council's adopted code of conduct sets out the minimum standards councillors and co-opted members must observe. These conventions operate within that framework and provide the council's local ground rules.

Councillors, co-opted members and officers agree to observe the general principles and these conventions, and to be guided by them in the interests of fair treatment and good governance. The conventions are the council's way of applying the following basic principles:

- Members have a right to information and support on a "need to know" basis.
- The "need" is so that they can perform their role as a councillor. It can be limited by conflict of interest, confidentiality and practicality
- Officers must serve the whole council objectively
- Officers must provide "unified advice" at all times. This is advice which is objective, consistent and points out all relevant factors
- Political processes and different roles for councillors are a legitimate part of local democracy
- Officer advice and support can be tailored accordingly. A party group is entitled to the confidentiality of officer advice on developing policies and may decide when to publish a proposal. The overall arrangements for officer advice must be transparent.
- Observance of the general principles and these conventions is essential to the maintenance of high standards of probity and integrity.

1. Officer neutrality

- 1.1 As a general rule, the council is free to employ such officers as it sees fit and an employer/employee relationship exists between the council and its officers. Council is required to appoint certain statutory officers who have obligations in their own right.

Every officer appointment and every employment decision must be on merit alone (by law). This council has no political assistants.

Council appoints the Chief Executive as Head of Paid Service, Monitoring Officer and Head of Finance. Members have a role in certain employment matters as outlined in this constitution (see responsibility for functions).

The officer as an employee has a primary loyalty and duty to the council as a whole.

- 1.2 Certain posts are politically restricted, including all senior posts.

Officers holding politically restricted posts cannot be councillors or MPs. They cannot “speak or publish written work to the public at large or a section of the public with the apparent intention of affecting public support for a political party”. They can speak or publish “to such an extent as is necessary for the proper performance of their duties”.

- 1.3 Officers serve the whole council and must be politically neutral at work.

Councillors should respect officers’ right to private political opinions. These should not be used against an officer who remains neutral at work and observes the relevant codes. Any questions about neutrality should be raised with the relevant director or the Chief Executive.

The council’s employment procedures and codes of conduct must be observed. Failure to do so could be a disciplinary matter.

- 1.4 Close personal relationships between councillors and officers should be declared to the relevant group leader (or deputy) and the relevant director or the Chief Executive. The test is whether a member of the public might reasonably consider the relationship likely to influence the councillor or officer in their respective roles.

The councillor concerned should judge when a personal relationship has formed or whether a family relationship or friendship might reasonably be considered as having influence (depending on domestic arrangements and other circumstances). The group leader (or deputy) should consider how working contact between the councillor and officer should be avoided or managed to dispel perceived bias, taking advice from the relevant director or Chief Executive.

The officer should judge when to make a declaration. The relevant director or Chief Executive should consider how to avoid or manage working contact to dispel perceived bias.

- 1.5 Mutual respect and due courtesy between councillors and officers is expected by the council.

Unwarranted criticism of officers should be avoided, particularly when they cannot respond on equal terms, such as at meetings of council bodies. Bullying by a councillor could potentially expose the council to a claim of constructive dismissal.

Officers should avoid unwarranted criticism of councillors and should respect their rights under these conventions. Officers should not only be neutral but also should appear to be



neutral. Any matter which might cause doubt should be raised with the relevant member to consider what steps are needed to provide reassurance.

#### 1.6 Members have a right to determine policy.

Officers should recognise the rights of members as elected representatives to determine policy. Policy support to councillors must conform to the “unified advice” principle. It must be for council and not for party political purposes. Work which could be open to misinterpretation must be transparent and justified where necessary, particularly at sensitive times (such as during the pre-election period).

### 2. Provision of information to councillors

#### 2.1 Each councillor has a right to the information reasonably required to perform his or her role as councillor (the “need to know”) but not where:

- The information is primarily needed for a non-council purpose
- There is a conflict of interest
- There is an over-riding individual right of confidentiality under data protection legislation
- The resources needed to supply the information would be unreasonable.

Councillor need not state a need to know when requesting information, unless one of the restrictions applies, in which case entitlement should be demonstrated. Any relevant interests or non-council capacity should be declared at the time of the request. If dissatisfied with a refusal, the Director (Corporate Services) should be approached.

Officers should assume a councillor has a need to know unless one of the restrictions may apply. The councillor should then be asked to demonstrate entitlement and, in cases of doubt, the Director (Corporate Services) may be consulted. An officer should seek clearance from his or her manager before embarking on a significant amount of work to provide information.

#### 2.2 Councillors are normally entitled to be given information on a confidential basis, the exceptions being:

- An over-riding council interest (for example, protecting its legal and financial position)
- Natural justice (for example, giving an individual the chance to respond to allegations).

Councillors should ensure that the need for confidentiality is made clear to officers.

The councillor must be told immediately if an exception applies.

#### 2.3 Councillors must respect the confidentiality of confidential council information and must use confidential information only for the purpose it is given (for example, information supplied in confidence to a member of the Executive or the Scrutiny Commission cannot be used to pursue a special ward interest).

### 3. Entitlement to briefings

#### 3.1 Councillors are entitled to be briefed in accordance with their need to know, taking account of any particular role they have. There are the same restrictions as for information (convention 2.1). Councillors with a particular role may expect to be briefed about relevant matters without having to make a request.

Councillors should declare any relevant interest when requesting or receiving a briefing. If dissatisfied with a refusal to brief, the Director (Corporate Services) should be approached.

Officers should be clear about the capacity in which the councillor is being briefed and the implications of any interest. In cases of doubt, the Director (Corporate Services) may be consulted. The officer should always make it clear if a briefing is not based on unified advice (if the information is still subject to consultation with other officers). Otherwise, the councillor is entitled to assume unified advice is being given.

- 3.2 Officer attendance at party political group meetings should follow the protocol on attendance by the Chief Executive and directors at party group meetings.
- 3.3 The content of briefings is confidential to the councillors concerned. Confidentiality extends to the questions asked by the councillors.
- 3.4 Members of the Executive, both individually and collectively, are entitled to regular confidential briefings on matters relevant to their areas of responsibility and in support of the policies they are developing prior to them formulating formal proposals.

The relevant member of the Executive or the Executive collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When the stage of formal proposals is reached, supporting officer advice becomes publishable in conjunction with the proposals.

A briefing to help a councillor respond to a question at Council may be in the form of a suggested reply. It should be confined to factual and professional matters and to explanations of existing policy, leaving the councillor to add any political comment.

- 3.5 Councillors must respect the confidentiality of information supplied in briefing and must use it only for the purpose for which they would have been entitled to receive it (for example, information supplied to a councillor in their capacity as member of the Executive may not be used to pursue a special ward interest if it would not have been supplied to the ward councillor).
- 3.6 The Mayor is the borough's first citizen and has the primary duty to act as chairman for meetings of Council. The Mayor is traditionally non-party political during their year of office. Their standing is mainly ceremonial and is not executive.

The Mayor has the right to the advice and support of officers necessary for him/her to undertake the mayoral role.

#### 4. Council, Executive and meetings of council bodies

- 4.1 Officer reports should be in the name of a Director or the Chief Executive who must ensure that:
  - It is made clear what stage in the process has been reached and what is required from councillors
  - There is a clear recommendation (or options if appropriate) presented in a way which enables councillors to choose between them
  - It is clear who is responsible for action
  - All relevant factors are included and the issues are presented with professional objectivity
  - Associated briefings and presentations are also professionally objective.

The principle of unified advice requires that meaningful and timely consultation is completed before finalising a report (particularly on financial and legal implications). Officers may take account of policies of the council. Options or recommendations may reflect political realities provided all realistic options are addressed in a way which is professionally objective and sustainable. It is not always necessary to recommend the course of minimum risk, provided risks and reasons for taking them are made clear.

- 4.2 A majority group will, because they hold a majority of seats, direct the policies and decisions of Council and make up the Executive. However, decisions can only be taken in properly convened meetings of Council, the Executive, or council bodies. All decisions, wherever taken, need to be properly recorded and the information on which decisions are made must be readily available.

Decisions can be taken by individual members of the Executive in accordance with the Executive scheme of delegation (included in the terms of reference for the Executive).

Decisions can be taken by officers who have formal delegated authority from Council or the Executive as set out in the scheme of delegation.

## 5. Regulatory committees

- 5.1 Planning, licensing and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements, and in particular:

- The appearance of decisions being based on party political consideration must be avoided
- If officer recommendations are not accepted, care should be taken to ensure that any departures can be justified and that they are consistent over time
- The code of conduct for members of the Planning Committee must be followed.

Particular care should be taken to declare interests in formal meetings, at site visits and in formal discussion and, if necessary, avoid participation in the meeting. Potential interest should be raised with officers before the meeting.

- 5.2 Reports to regulatory committees should comply with convention 4.1 except that political considerations are inappropriate.

## 6. Councillor involvement in operational matters

- 6.1 Officers must implement council policy within agreed procedures. An individual councillor cannot require an officer to vary this and cannot take a decision or instruct an officer to take action. The councillor's role in relation to such matters is:

- To be briefed or consulted where there is a need to know
- To pursue the interests of individuals by seeking information, testing action taken and asking for the appropriateness of decisions to be reconsidered. A councillor's entitlement to be involved is based on their need to know and determined in accordance with conventions 2 and 3

Access to files may need to be denied or restricted if one of the exceptional circumstances in convention 2.1 and 2.2 apply. Any access then allowed may need to be managed access.

Councillors should avoid becoming unduly involved in individual cases and operational detail, except within clear procedures. Involvement in legal proceedings and audit investigations carries special risk of prejudicing the case, and of personal embarrassment. There are risks associated with a councillor intervening in the operational processes of the council without full knowledge of the facts.

If a councillor is lobbied on an issue, they should explain that any views expressed are personal and they cannot commit or anticipate the council's decision. Any lobbying should be referred to at meetings which consider the matter that was subject of the lobbying.

Officers should take the lead in pointing out where the boundaries lie in particular areas, recognising that:

- Councillors legitimately adopt different approaches
- Councillors may legitimately pursue non-ward issues
- The special local knowledge of a particular councillor may be useful to a particular case.

Officers should point out to the councillor when a restriction on the need to know may apply, explore entitlement with the councillor and, in cases of doubt, consult the Director (Corporate Services).

Directors should ensure that their staff know how to obtain appropriate senior management support when the extent of a councillor's involvement in an issue needs to be clarified.

- 6.2 A councillor pursuing a ward matter on behalf of a close family member or friend (as outlined in convention 1.4) should declare the relationship and consider whether to ask another councillor to pursue the matter.
- 6.3 Staff may raise issues with their councillors as citizens. They must not lobby councillors on personal employment or budgetary matters except within the proper management and representative procedures (in the interests of balance, unified advice to councillors).

Councillors should refuse to respond to inappropriate lobbying and to inform the relevant director who should direct the member of staff towards the appropriate channels. This applies if the approach is superficially to a ward councillor, but in reality amounts to an employment matter.

Directors should ensure their staff are aware of these requirements and the proper channels for their views to be put forward.

- 6.4 A councillor's right of access to council premises and to bring in guests is based on the "need to know". In addition to the general restrictions, it is subject to ensuring:
- Operational continuity
  - Confidentiality
  - Compliance with health & safety arrangements
  - Compliance with security requirements.

- 6.5 A councillor's guests should:
- Be properly checked in and out
  - Explain the purpose of their visit, if requested
  - Not be admitted after normal business hours, except for notified evening meetings and by special arrangement for particular purposes.

Directors should ensure their staff are aware of these requirements and how to obtain the appropriate senior management support (particularly after hours). They should also ensure staff are aware exactly when guests may be admitted outside normal opening hours.

## 7. Media relations, published material and correspondence

### 7.1 Statements and published material on behalf of the council (including on the council's website) must not be party political and must comply with the statutory code of practice.

Councillors are the council's principal spokespersons on policy. As individuals, they may make party political comment, but the council may not publish such comment.

Officers may publish factual, professional and technical comment. Reports, presentations and publications must be professionally objective in language, content and tone. Directors must ensure that officers who publish statements and material are competent for the role and understand the requirements of these conventions.

### 7.2 It should be made clear in all correspondence from councillors, whether that councillor is writing as an individual councillor or in the capacity of a role held within the council.

Where members write as individual councillors, they may seek officer advice but cannot commit the council as a corporate body. The Mayor, Leader of the Council and members of the Executive may initiate correspondence in accordance with their roles and degree of delegated authority.

Correspondence from officers should be factual and not commit the council beyond its existing policies or limit of formal delegation to the officer. Where an officer is employed as an advisor, professional opinion may be expressed.

## 8. Election periods

### 8.1 From the notice of a parliamentary or local election, until election day:

- The council is not allowed to publish any material that appears to be designed to affect public support for any political party or individual. Nothing should be published (including on the council's website and social media platforms) on a politically controversial issue or which identifies views or policies with those of individual councillors or party groups
- Nothing should be published by the council which includes a picture of, or quote from, a prospective candidate
- There should be no proactive publicity in any form which identifies candidates and other politicians involved directly in the election
- Proactive events arranged in this period should not involve members likely to be standing for election
- In parliamentary elections, nothing should be published with mentions or includes a picture of any prospective candidate
- Subject to this protocol, publicity is permitted of a councillor speaking on behalf of the council about an approved policy
- The council can publish reports of discussions at, and decisions of, Executive, Council or Scrutiny committees, as long as they are presented in an impartial way
- Any publicity should be strictly objective, concentrating on facts or explanations
- During local elections, no council newspaper, corporate or departmental, should be published

- Councillors and officers should take particular care to keep officers distant from party political matters. Those officers in politically-restricted posts should exercise particular care and should ensure they are familiar with the guidance on holding such posts
- Councillors requesting information should make their need to know clear and the need to know principle should be strictly observed
- Prospective parliamentary candidates (including current MPs) should be treated equally
- Officers should avoid even the appearance of political bias.

Subject to this convention, publicity is permitted of a councillor speaking on behalf of the council about an approved policy.

External comments should be on strictly factual or professional matters. Care should be taken to avoid being misquoted or inadvertently associated with a particular candidate or political perspective.

## 9. Resolving problems

- 9.1 Councillors and officers should try to interpret and apply the conventions consistently. Those concerned should first try to resolve any problems between themselves.

Councillors should raise unresolved problems with the relevant director or the Chief Executive.

Officers should raise any unresolved problems with their director who will advise or take the matter up with the relevant councillor.

## **Part 4 – codes & protocols**

### **d. protocol on attendance by the Chief Executive and directors at party group meetings**

This protocol is based on the conditions of service for Chief Executives which states under the heading 'advice to political groups' that the Chief Executive "shall not be required to advise any political group of the council, either as to the work of the group or as to the work of the council, neither shall he be required to attend any meetings of any political group. This shall be without prejudice to any arrangements to the contrary which may be made in agreement with the Chief Executive (or officers) and which includes adequate safeguards to preserve the political neutrality of the Chief Executive in relation to the affairs of the council".

1. The Chief Executive and directors are employees of the council as a whole and their overriding responsibility is to the council and not to any party political group.
2. The political neutrality of the Chief Executive and directors is to be respected by everyone. They should not be asked to undertake a task which is likely to prejudice that neutrality nor make it difficult for them to serve a different administration at some future date.
3. If the Chief Executive or any of the directors attend a meeting of any party group, they need not inform the leadership of the other parties on the council, nor should they divulge or discuss the content of any discussion with those other parties.
4. The Chief Executive and directors will each ensure that the part which they play in the meeting is consistent with their political neutrality.
5. The Chief Executive and directors will not attend party political group meetings at which there are persons present who are neither elected members nor officials of the authority.
6. The Chief Executive and directors will attend meetings at the beginning of the agenda and will receive reasonable advance notice of the items which the group intends to discuss with them.
7. Attendance by the Chief Executive and directors will not exceed more than one meeting per month.

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## Part 4 – codes & protocols

### e. code of recommended practice on local authority publicity

Communities and Local Government circular 01/2011

#### Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

#### Principles

4. Publicity by local authorities should:
  - Be lawful
  - Be cost effective
  - Be objectives
  - Be even-handed
  - Be appropriate
  - Have regard to equality and diversity
  - Be issued with care during periods of heightened sensitivity.

#### Lawfulness

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.
6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.

8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which express support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to public material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

#### Cost effectiveness

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

#### Objectivity

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.

17. Where paid-for advertising is used by local authorities, it should be clearly defined as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

#### Even-handedness

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.
22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

#### Appropriate use of publicity

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.

27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets or similar publications published by the local authority, should do this on the front page of the publication.

#### Equality and diversity etc

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

#### Care during periods of heightened sensitivity

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute.
35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is

even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

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## Part 4 – codes & protocols

### f. protocol relating to gifts and hospitality

#### CONTENTS

##### Paragraph

- 1 Introduction
- 2 General principles
- 3 Consent regimes
- 4 Reporting
- 5 Gifts to the authority
- 6 Definitions

#### 1. Introduction

1.1 The acceptance of gifts and hospitality by councillors is not merely an administrative issue. It reflects directly upon the perception of councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit councillors can get out of their position.

1.2 The law on the acceptance of gifts and hospitality is set out in the Prevention of Corruption Acts and the principles of acting in the public interest are set out in the authority's code of conduct for councillors. These requirements are then supplemented by the procedures which have been adopted by this authority to provide a clear set of rules for the protection of both councillors and the authority. Acceptance of a gift or hospitality in breach of the code of conduct, or failure to declare receipt of such a gift or hospitality, is an offence which may lead to a heavy fine or imprisonment.

1.3 This protocol sets out:

- The principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- A procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- A procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

1.4 This protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

#### 2. General principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out, you should not accept it if to do so would be in breach of one or more of these principles.

2.1 Never accept a gift or hospitality as an inducement or reward for anything you do as a councillor

As a councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority it concerned, you commit a criminal offence carrying a maximum term of imprisonment of seven years.

Further, the authority's code of conduct provides that you must act in the public interest. To confer any advantage or disadvantage on any person, including yourself, would constitute a breach.

2.2 You should only accept a gift of hospitality if there is a commensurate benefit to the authority

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage but, unless the benefit to the authority is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

2.3 Never accept a gift or hospitality if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to the authority and to you as a council as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must, therefore, consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:

- Occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer
- Determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination
- Funding decisions, when the authority is determining a grant application by any person or organisation.

2.4 Never accept a gift or hospitality which puts you under an improper obligation

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality



improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

## 2.5 Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a councillor unless the acceptance of that gift or hospitality would be permitted under this protocol. You should also take care to avoid giving any indication that you might be open to such an improper offer.

## 3. Consent regimes

### 3.1 General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another public authority
- Modest refreshment in connection with any meeting in the ordinary course of your work such as tea, coffee, soft drinks and biscuits
- Tickets for sporting, cultural and entertainment events which are sponsored by the authority
- Small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift such as pens, pencils, mouse pads, calendars and diaries. You should, however, take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- A modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority. In such cases, you should make reasonable efforts to return the offer where this is practicable
- A modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves but request officers to settle the detailed arrangements, and officers are under instruction when arranging any such meeting to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- Modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by the authority
- Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for councillors and officers is to be no more than commensurate with the nature of the visit
- Other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the councillor deals with the gift strictly in accordance with the following procedure: The councillor must, as soon as practicable after the receipt of the gift, pass it to the Mayor's Secretary together with a written statement identifying the information set out in paragraph 3.2. The Mayor's Secretary will then write to the person or organisation making the gift, thanking them on your behalf and informing them that you have donated the gift to the Mayor's charity fund, on whose

behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

### 3.2 Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the general principles set out in paragraph 2, but is not within any of the general consents set out in paragraph 3.1, you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out

- The nature and your estimate of the market value of the gift or hospitality
- Who the invitation or offer has been made by or on behalf of
- The connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- Any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- Any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper.

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. This does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with paragraph 4 below.

## 4. Reporting

4.1 Where you accept any gift or hospitality (following receipt of the appropriate consent as required by paragraph 3.2) which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information in paragraph 3.2. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

4.2 Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## 5. Gifts to the authority

5.1 Gifts to the authority may take the form of the provision of land, goods or services either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority.

5.2 You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of a public musical and theatrical performances and developer contributions under section 106 agreements.

- 5.3 If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits).
- 5.4 If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer to record the acceptance or non-acceptance of the gift and where appropriate record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority.
- 5.5 If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.
6. Definitions
- 6.1 “Gift or hospitality” includes any
- Free gift of goods or services
  - The opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
  - The opportunity to obtain any goods or services which are not available to the general public
  - The offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- 6.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:
- Your estimate of the cost to the person or organisation of providing the gift or hospitality
  - The open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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## Part 4 – codes & protocols

### g. code of conduct and guidance for members of the Planning Committee

#### CONTENTS

##### Paragraph

- 1 Introduction
- 2 Lobbying and contact with applicants and third parties
- 3 Councillor applications
- 4 Planning Committee site visits
- 5 Declarations of interest
- 6 Decision making

#### 1. Introduction

- 1.1 The purpose of this code is to ensure that the manner in which planning decisions are reached is, and is seen to be, fair, open and impartial and that only relevant matters are taken into account.
- 1.2 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst councillors should take account of those views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 1.3 A councillor's overriding duty is to the whole community and to ensure that decisions are taken impartially, fairly, reasonably and only in the context of the development plan and all other material considerations.
- 1.4 The code applies to the determination of planning applications, and any other matters which fall within the responsibility of the committee as set out in the constitution. This code is in addition to the councillors' code of conduct and council procedure rules, to which members' attention is drawn.
- 1.5 Failure to comply with the code could give rise to judicial review of the decision reached and would be taken into account in any relevant ombudsman report.

#### 2. Lobbying and contact with applicants and third parties

- 2.1 Councillors should not express an opinion which could be taken as indicating they have already decided how they will vote before they have been exposed to all the evidence and arguments at the relevant committee meeting. Whilst lobbying is a normal and perfectly proper part of the planning process, care must be exercised to ensure that the impartiality and integrity of a councillor is not called into question and the application or matter is not prejudged.

- 2.2 Members of the Planning Committee should avoid organising support for, or opposition to, a planning application and should avoid lobbying other councillors or influencing officers to make a particular recommendation.
- 2.3 Members should avoid acting on behalf of applicants or third parties.
- 2.4 It should, in general, be possible for a member to give support to a particular body of opinion whilst making it clear that he/she will not reach a final decision until the matter comes before the committee. This would then enable the member to take part in discussion and voting on the matter.
- 2.5 Subject to the above, nothing in this code inhibits a councillor's right to put forward the views of the electorate at the committee and to support them if the councillor wishes.
- 2.6 Discussions between a potential applicant and the council prior to the submission of an application can be of considerable benefit to both parties and is encouraged. However, it would be easy for such discussions to become, or to be seen to become, particularly by objectors, part of a lobbying process on the part of the applicant.
- 2.7 In order to avoid such perceptions, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations should apply to any discussions which take place before a decision is taken:
- It should always be made clear at the outset that the discussions will not bind the council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place
  - Advice should be consistent and based upon the development plan and material considerations. There should be no significant difference of interpretation of planning policies amongst planning officers. In addition, all officers taking part in such discussions should make clear whether or not they are the decision-maker
  - Any advice given should not be, nor be seen to be, partial to the applicant or anyone else;
  - Where councillors are involved in discussions with the applicant before the matter is determined by the committee, a planning officer should always be present. It should be made clear at the outset that the discussions will not bind the council to making a particular decision and that any views expressed are personal and provisional and that councillors will not decide how to vote until the committee meeting.
3. Councillor applications
- 3.1 The consideration of a proposal from a councillor in such circumstances would be considered as a pecuniary interest under the code of conduct and as such, the councillor would be required to withdraw from any consideration of the matter. A councillor should not seek improperly to influence a decision about the matter. It is important to emphasise here that 'improperly' does not imply that a councillor should have any less rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a committee.
- 3.2 Where a councillor applies for planning consent as applicant or agent, he/she should notify the Monitoring Officer, in writing, as well as declaring an interest and taking no part in determining the application or lobbying. Such applications shall be determined by Planning Committee in all cases.

4. Planning Committee site visits
  - 4.1 Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial.
  - 4.2 They should be carefully organised to ensure that the purpose, format and conduct are clearly established at the outset and subsequently adhered to throughout the visit.
  - 4.3 Many councils allow site visits to be 'triggered' by a request from the ward councillor. It is acknowledged that this is a proper part of the representative role of the member, and should normally be acceded to, although the 'substantial benefit' test should still apply. It is also good practice to keep a record of the reasons why a site visit is called.
  - 4.4 A site visit is only likely to be necessary if:
    - The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance)
    - There is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
  - 4.5 Site visits shall be conducted as follows:
    - The applicant, his/her agent, the ward member(s), all Planning Committee members and a parish council representative will be invited to attend
    - The chairman shall take charge of the proceedings with the support of an officer
    - The chairman shall ask for any declarations of interest
    - Members shall group around the chairman promptly on site during the factual presentation and explanation of the case and any comments made by invitees, in order to permit clear and efficient interchange of question and answer
    - Care should be taken not to express views which could be construed as indicating the way members intend to vote on the proposal at committee
    - Following factual presentation by the officer in attendance, the Chairman will ask Planning Committee members in attendance (and if applicable, the parish council representative) if they require any points of fact clarified. At this point the chairman will direct the officer to respond to such requests from Planning Committee members (and the parish council representative when applicable) and the officer may ask the applicant/agent (if available) to respond to any request for factual clarification. The applicant/agent should not attempt to discuss any other issues relating to the proposal (for example, its merits) or express any opinion thereon. Requests for points of clarity must not extend to general discussion of a proposal and must focus on the clarification of such matters as interpretation of plans, confirmation of siting and levels etc. No other dialogue should take place between Planning Committee members and any others attending at the site visit.
5. Declarations of interest
  - 5.1 The requirements for declarations of interest by members are contained in the code of conduct and the test of pecuniary interests apply to planning issues in just the same way as they apply to other non-planning matters.
  - 5.2 The requirement in respect of the disclosure of interests (and non-participation in the case of pecuniary interests) applies to site visits as well as meetings of the committee itself.

- 5.3 Where a member of the Planning Committee has declared a pecuniary interest they may not take any part in the meeting, including speaking as ward councillor.
6. Decision making
- 6.1 Members should recognise that in sitting on the Planning Committee or attending site visits they have a duty to act fairly and without bias. Members should therefore consider all relevant matters and not take into account non-planning considerations and any irrelevant material.
- 6.2 Planning applications are to be determined in accordance with the Local Development Plan/Framework and all other material considerations. Material considerations are matters which relate to the development and use of land in the public interest. They must be fairly and reasonably related to the matter concerned, and will include the number, size, layout, siting, design and external appearance of buildings, means of access, landscaping, impact on the neighbourhood and the availability of infrastructure. Government planning policy, council supplementary planning guidance and similar would also be included.
- 6.3 Unless there are material considerations of sufficient weight to do otherwise, applications must be determined in accordance with the approved Local Development Plan. Third party views may be taken into account as long as they relate to material considerations. Local opposition or support is not a reason in itself for determining an application. The weight given to the applicant's personal circumstances should be minimal and are only likely to be decisive in balanced cases.
- 6.4 Decisions should not be taken on the basis of party political influence or group politics, despite the fact that each committee is politically constituted. In particular, political group meetings should not be used to decide how councillors vote on matters taken to Planning Committee. Each councillor should independently consider the matter without any undue influence. The council has determined that no political whipping will be applied to considerations of the Planning Committee.
- 6.5 Borough councillors who are also parish or county councillors may be entitled to speak and vote on issues which have previously been discussed in their capacity as parish or county councillors but they must not do so where their own parish or the county council is making a planning application.
- 6.6 It may be preferable for members to abstain from voting on the matter at parish or county level, but if they do vote at that stage, they should make it clear they may vote differently at committee when they will be in full possession of all the facts and officer advice.



## Part 4 – codes and protocols

### h. politically restricted posts

#### CONTENTS

##### Paragraph

- 1 Posts restricted in accordance with section 2(1) of the Act
- 2 Sensitive posts

List of politically restricted posts prepared pursuant to section 2(2) of the Local Government and Housing Act 1989 (“the Act”)

1. Posts restricted in accordance with section 2(1) of the Act

Head of Paid Service (Chief Executive)  
Monitoring Officer (Director (Corporate Services))  
Section 151 Officer

Other “Chief Officers” not mentioned above, as defined in the Act:

Director (Community Services)  
Director (Environment & Planning).

“Deputy Chief Officers” as defined in the Act:

Anti-social Behaviour & Tenancy Manager  
Community Safety & Performance Manager  
Cultural Services Manager  
Housing Assets & Support Team Manager  
Housing Options Manager  
Housing Repairs Investment Manager  
Housing Repairs Operations Manager  
Private Sector Housing Manager  
Strategic & Community Planning Manager  
Environmental Services Manager (Commercial)  
Head of Planning & Development  
Head of Street Scene Services  
Senior Environmental Health Officer (Pollution)  
Communications & Promotions Officer  
Democratic Services Officer  
Estates & Assets Manager  
Head of Finance  
Head of ICT  
Head of Leicestershire Revenues & Benefits Partnership  
HR & Transformation Manager  
Legal Services Manager.

The above list is also the list of officers exercising delegated powers as specified in the scheme of delegation in accordance with S100G(2) of the Local Government Act 1972.

Officers not listed above to whom powers may be delegated in accordance with onwards delegation in writing will also be classed as politically restricted.

2. "Sensitive posts" in accordance with section 2(3) of the Act (giving advice to the authority, any committee or joint committee on a regular basis and/or speaking on behalf of the authority on a regular basis to journalists or broadcasters):

Communications & Promotions Officer  
Information Governance Officer  
Customer Services Manager  
Solicitors.

# Part 5

## SCHEME OF MEMBERS' ALLOWANCES

Last updated May 2018

# CONTENTS

- a. Scheme of members' allowances

## **Part 5 – members’ allowances**

### **a. Scheme of members’ allowances**

#### **CONTENTS**

##### Paragraph

- 1 The scheme
- 2 Effect
- 3 Definition
- 4 Member development and support
- 5 Basic allowances
- 6 Special responsibility allowances
- 7 Childcare and dependent carer’s allowance
- 8 Travel and subsistence allowance for ‘approved duties’
- 9 Renunciation
- 10 Part-year entitlements
- 11 Payments
- 12 Schedule of allowances

Hinckley and Bosworth Borough Council, in exercise of its powers contained within section 18 of the Local Government and Housing Act 1989 as amended, and in accordance with the Local Authorities (Members’ Allowances) (England) Regulations 2003, hereby makes the following scheme.

1. The scheme may be cited as the Hinckley and Bosworth Borough Council Scheme of Members’ Allowances.
2. The amended scheme shall have effect from 15 May 2018.
3. “Year” means any period of twelve months ending on 31 March in any year.
4. Member development and support
  - 4.1 Because of the increasing responsibilities placed upon members, particularly those who have special responsibilities, it is a fundamental element of this scheme that appropriate development opportunities are made available and that members engage in such activities when provided.
5. Basic allowance
  - 5.1 Subject to paragraph 9, for each year a basic allowance of £4,800 shall be paid to each councillor. The basic allowance covers the use of members’ own telephone (including mobile), IT equipment, printer, paper and consumables.

6. Special responsibility allowances

- 6.1 For each year, a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority as specified in the schedule included in this scheme.
- 6.2 Subject to paragraph 9, the amount of each such allowance shall be the amount specified against that special responsibility in the schedule.
- 6.3 Other than the Leader and Deputy Leader, one special responsibility allowance (SRA) will be paid to a member in full with any second SRA paid at 50% (with the highest being paid in full). The Leader and Deputy Leader shall not be entitled to a second SRA.
- 6.4 The SRA for the Leader and Deputy Leader includes the holding of an executive portfolio. Where the Leader or Deputy Leader does not hold an executive portfolio, the allowance will be reduced by 50% of an executive member's SRA.
- 6.5 The SRA for a member of the Executive shall be paid to six members. Should the number of members of the Executive increase, the allowance for the six members shall be split equally between all members of the Executive.

7. Childcare and dependent carer's allowance

- 7.1 Payment will be reimbursed on the basis of reasonable expenses incurred.

8. Travel and subsistence allowance for 'approved duties'

- 8.1 Car allowances for authorised journeys on approved duties will be paid at the following rates:

Per mile for the first 8,500 miles	45p
Per mile after 8,500 miles	25p
For carrying passengers	5p

- 8.2 Reimbursement of taxi or public transport costs for authorised journeys on approved duties will be approved on production of a valid VAT receipt and relevant form, which must be returned to the Democratic Services Officer. Taxi journeys require prior agreement of the Democratic Services Officer wherever possible and taxis should be used to link members with the nearest convenient public transport.

- 8.3 Subsistence allowances for approved duties will be paid at the same rates and conditions applicable to staff. Current rates are:

- Breakfast – payable only if it is unreasonable to expect you to take breakfast before 7am - £5.00 maximum
- Lunch – payable only if lunch is not provided at the event - £7.00 maximum
- Evening meal – payable only if you are unable to take a meal at your normal place after 6.30pm - £9.00 maximum.

The subsistence allowances are subject to the production of appropriate receipts and completion of the relevant form, which must be returned to the Democratic Services Officer.

In the event of overnight stays in hotels or attendance at conferences, two alternatives are available:

- The Democratic Services Officer will book the hotel, raising the relevant purchase order and awaiting an invoice
- Where the hotel declines the above arrangement, book in advance and pay the hotel on departure. The council will reimburse the costs on the production of the receipted hotel bill and claim form.

8.4 Approved duties include:

- Meetings of council bodies formally convened by the council or its officers
- Conferences or meetings where attendance is authorised by the council or a senior officer
- Outside bodies to which the councillor has been appointed by Council
- Meetings convened with officers with their agreement
- Civic duties undertaken by the Mayor and Deputy Mayor when requested via the Civic Office as specified in the guidance for mayoral expenditure.

Political group meetings are not included as an approved duty.

9. Renunciation

9.1 A councillor may, by notice in writing to the Director (Corporate Services) elect to forego his/her entitlement or any part of his/her entitlement to an allowance under this scheme.

10. Part-year entitlements

10.1 The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

10.2 If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

- beginning with the year and ending with the day before that on which the first amendment in that year takes effect or
- beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect or (if none) with the year

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year.

10.3 Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office bears to the number of days in that year.

10.4 Where this scheme is amended as mentioned in paragraph 10.2 and the term of office of a councillor does not subsist throughout the period mentioned in paragraph 10.2, such part of the basic allowance payable referable to each such period (ascertained in accordance with

that paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a council subsists bears to the number of days in that period.

10.5 Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.

10.6 Where this scheme is amended as mentioned in 10.2 and a councillor has during part, but does not have throughout the whole, of any period mentioned in 10.2 any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment or such part of the allowance referable to each such period (ascertained in accordance with paragraph 10.2) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## 11. Payments

11.1 Subject to paragraph 9, payments of the basic allowance and special responsibility allowance shall be made in instalments of one-twelfth of the amount specified in this scheme on the 25<sup>th</sup> of each month.

11.2 Claims for any childcare or dependent carer's allowance, and for any travel or subsistence allowances, shall be submitted within three months of incurring the expenditure.

## 12. Schedule of allowances

12.1 The following are specified as the special responsibilities in respect of which special responsibility allowances are payable and the amount of those allowances:

	£
Mayor	8,000
Deputy Mayor	3,000
Leader of Council	15,300
Deputy Leader	7,500
Member of Executive	6,600
Opposition Leader(s)	4,200
Appeals Panel chairman	2,500
Audit Committee chairman	4,200
Ethical Governance & Personnel Committee chairman	2,500
Finance & Performance Scrutiny chairman	3,000
Licensing (including Regulatory) Committees chairman (1)	2,500
Planning Committee chairman	5,000
Scrutiny Commission chairman	4,200